

have a right to due process of law with full recognition being given to his degree of mental responsibility.

7. Whenever mentally retarded persons are unable, because of the severity of their handicap, to exercise all their rights in a meaningful way or it should become necessary to restrict or deny some or all of these rights, the procedure used for that restriction or denial of rights must contain proper legal safeguards against every form of abuse. This procedure must be based on an evaluation of the social capability of the mentally retarded person by qualified experts and must be subject to periodic review and to the right of appeal to higher authorities.

*2027th plenary meeting,
20 December 1971.*

2857 (XXVI). Capital punishment

The General Assembly,

Recalling its resolution 2393 (XXIII) of 26 November 1968 concerning the application of the most careful legal procedures and the greatest possible safeguards for the accused in capital cases as well as the attitude of Member States to possible further restriction of the use of capital punishment or to its total abolition,

Taking note of the section of the report of the Economic and Social Council⁵¹ concerning the consideration by the Council of the report on capital punishment⁵² submitted by the Secretary-General in implementation of the aforementioned resolution,

Taking note of Economic and Social Council resolution 1574 (L) of 20 May 1971,

Expressing the desirability of continuing and extending the consideration of the question of capital punishment by the United Nations,

1. *Notes with satisfaction* the measures already taken by a number of States in order to ensure careful legal procedures and safeguards for the accused in capital cases in countries where the death penalty still exists;

2. *Considers* that further efforts should be made to ensure such procedures and safeguards in capital cases everywhere;

3. *Affirms* that, in order fully to guarantee the right to life, provided for in article 3 of the Universal Declaration of Human Rights, the main objective to be pursued is that of progressively restricting the number of offences for which capital punishment may be imposed, with a view to the desirability of abolishing this punishment in all countries;

4. *Invites* Member States which have not yet done so to inform the Secretary-General of their legal procedures and safeguards as well as of their attitude to possible further restriction of the use of the death penalty or its total abolition, by providing the information requested in paragraphs 1 (c) and 2 of General Assembly resolution 2393 (XXIII);

5. *Requests* the Secretary-General to circulate as soon as possible to Member States all the replies already received from Member States to the queries contained in paragraphs 1 (c) and 2 of resolution 2393 (XXIII) and those to be received after the adoption of the present resolution, and to submit a

⁵¹ *Ibid.*, chap. XVIII, sect. C.

⁵² E/4947 and Corr.1.

supplementary report to the Economic and Social Council at its fifty-second session;

6. *Further requests* the Secretary-General, on the basis of material furnished in accordance with paragraph 4 above by Governments of Member States where capital punishment still exists, to prepare a separate report regarding practices and statutory rules which may govern the right of a person sentenced to capital punishment to petition for pardon, commutation or reprieve, and to submit that report to the General Assembly.

*2027th plenary meeting,
20 December 1971.*

2858 (XXVI). Human rights in the administration of justice

The General Assembly,

Recalling articles 5, 10 and 11 of the Universal Declaration of Human Rights,

Recalling Economic and Social Council resolution 663 C (XXIV), section I, of 31 July 1957, by which the Council approved the Standard Minimum Rules for the Treatment of Prisoners,⁵³

Convinced of the need for further concerted action in promoting respect for and implementation of the principles embodied in the aforementioned articles of the Universal Declaration of Human Rights,

1. *Solemnly reaffirms* the principles concerning human rights in the administration of justice as embodied in articles 5, 10 and 11 of the Universal Declaration of Human Rights, namely, those referring to the right not to be subjected to inhuman treatment or punishment, the right to a fair and public hearing by an independent and impartial tribunal in any civil or criminal proceedings, the right, if charged with a penal offence, to be presumed innocent until proved guilty and the right not to be subjected to retrospective criminal sanctions;

2. *Invites* the attention of Member States to the Standard Minimum Rules for the Treatment of Prisoners and recommends that they shall be effectively implemented in the administration of penal and correctional institutions and that favourable consideration shall be given to their incorporation in national legislation;

3. *Takes note with satisfaction* of the establishment within the work programme of the Commission for Social Development of the Working Group on Standard Minimum Rules for the Treatment of Prisoners to advise on methods of strengthening the implementation of the Rules and of improving the reporting procedures thereon;

4. *Endorses* the recommendation contained in Economic and Social Council resolution 1594 (L) of 21 May 1971 that the Commission on Human Rights should, at its twenty-eighth session, examine the draft principles relating to equality in the administration of justice adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities and take a decision on further action;

5. *Expresses the hope* that the Economic and Social Council at its fifty-second session will be able to consider final proposals of the Commission on Human Rights on these principles.

*2027th plenary meeting,
20 December 1971.*

⁵³ See *First United Nations Congress on the Prevention of Crime and the Treatment of Offenders: report prepared by the Secretariat* (United Nations publication, Sales No.: 1956.IV.4), annex I, A.