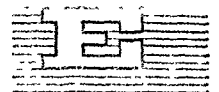


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COMMISSION ON HUMAN RIGHTS
Thirty-fifth session
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QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF
DETENTION OR IMPRISONMENT, IN PARTICULAR: (a) DRAFT CONVENTION ON
TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Summary prepared by the Secretary-General in accordance with
resolution 18 (XXIV) of the Commission on Human Rights

Addendum

CONTENTS

	<u>Paragraphs</u>	<u>Page</u>
Introduction	1, 2	2
I. General remarks (<u>continued</u>)	3, 4	2
II. Comments on the draft articles (<u>continued</u>)	5-7	2 - 3

INTRODUCTION

1. This report, which is the third addendum to the summary prepared by the Secretary-General in implementation of Commission on Human Rights resolution 18 (XXXIV), summarizes further information received up to 27 February 1979.

2. The only additional comments received are those of the Holy See.

I. GENERAL REMARKS (continued)

3. The Holy See referred to its outright condemnation of torture and mentioned in particular that Pope Pius XII, in his address to the Sixth Congress of the International Association of Penal Law (Rome, 3 October 1953), had expressed himself as follows:

"Physical and mental torture and narcoanalysis should be excluded from the process of judicial examination, firstly because they violate a natural right, even if the accused is really guilty, and then because they too often produce mistaken results. It is no rarity for them to result in exactly the confessions desired by the court and the undoing of the accused, not because he is in fact guilty but because his physical and mental energies have given out and he is ready to make any and every statement that may be wanted ..." 1/

Pope Paul VI had also referred to the problem, in particular at the general audience of 21 October 1970:

"Torture, that is to say cruel and inhuman police methods of wringing confessions from the lips of prisoners, is to be condemned outright. It is not admissible today, not even for the purpose of administering justice and upholding public order. It is not tolerable even when it is practised by subordinate agencies without orders or permission from higher authorities, on whom the responsibility for such abuses and such dishonouring acts of violence may recoil." 1/

4. The Holy See hopes that efforts will be made to provide the future Convention against Torture with effective machinery of control. The Holy See is aware of the complexity of the subject and of its many implications for national sovereignty, but nevertheless considers that a provision for an international guarantee of application of the Convention would be very useful.

II. COMMENTS ON THE DRAFT ARTICLES (continued)

Article 1

5. The inclusion of torture among crimes under international law (as provided by article I of the International Association of Penal Law draft) seems acceptable, because the practice of torture constitutes a very grave violation of the universally felt principle of respect for the integrity of the human person.

1/ Translation by the United Nations Secretariat.

Article 2

6. The Holy See considers that a provision rejecting any justification of torture on grounds of exceptional circumstances (a principle embodied in article VI of the International Association of Penal Law draft and article 2 of the Swedish draft) would be highly opportune, having regard to certain schools of thought that are prone to give national security priority over the rights of the person.

Article 5

7. Over and above control measures, the Convention should not neglect the irreplaceable role of education in the broadest sense of the term. A programme of training for those responsible for law enforcement, a programme guided by the principles of respect for human dignity and integrity, will yield the most valid results. This is most opportunely pointed out in article 5 of the Swedish draft.