



**Economic and Social
Council**

Distr.
LIMITED

E/CN.4/2004/L.11/Add.2
16 April 2004

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sixtieth session
Agenda item 21 (b)

**REPORT TO THE ECONOMIC AND SOCIAL COUNCIL ON THE
SIXTIETH SESSION OF THE COMMISSION**

Draft report of the Commission

Rapporteur: Mr. Mike OMOTOSHO (Nigeria)

CONTENTS*

<i>Chapter</i>	<i>Page</i>
II. Resolutions and decisions adopted by the Commission at its sixtieth session	
A. <i>Resolutions</i>	
2004/8. Human rights in the occupied Syrian Golan	
2004/9. Israeli settlements in the occupied Arab territories	

* Documents E/CN.4/2004/L.10 and addenda will contain the chapters of the report relating to the organization of the session and the various items on the agenda. Resolutions and decisions adopted by the Commission, as well as draft resolutions and decisions for action by, and other matters of concern to, the Economic and Social Council will be contained in documents E/CN.4/2004/L.11 and addenda.

CONTENTS (*continued*)

<i>Chapter</i>	<i>Page</i>
II. A. <i>Resolutions (continued)</i>	
2004/10. Question of the violation of human rights in the occupied Arab territories, including Palestine	
2004/11. Situation of human rights in Cuba	
2004/12. Situation of human rights in Turkmenistan	
2004/13. Situation of human rights in the Democratic People's Republic of Korea	
2004/14. Situation of human rights in Belarus	
2004/15. Cooperation with representatives of United Nations human rights bodies	

2004/8. Human rights in the occupied Syrian Golan

The Commission on Human Rights,

Deeply concerned at the suffering of the Syrian citizens in the occupied Syrian Golan due to the violation of their fundamental and human rights since the Israeli military occupation of 1967,

Recalling Security Council resolution 497 (1981) of 17 December 1981,

Recalling also all relevant General Assembly resolutions, including the latest, resolution 58/23 of 3 December 2003, in which the Assembly declared that Israel had failed to comply with Security Council resolution 497 (1981) and demanded that Israel withdraw from all the occupied Syrian Golan,

Reaffirming once more the illegality of Israel's decision of 14 December 1981 to impose its laws, jurisdiction and administration on the occupied Syrian Golan, which has resulted in the effective annexation of that territory,

Reaffirming the principle of non-acquisition of territory by force in accordance with the Charter of the United Nations and the principles of international law,

Taking note with deep concern of the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories (A/58/311) of 22 August 2003 and, in this connection, deploring the Israeli settlement in the occupied Arab territories and regretting Israel's constant refusal to cooperate with and to receive the Special Committee,

Guided by the relevant provisions of the Charter of the United Nations, international law and the Universal Declaration of Human Rights, and reaffirming the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and the relevant provisions of the Hague Conventions of 1899 and 1907 to the occupied Syrian Golan,

Reaffirming the importance of the peace process which started in Madrid on the basis of Security Council resolutions 242 (1967) of 22 November 1967 and 338 (1973) of

22 October 1973 and the principle of land for peace, and expressing its concern over the halt in the peace process in the Middle East, and its hope that peace talks will be resumed on the basis of the full implementation of Security Council resolutions 242 (1967) and 338 (1973) for the establishment of a just and comprehensive peace in the region,

Reaffirming also its previous relevant resolutions, the most recent being resolution 2003/5 of 15 April 2003,

1. *Calls upon* Israel, the occupying Power, to comply with the relevant resolutions of the General Assembly and of the Security Council, particularly resolution 497 (1981) of 17 December 1981, in which the Council, inter alia, decided that the Israeli decision to impose its laws, jurisdiction and administration on the occupied Syrian Golan is null and void and without international legal effect, and demanded that Israel should rescind forthwith its decision;

2. *Also calls upon* Israel to desist from changing the physical character, demographic composition, institutional structure and legal status of the occupied Syrian Golan, and emphasizes that the displaced persons of the population of the occupied Syrian Golan must be allowed to return to their homes and to recover their properties;

