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Submitted by Cuba
under item 17 Item 17

CUBA

Rodriguez
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on 12/4/2004

at 1705

Agenda Item 17

Draft Resolution

CUBA

"Question of Arbitrary Detentions in the Area of the U.S. Naval Base in Guantánamo"

The Commission of Human Rights,

Considering that, in accordance with the principles enshrined in the Charter of the United Nations, the recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Recalling that each State Party to the International Covenant on Civil and Political Rights is obliged to respect and to ensure to all individuals subject to its jurisdiction the rights recognized in the Covenant, without distinction of any kind, such as race, color, sex, language, religion or other opinion, national or social origin, property, birth or other status,

Reaffirming that every human being has the inherent right to life and the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment,

Noting that those rights are enshrined in articles 6 and 7 of the Covenant, and that in accordance with its article 4-2 no derogation from those two articles may be made under any circumstances,

Recalling that in accordance with the provisions of the Universal Declaration on Human Rights and the International Covenant on Civil and Political rights any person who is arrested shall be informed of any charges against him/her, be presumed innocent until proven guilty, be brought promptly before a judge or other officer authorized by law to exercise judicial power, and be entitled to a public trial within a reasonable time at which he/she has had all the guarantees necessary for his/her defense, or to be released,

Noting that article 5-2 of the International Covenant on Civil and Political Rights established that there shall be no restrictions upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent,

Deeply concerned that according to reliable information a situation of deprivation of said rights exists affecting an undisclosed number of persons made prisoners as a result of military operations launched in Afghanistan and presently held in detentions camps located in the area of the U.S. Naval Base in Guantánamo,

Aware that the Office of the U.N. High Commissioner for Human Rights, several thematic procedures of the CHR and a large number of NGOs, as well as a number of States with nationals imprisoned in those camps have expressed their most serious concerns with respect to such a situation,

Taking into account the provisions of the 1949 Geneva Convention relative to the Treatment of Prisoners of War,

1. *Requests* the State Party to the International Covenant exercising effective jurisdiction over these camps, to provide th the Office of the U.N. High Commissioner for Human Rights and to the other States Parties to the International "Covenant the necessary information to clarify the living conditions and legal status of such persons, as well as the steps taken to secure respect for their human rights and fundamental freedoms and their protection under international humanitarian law;

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2. *Further requests* said State Party to put an end to the abovementioned violations and to take the necessary steps to prevent those which may take place while such persons be still under its effective jurisdiction;
3. *Requests* the Special Rapporteur on the Question of torture, the Special Rapporteur on the Independence of Judges and lawyers and the Working Group on Arbitrary Detention, in the discharge of their mandates to give consideration to the situation described in the present resolution and to report on their findings to the High Commissioner for Human Rights;
4. *Requests* the High Commissioner for Human Rights to present a comprehensive report to the 61st session of the CHR on the implementation of the present resolution.