Europarådet (2. samling) ERD alm. del - Bilag 42 Offentligt

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Folketinget – Europarådet

Christiansborg, den 12. maj 2005

Til

delegationens medlemmer og stedfortrædere.

Resolutioner fra IPU's 112. Assembly

Vedlagt omdeles til orientering følgende resolutioner fra IPU's 112. Assembly:

- 1. The role of Parliaments in the establishment and functioning of mechanisms to provide for the judggement and sentencing of war crimes, crimes against humanity, genocide and terrorism, with a view to avoiding impunity
- 2. The role of Parliaments in advocating and enforcing observance of human rights in the strategies for the prevention, management and treatment of the hiv/aids pandemic.

Med venlig hilsen Mette Vestergaard, delegationssekretær.

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Inter-Parliamentary Union

Chemin du Pommier 5, C.P. 330, CH-1218 Le Grand-Saconnex/Geneva, Switzerland

THE ROLE OF PARLIAMENTS IN ADVOCATING AND ENFORCING OBSERVANCE OF HUMAN RIGHTS IN THE STRATEGIES FOR THE PREVENTION, MANAGEMENT AND TREATMENT OF THE HIV/AIDS PANDEMIC

Resolution adopted unanimously by the 112th Assembly (Manila, 8 April 2005)

The 112th Assembly of the Inter-Parliamentary Union,

Recalling the relevant resolutions of the IPU, especially the resolution entitled Action to combat HIV/AIDS in view of its devastating human, economic and social impact, adopted in Windhoek in 1998, and *convinced* that HIV/AIDS is an all-embracing threat against development, rather than an isolated health problem,

Further recalling the International Guidelines on HIV/AIDS and Human Rights, issued by the Joint United Nations Programme on HIV/AIDS (UNAIDS) and the Office of the United Nations High Commissioner for Human Rights (OHCHR) in 1998, and the Declaration of Commitment on HIV/AIDS "Global Crisis - Global Action" adopted by the United Nations General Assembly Special Session on HIV/AIDS in 2001,

Taking note of the UNAIDS 2004 Report on the global AIDS epidemic,

Affirming the recommendations contained in the document Guidance on ethics and equitable access to HIV treatment and care, issued by UNAIDS and the World Health Organization (WHO),

Referring to the *Handbook for Legislators on HIV/AIDS, Law and Human Rights*, published jointly by the IPU and UNAIDS in 1999,

Reaffirming the Millennium Development Goal (MDG) contained in the United Nations Millennium Declaration, which aims to halt and begin to reverse, by 2015, the spread of HIV/AIDS,

Aware that the achievement of all MDGs, including those concerning education and food security, will not be feasible unless progress is made in addressing the challenge of HIV/AIDS and other communicable diseases,

Deeply concerned that each year the number of people infected with HIV continues to grow, and also deeply concerned by the exponential growth in the number of women, young people and children affected by HIV/AIDS,

Recognising that discrimination against women, both de jure and de facto, renders them particularly vulnerable to HIV/AIDS,

Alarmed by the unprecedented number of children around the world who are being orphaned by HIV/AIDS, who are thus rendered far more vulnerable and face a much greater risk of hunger, of having limited access to education, health and social services, and of violence, abuse, exploitation and recruitment as child soldiers, and *aware* that these factors increase their likelihood of becoming infected with HIV themselves,

Further concerned that the reluctance of some governments to acknowledge the existence and gravity of the HIV/AIDS pandemic, and to recognise the stigma and discrimination faced by people living with HIV/AIDS, particularly women, hampers the effectiveness of responses to this pandemic,

Aware that stigma and discrimination continue to prevent people from having access to HIV testing and

counselling services, which are of paramount importance in the prevention and treatment of the pandemic,

Recognising that the global HIV/AIDS pandemic constitutes a formidable challenge to human life and dignity and to the full enjoyment of human rights, and that the full realisation of human rights and fundamental freedoms for the people affected is an essential element in the global response to the pandemic,

Affirming that respect for, and the protection and fulfilment of, the human rights of women and girls are necessary and fundamental components of the approach to addressing HIV/AIDS,

