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COMMISSION ON HUMAN RIGHTS

Sub-Commission on Prevention of Discrimination  
and Protection of Minorities

Thirty-sixth session  
Item 9 of the agenda

THE ADMINISTRATION OF JUSTICE AND HUMAN RIGHTS OF DETAINEES

Written statement submitted by the International Federation  
of Human Rights, a non-governmental organization  
in consultative status (category II)

1. Conditions of detention

At the Sub-Commission's thirty-fifth session, the International Federation of Human Rights (IFHR) drew the attention of the Working Group on Detention to allegations that, in certain countries, "involuntary suicides" of persons under arrest or detention or in prison were becoming as common a means of eliminating the opponents of established regimes as "involuntary disappearances".

Following the identification of that problem by IFHR, the Working Group and the Sub-Commission considered the question serious enough to refer to it in Sub-Commission resolution 1982/10, which invited Governments and international governmental and non-governmental organizations to submit information on the matter.

IFHR was very impressed by the replies submitted by Cyprus, India, the Philippines, Spain and Thailand in document E/CN.4/Sub.2/1983/11 and, in particular, by the very frank reply by the Philippines.

IFHR nevertheless proposed that the Working Group should ask the Sub-Commission again to request the 155 other Member States which have not yet done so, as well as the competent international organizations and non-governmental organizations, to submit information, particularly in view of the alarming information contained in the synopsis prepared by the Secretariat in document E/CN.4/Sub.2/1983/13.

In view of the importance of the problem of voluntary or "involuntary" suicides in detention, of the reply by India, which raised the broader question of death during detention, and of the synopsis, which mentions "other cases of death in detention and of extrajudicial executions" (paras. 68 et seq.), IFHR proposes that the Sub-Commission should request a special rapporteur or the Secretariat to carry out an in-depth study of "causes of, and ways of preventing, suicide and other causes of death of persons under arrest or detention or in prison".

## 2. Missing persons

The International Federation of Human Rights is of the opinion that the information it has submitted concerning the fate of missing persons has not been dealt with satisfactorily by the United Nations.

It has not been possible, either as a result of the procedure established under Economic and Social Council resolution 1503 (XLVIII) concerning gross and systematic violations of human rights or the ad hoc procedure established by the Working Group on Enforced or Involuntary Disappearances, to make public the most serious violations of this kind or to denounce the countries concerned, probably as a result of the lack of political consensus on the blacklisting of those countries.

Although there are several possible courses of action in matters relating to the protection of human rights, the only effective one is public denunciation, particularly in the case of the crime against humanity constituted by the practice of "disappearances".

If Klaus Barbie is liable to punishment for crimes against humanity, so are those responsible for "disappearances" and they must be openly denounced.

In view of the magnitude of the violations, which are indeed violations of all human rights without exception because the very existence of the persons who have "disappeared" is being denied and because of the number of persons concerned, the procedures established under the European Convention on Human Rights, the American Convention on Human Rights and the International Covenant on Civil and Political Rights are inadequate.

The practice of secret diplomacy, which is being used as effectively as possible by ICRC and the United Nations Working Group on Enforced or Involuntary Disappearances, will continue to be inadequate as long as the Governments concerned refuse to co-operate or co-operate by replying that they have no information on the fate of the persons being sought.

Ultimately, it will unfortunately be necessary to resort to the practice of public denunciation, which was developed by the Commission on Human Rights and has, in some cases, been successful.

Since the Working Group on Enforced or Involuntary Disappearances and the procedure established under Economic and Social Council resolution 1503 (XLVIII) have not made it possible to deal satisfactorily with the most serious problems and, pending the elaboration of an international convention on the topic, which will, in any event, take years, the members of the Sub-Commission should consider

the possibility of adopting a new procedure, such as the preparation of a non-confidential list of persons who have been found to have ordered, directed, engaged in, participated in or covered up the practice of "disappearances", which is tantamount to a crime against humanity, whether such persons are officials of Governments in power or members of armed opposition movements.

The International Federation of Human Rights urges that such a new procedure should be based on that followed by the Ad Hoc Working Group of Experts on Southern Africa, which prepares files against any person suspected of committing the crime of apartheid or any other serious violation of human rights and which is required to bring the content of such files to the Sub-Commission's attention.

### 3. International penal tribunal

For several years, the International Federation of Human Rights has been urging that an international penal tribunal should be set up to try such crimes.