3. *Further calls upon* Israel to desist from imposing Israeli citizenship and Israeli identity cards on the Syrian citizens in the occupied Syrian Golan and to desist from its repressive measures against them, and from all other practices mentioned in the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories;

4. *Determines* that all legislative and administrative measures and actions taken or to be taken by Israel, the occupying Power, that purport to alter the character and legal status of the occupied Syrian Golan are null and void, constitute a flagrant violation of international law and of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and have no legal effect;

5. *Calls once again upon* Member States not to recognize any of the legislative or administrative measures and actions referred to above;

6. *Requests* the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations and to give it the widest possible publicity, and to report to the Commission on Human Rights at its sixty-first session;

7. *Decides* to include in the provisional agenda of its sixty-first session, as a matter of high priority, the item entitled “Question of the violation of human rights in the occupied Arab territories, including Palestine”.

*49th meeting
15 April 2004*

[Adopted by a recorded vote of 31 votes to 1,
with 21 abstentions. See chap. VIII.]

2004/9. Israeli settlements in the occupied Arab territories

The Commission on Human Rights,

Reaffirming that all States have an obligation to promote and protect human rights and fundamental freedoms, as stated in the Charter of the United Nations and as elaborated in the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable instruments,

Mindful that Israel is a party to the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, which is applicable de jure to Palestinian and all Arab territories occupied by Israel since 1967, including East Jerusalem, and recalling the declaration adopted by the Conference of High Contracting Parties to the Fourth Geneva Convention, held in Geneva on 5 December 2001,

Recalling its previous resolutions, most recently resolution 2003/7 of 15 April 2003, and taking note of General Assembly resolution 58/98 of 9 December 2003, in which, inter alia, the illegality of the Israeli settlements in the occupied territories was reaffirmed,

Welcoming the presentation by the Quartet to the parties of the road map to a permanent two-State solution to the Israeli-Palestinian conflict and noting the call for a freeze on settlement

activity, and taking note of the proposals for an Israeli withdrawal from the Gaza Strip, which could represent a significant step towards the implementation of the road map, provided that it took place in the context of the road map; it was a step towards a two-State solution; it did not involve a transfer of settlement activity to the West Bank; there is an organized and negotiated handover of responsibility to the Palestinian Authority; and Israel facilitates the rehabilitation and reconstruction of Gaza,

Gravely concerned at the widespread violations of human rights and international humanitarian law which continue to result from the occupation of the Occupied Palestinian Territory,

Concerned in particular that the route marked out for the so-called security fence under construction by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem, could prejudice future negotiations and make the two-State solution physically impossible to implement and would cause further humanitarian and economic hardship to the Palestinians,

Expressing its concern at the failure of the Government of Israel to cooperate fully with the relevant United Nations mechanisms, in particular the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967,

Also expressing its concern that continuing Israeli settlement activity undermines the realization of a two-State solution to the conflict, and therefore threatens the long-term security of Palestinians as well as Israelis,

Further expressing its concern regarding the security threats related to the presence of the settlements in the occupied territories, as expressed in the report of the Sharm el-Sheikh Fact-Finding Committee (the Mitchell report),

1. *Welcomes* the report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 (E/CN.4/2004/6 and Add.1) and calls upon the Government of Israel to cooperate with the Special Rapporteur to allow him fully to discharge his mandate;

2. *Expresses its grave concern at:*

(a) The continuation, at an escalated level, of the Israeli-Palestinian conflict, which has led to a seemingly endless spiral of hatred and violence and to increased suffering for both Israelis and Palestinians;

(b) The continuing illegal Israeli settlement activities in the occupied territories and related activities, such as the expansion of settlements, the expropriation of land, the demolition of houses, the confiscation and destruction of property, the expulsion of Palestinians and the construction of bypass roads, which change the physical character and demographic composition of the occupied territories, including East Jerusalem, and constitute a violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949; settlements are a major obstacle to peace and to the creation of an independent, viable, sovereign and democratic Palestinian State in accordance with Security Council resolution 1397 (2002) of 12 March 2002;