Concerned about the negative economic and social impact of the denial of the human rights of people living with HIV/AIDS to work, education and other social services, and *further concerned* that women and children often suffer the greatest economic and social impact as a result of the pandemic,

Underscoring that the struggle against HIV/AIDS cannot be separated from the struggle against poverty, which affects primarily women and children, thus undermining the workforce and hindering economic and social development,

Concerned that ignorance and intolerance are still a reason for the marginalisation of persons affected or presumed to be affected by HIV/AIDS, which causes discriminatory acts in the fields of medical assistance, job opportunities, education, housing and, in general, in every aspect related to their social well-being,

Considering that although the use of antiretroviral medications combined with proper therapies can delay the advance of HIV/AIDS, millions of infected people in developing nations, particularly in Africa, cannot afford these treatments,

Considering that under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) of the World Trade Organization (WTO), WTO members may allow the production of patented medicines in the event of health emergencies, and *realising* that the World Health Assembly passed a resolution encouraging WHO member States to utilise fully the flexibilities in the TRIPS Agreement to promote access to antiretrovirals and other essential pharmaceutical products,

Aware that the realisation of the rights of people living with HIV/AIDS requires non-discriminatory access for them to services, including health care, treatment and social and legal services, within a supportive social environment,

Convinced that recognising the degree of the infection levels of the HIV/AIDS pandemic within each country will help the respective governments tailor their prevention and treatment programmes to meet their particular needs,

Further convinced that capacity-building in the field of public health is critical to the effective prevention and treatment of HIV/AIDS,

Also convinced that countries particularly affected by the HIV/AIDS pandemic should receive special support from the international community for their efforts to comply with their commitments,

Considering that ensuring access to affordable medication, including access to antiretroviral therapy for those suffering from HIV/AIDS, is fundamental to achieving progressively the full realisation of the universal right to the enjoyment of the highest attainable standard of health,

Considering that conflict situations, particularly in Africa, have led to an increased incidence of HIV/AIDS, and *recalling* United Nations Security Council resolution 1308 (2000), which states that the HIV/AIDS pandemic, if unchecked, may pose a risk to stability and security, and the report of the United Nations High-Level Panel on Threats, Challenges and Change, which places infectious diseases among the economic and social threats to international security,

Aware of the fact that any response to the epidemic will be effective only if it addresses the causes of its spread, including human trafficking, in particular trafficking in women and girls, drug abuse and illicit drug trafficking and gender-based violence, and *considering* in this context that the pivotal roles

of the family, religion and long-established fundamental ethical principles and values need to be underlined,

Emphasising that the HIV/AIDS pandemic is at the same time a medical, social and economic emergency,

- Calls upon parliaments and governments to ensure that their laws, policies and practices respect human rights in the context of HIV/AIDS, in particular the rights to education, work, privacy, protection and access to care, treatment and social services; and *also calls upon* them to protect people living with HIV/AIDS from all forms of discrimination in both the public and the private sectors, promote gender equality, ensure privacy and confidentiality in research involving human subjects, and provide for speedy and effective judicial, administrative and civil remedies in the event that the rights of people living with HIV/AIDS are violated;
- 2. *Reminds* States of the commitments they have made to promote and encourage respect for human rights instruments such as the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocols, the Convention on the Rights of the Child, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Elimination of All Forms of Racial Discrimination, and the Declaration on Fundamental Rights and Principles at Work of the International Labour Organization; and *requests* States that have not yet done so to take the necessary steps to ratify and implement these international instruments;
- 3. Invites States that have not already done so to include in their national reports on the MDGs the objective of stopping by 2015 the spread of HIV/AIDS and of beginning to reverse the development of this pandemic; further invites parliaments to sponsor the official launch of these reports from their premises; and encourages the periodic establishment of national and regional reports taking stock of the degree of achievement of the MDGs, in particular in the field of the fight against HIV/AIDS;
- 4. Urges governments in the developed countries both to continue and to increase the financial and technical assistance that they provide to developing countries and especially the least developed countries, and to share their expertise in addressing HIV/AIDS with those countries that seek to create or strengthen their own human rights institutions in the context of HIV/AIDS;
- 5. *Further urges* governments to allocate sufficient resources to their health systems, including resources for prevention and care;
- 6. *Strongly urges* governments to implement the measures recommended in the UNAIDS/WHO document *Guidance on ethics and equitable access to HIV treatment and care* to promote equity in the distribution of HIV care in resource-limited settings;
- 7. Further urges parliaments and governments to adopt and finance the measures necessary to ensure, on a sustained basis and for all affected persons (irrespective of social status, legal situation, gender, age or sexual orientation), the availability and accessibility of good quality services and information for HIV/AIDS prevention, management, treatment, care and support, including the provision of HIV/AIDS prevention supplies such as male and female condoms, safe injection needles, microbicides and basic preventive care materials, as well as affordable antiretroviral drugs and other safe and effective medicines in poor countries, psychological support, diagnostics and related technologies, for all persons, with particular attention to vulnerable individuals and populations such as women and children;
- 8. Also urges parliaments and governments to implement measures to increase the capacity of women and adolescent girls to protect themselves from the risk of HIV infection, principally through the provision of health care and health services, including those related to sexual and reproductive health;
- .9. Invites parliaments and governments to adopt the measures necessary to continue, intensify, combine, make mutually beneficial and harmonise national and multinational research and development efforts aimed at developing new treatments for the fight against HIV/AIDS, new

means of prevention and new diagnostic tools and tests, including vaccines and femalecontrolled prevention methods such as microbicides;

- 10. *Calls upon* parliaments and governments to recognise the health, socio-economic and other effects of HIV/AIDS on individuals, families, societies and nations, and to take the appropriate legislative and executive social measures to halt its spread;
- 11. Calls upon governments to make services related to treatment, care and support for people living with HIV/AIDS comprehensive, by including the prevention and treatment of other infectious diseases often associated with HIV/AIDS, such as pneumonia, tuberculosis and opportunistic infections;
- 12. Urges all parliaments and governments to adopt and implement policies that respect the human rights of persons living with HIV/AIDS, and through all available media, to advocate for and raise awareness of their rights;
- 13. Calls upon parliaments and governments to develop and implement national legislation and policies that address the needs and human rights of the growing number of children orphaned and made vulnerable by the HIV/AIDS pandemic;
- 14. Calls upon parliaments:

(a) to draw up laws or amend existing legislation to define national standards of protection for those suffering from HIV/AIDS, and especially for people in vulnerable groups, such as women and children, with particular attention paid to the situation of anyone suffering from the loss of close family members as a result of HIV/AIDS;

(b) to review and adjust legislation to ensure that it conforms to the International Guidelines on HIV/AIDS and Human Rights;

(c) to enact legislation to punish those who knowingly take the risk of transmitting HIV/AIDS, or who wilfully do so;

- 15. Further calls upon parliamentarians in the IPU's Member Parliaments to promote appropriate legislative measures to tackle discrimination against persons affected by HIV/AIDS and to contribute to the creation of a social environment of tolerance and human solidarity, indispensable for the prevention of this terrible disease and for assisting those affected by it;
- 16. Also calls upon parliaments, governments and the international community to ensure free access to HIV testing for all;
- 17. Calls upon parliaments to promote an effective and efficient use of resources for HIV/AIDS response, including by means of country-level coordination that takes into consideration the UNAIDS "Three Ones" guiding principles for national authorities and their partners;
- 18. Urges parliaments to create parliamentary committees and/or other structures formally linked to parliaments with the specific task of tackling the issue of halting and reversing the spread of HIV/AIDS, to share experiences, information and best practices and to involve all sectors of society through partnership programmes in high-level decision-making processes;
- 19. Calls upon organisations, agencies, bodies, funds and programmes within the United Nations system to incorporate public health into their development activities and programmes, and to support actively the capacity-building of the public health systems of Member States in respect of the prevention and treatment of HIV/AIDS;
- 20. Urges parliaments and governments to take into consideration the linkage between sexual and reproductive health and rights on the one hand, and the fight against HIV/AIDS on the other;
- 21. Further urges parliaments to develop comprehensive policies to provide for an improved food

supply in countries affected by the HIV/AIDS pandemic;

- 22. Calls upon parliaments and governments to ensure the development and accelerated implementation of national strategies for women's empowerment, inter alia by ensuring they have access to property rights, by promoting and protecting women's full enjoyment of all human rights and by reducing their vulnerability to HIV/AIDS through the elimination of all forms of discrimination, as well as all forms of violence against women and girls, including harmful traditional and customary practices, abuse, rape and other forms of sexual violence;
- 23. Strongly urges governments to coordinate efforts with and support the work of the United Nations, non-governmental organisations and other bodies or institutions involved in HIV/AIDS prevention in order to ensure that the human rights of individuals living with HIV/AIDS are upheld and protected;
- 24. Calls on all parliaments and governments to strengthen national mechanisms such as commissions, tribunals, legislation and coordinated strategies to protect, enforce and monitor, in their respective countries, the human rights of individuals infected with and affected by HIV/AIDS, and to eliminate all forms of stigma and discrimination, especially in respect of vulnerable groups such as women and children both boys and girls as they bear the brunt of the epidemic and are most likely to care for sick people and to lose jobs, family members, income and schooling opportunities as a result of the illness, and to pay equal attention to other vulnerable groups, such as prisoners;
- 25. Urges parliaments and governments to design HIV/AIDS policies and programmes that effectively recognise the needs of women in particular, and that are sensitive to differences in terms of culture and religion that may exist in societies;
- 26. Further urges parliaments and governments to consider the public health safeguards provided for by the 30 August 2003 decision of the General Council of the WTO allowing members to produce and/or export pharmaceutical products needed to combat infectious diseases such as HIV/AIDS that threaten societies, and to incorporate permitted flexibilities into national laws enacted in compliance with the WTO TRIPS Agreement;
- 27. Calls upon parliaments and governments to ban compulsory HIV/AIDS screening for people applying for travel visas, university enrolment, jobs, or asylum, in favour of voluntary testing;
- 28. Further calls for special attention to be given to preventing HIV/AIDS by disseminating adequate and target group-oriented information, using all available media and multipliers, raising awareness and educating both men and women, with particular attention paid to adolescent boys and girls; and *requests* the inclusion of sex education in school curricula, for both boys and girls, as a means of prevention;
- 29. Urges the national and local agencies concerned to give high priority to assisting pregnant and breastfeeding women suffering from HIV/AIDS in order to protect their babies from infection;
- 30. *Requests* parliaments and governments to establish coordinated, participatory, transparent and accountable national policies and programmes for HIV/AIDS response, and to translate these national policies into action at the district and local levels, wherever possible involving, in development and implementation, non-governmental and community-based organisations, religious organisations, the private sector, and more importantly, people living with HIV/AIDS, and particularly the most vulnerable among them, including women and children;
- 31. Calls upon men and women parliamentarians to ensure that national budgets are gendersensitive, thereby efficiently addressing the needs of both men and women;
- 32. Calls for the enhancement of support and resources for UNAIDS, and for increased financial contributions for the Global Fund to Fight AIDS, Tuberculosis and Malaria;
- 33. Urges parliaments and governments to promote international cooperation, growth and development as steps towards the containment of conflict situations and the reduction of their possible impact on HIV/AIDS;

- 34. Urges States, in conformity with United Nations Security Council resolution 1325 (2000) on women, peace and security, to ensure adequate HIV/AIDS awareness training for members of the military and the police, and for peacekeeping personnel;
- 35. *Reiterates* its call to governments to recognise the International Partnership against AIDS in Africa and to promote it, along with the Global Fund to Fight AIDS, Tuberculosis and Malaria, as the framework for action to fight AIDS in Africa;
- 36. Affirms the importance of narrowing the economic and cultural gap between the developed and developing countries, while ensuring that the strategies and programmes employed in the fight against HIV/AIDS take into consideration the natural, human and cultural characteristics of the regions where they are applied, so as to reflect both the characteristics of the demographic structure of each region and the social and economic conditions of its inhabitants;
- 37. *Emphasises* that countries should integrate the development of public health undertakings into their national economic and social development strategies, which should include the establishment and improvement of effective public health mechanisms, in particular a network for the supervision, prevention, and treatment of the HIV/AIDS epidemic, and for the exchange of information.

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Inter-Parliamentary Union

Chemin du Pommier 5, C.P. 330, CH-1218 Le Grand-Saconnex/Geneva, Switzerland

THE ROLE OF PARLIAMENTS IN THE ESTABLISHMENT AND FUNCTIONING OF MECHANISMS TO PROVIDE FOR THE JUDGEMENT AND SENTENCING OF WAR CRIMES, CRIMES AGAINST HUMANITY, GENOCIDE AND TERRORISM, WITH A VIEW TO AVOIDING IMPUNITY

Resolution adopted unanimously by the 112th Assembly (Manila, 8 April 2005)

The 112th Assembly of the Inter-Parliamentary Union,

Deeply concerned by the fact that in today's world, many regions and whole societies are brutally affected by the persistence of war crimes, crimes against humanity, genocide and/or terrorism, all of which are serious crimes of concern to the international community as a whole,

Convinced that there is no justifiable cause for those abhorrent crimes,

Considering that, in keeping with the principles enshrined in the United Nations Charter, international human rights law, international humanitarian law and international criminal law, appropriate instruments have been developed, and that it is of paramount importance to ensure that their provisions be enforced, in conformity with the international obligations assumed by States,

Recalling in this respect the particular importance of ensuring respect for the rights and fundamental freedoms enshrined in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Geneva Conventions for the protection of victims of war of 12 August 1949 and their Additional Protocols, the Convention on the Prevention and Punishment of the Crime of Genocide and other instruments, treaties and agreements ensuring respect for human dignity, as well as the human rights norms of customary international law as reflected by state practice,

Considering that under international law, no statutory limitation applies to war crimes, crimes against humanity, genocide and terrorism, and such crimes are not subject to amnesty, clemency or pardon, and that this has been confirmed by the judgements of national and international courts,

Recalling the resolutions on peace, security and disarmament adopted by the IPU since 1990,

Stressing the importance of the International Criminal Court (ICC) in preventing and punishing war crimes, genocide and crimes against humanity, and *recalling* in this respect that States party to the Rome Statute of the ICC have a duty to prosecute such crimes themselves or to refer persons suspected of such crimes to the jurisdiction of the ICC, and also that international humanitarian law, as enshrined in the Geneva Conventions for the protection of victims of war of 12 August 1949 and their Additional Protocols, places the obligation on States to search for and try persons alleged to have committed, or have ordered to be committed, grave breaches, regardless of the persons' nationality or where the violations take place,

Recognising that the jurisdiction of the ICC is limited to crimes committed on or after 1 July 2002 and that there is a need for mechanisms to address war crimes, crimes against humanity and genocide committed before that date,

Considering the Rome Statute, which requires States Parties to cooperate with the ICC in order to combat war crimes, crimes against humanity and genocide, and *considering* the 12 international conventions and protocols relating to terrorism,

Concerned at the lack of progress made, on the one hand by the States Parties to the Rome Statute of

the ICC and on the other hand by all States, in implementing the necessary mechanisms to support, respectively, the Statute, and the provisions adopted by the United Nations and other bodies to combat these crimes,

Recognising that political will to speak out against racism, xenophobia and intolerance is an essential element in ending impunity,

Concerned at the fact that the implementation of agreements on the prosecution of war crimes, crimes against humanity, genocide and terrorism has been delayed, set aside, or omitted by some States, thus subjecting these agreements to different interpretations and reducing their effectiveness, *alarmed* at the possibility that this may signal a permissive attitude towards impunity, and *concerned* at the fact that many States have not yet ratified or acceded to the Rome Statute,

Convinced that parliaments have a primary responsibility, and must, by enacting necessary legislation, play a central role in the prevention, punishment and avoidance of impunity for war crimes, crimes against humanity, genocide and terrorism, and that a multilateral approach among parliaments is an appropriate way to facilitate the implementation of mechanisms required for the enforcement of judgements and penalties for these abhorrent crimes,

Recalling that each State has the obligation and the duty to prosecute or extradite the perpetrators of war crimes, crimes against humanity, crimes of genocide and terrorist crimes, irrespective of the location of the crime or the nationality of the perpetrator or the victim,

Recalling that victims of war crimes, crimes against humanity, genocide and terrorism have the right to truth, justice and reparation,

- 1. *Strongly condemns*, without exception, all acts, methods and practices of war crimes, crimes against humanity and genocide;
- Strongly condemns all acts, methods and practices of terrorism in all its forms and manifestations, wherever and by whomsoever committed, including those in which States are directly or indirectly involved, which threaten friendly relations among peoples, endanger or take innocent lives, have a deleterious effect on international relations and may jeopardise the security and territorial integrity of States;
- 3. Strongly advises all IPU Member Parliaments to assume, before their States and citizens, in conformity with their national legislations and the international obligations of States, the responsibility for implementing and enforcing, through the enactment of national laws, the international agreements that have been concluded to punish and prevent war crimes, crimes against humanity, genocide and terrorism;
- 4. *Recommends* that through the inter-parliamentary activity of IPU Members, efforts should be combined and experiences shared in order to develop the necessary mechanisms to pursue these objectives, and to avoid impunity for those individuals, organisations and States that commit war crimes, crimes against humanity, genocide and terrorism;
- Urges Member Parliaments duly to codify, in accordance with international law, in particular international humanitarian law, human rights law and refugee law, these abhorrent crimes in their domestic criminal law, and to establish the corresponding penalties and mechanisms to avoid impunity;
- 6. *Invites* those States which have not yet done so to ratify or accede to the Rome Statute and to ratify the Agreement on the Privileges and Immunities of the International Criminal Court; and *encourages* all Member Parliaments whose States are parties to the Rome Statute to pass domestic legislation in order to allow them to cooperate with the ICC;
- 7. *Recommends* that all parliaments, including those of States which have not ratified the Rome Statute, enact laws for the prevention and punishment of war crimes, crimes against humanity, genocide and terrorism;
- 8. Recommends that all parliaments support and cooperate with the ICC and other competent

bodies (such as national and international commissions for the investigation of crimes against humanity and national and international courts), and thus strengthen parliamentary action to eradicate war crimes, crimes against humanity, genocide and terrorism;

- 9. Recommends that States specifically address the issue of war crimes, crimes against humanity and genocide committed before the entry into force of the Rome Statute in a framework of justice and legality, which are the necessary conditions to attain peace and the respect of human rights in each country and in the international community;
- 10. *Urges* Member Parliaments to reject bilateral agreements that would provide for immunity from investigation and prosecution, by the ICC or otherwise, for the nationals of any State;
- 11. *Recommends* that all parliaments do everything in their power to assist with the criminal prosecution of persons being sought by the International Criminal Police Organization (Interpol), including by facilitating their hand-over;
- 12. *Calls* on parliaments to consider ratifying, if they have not yet done so, the 12 multilateral treaties on terrorism and the relevant regional instruments, to incorporate their provisions into domestic legislation and to see to it that they are duly implemented;
- 13. *Recommends* that all parliaments urge their respective governments to intensify efforts to come to a global agreement on terrorism, expressing the common awareness of States of the threat of international terrorism and providing a precise definition of the nature and actual features of this phenomenon, so as to combat it more effectively;
- 14. *Calls* for recognition of the need to strengthen capacity-building assistance for countries which have the political will but lack the technical resources necessary to conclude and implement the 12 conventions and protocols relating to terrorism;
- 15. *Recommends* that all parliaments enact legislation, in line with international law, to create civil procedures to provide compensation to victims of war crimes, crimes against humanity, genocide and terrorism;
- 16. *Encourages* parliaments to make the fullest possible use of their competences and roles to achieve these objectives;
- 17. *Recommends* that parliaments take account of international declarations and conventions on these subjects and of the considerations of the United Nations, the ICC and all related international or regional agencies, authorities and bodies;
- 18. *Invites* parliaments to include in their agendas, as a priority, the activities required to implement all mechanisms which may contribute to the prosecution of war crimes, crimes against humanity, genocide and terrorism, including the strengthening of rule of law mechanisms, so as to avoid impunity for these crimes and to ensure the rights of the victims of such crimes to just reparation;
- 19. *Invites* the United Nations and parliaments to promote voluntary contributions to the ICC Trust Fund for Victims.

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