(c) And strongly condemns all acts of violence, including indiscriminate terrorist attacks killing and injuring civilians, provocation, incitement and destruction and urges the Palestinian Authority to concretely demonstrate its determination in the fight against terrorism and extremist violence;

(d) The continuing high level of casualties on both sides, particularly civilians, and, while recognizing Israel's right to self-defence in the face of terrorist attacks against its citizens, urges the Government of Israel to exert maximum effort to avoid civilian casualties and to put a halt to extrajudicial killings, which are contrary to international law;

(e) The continued closures of and within the Palestinian territories and the restriction of the freedom of movement of the Palestinians, including the extensive curfews imposed on the West Bank cities for long periods of time, which contribute, together with other factors, to the intolerable level of violence that has prevailed in the zone for more than three years, have caused an extremely precarious humanitarian situation for the civilian population and have had a negative impact on the enjoyment of economic and social rights in the Palestinian territories, affecting in particular the most vulnerable groups of the population;

(f) The continued construction of the so-called security fence in the Palestinian territories, including in and around East Jerusalem;

(g) The route marked out for the so-called security fence in the occupied West Bank and the envisaged departure of the route from the Armistice Line of 1949 which could prejudice future negotiations and make the two-State solution physically impossible to implement, and the creation of a closed zone between the so-called security fence and the Armistice Line and the consequent humanitarian and economic hardship for the Palestinians, thousands of whom are being cut off from essential services, land and water resources;

3. *Urges* the Government of Israel:

(a) To comply fully with the previous Commission resolutions on the subject, most recently resolution 2003/7 of 15 April 2003;

(b) To reverse its settlement policy in the occupied territories, including East Jerusalem, and, as a first step towards their dismantlement, to stop immediately the expansion of existing settlements, including “natural growth” and related activities;

(c) To prevent any new installation of settlers in the occupied territories;

(d) To implement the recommendations regarding the settlements made by the former United Nations High Commissioner for Human Rights in her report to the Commission at its fifty-seventh session on her visit to the occupied Palestinian territories, Israel, Egypt and Jordan (E/CN.4/2001/114);

(e) To take and implement serious measures, including confiscation of arms and enforcement of criminal sanctions, with the aim of preventing illegal acts of violence by Israeli settlers, and other measures to guarantee the safety and protection of the Palestinian civilians in the occupied territories;

4. *Demands* that Israel stop and reverse the construction of the so-called security fence in the Occupied Palestinian Territory, including in and around East Jerusalem, which is a departure from the Armistice Line of 1949 and is in contradiction to relevant provisions of international law;

5. *Urges* the parties to implement immediately and fully, without modifications, the road map endorsed by the Security Council with the aim of resuming negotiations on a political settlement which is in accordance with the resolutions of the Security Council and other relevant United Nations resolutions, the principles of the Peace Conference on the Middle East, held in Madrid on 30 October 1991, the Oslo Accords and subsequent agreements, which will allow two States, Israel and Palestine, to live in peace and security and play their full part in the region;

6. *Decides* to continue its consideration of this question at its sixty-first session.

49th meeting

15 April 2004

[Adopted by a recorded vote of 27 votes to 2,
with 24 abstentions. See chap. VIII.]

**2004/10. Question of the violation of human rights in the occupied
Arab territories, including Palestine**

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations and by the provisions of the Universal Declaration of Human Rights,

Recalling Security Council resolutions 242 (1967) of 22 November 1967, 338 (1973) of 22 October 1973, 1397 (2002) of 12 March 2002, 1402 (2002) of 30 March 2002 and 1403 (2002) of 4 April 2002 that called upon both parties to move immediately to a meaningful ceasefire, for withdrawal of Israeli troops and for an immediate cessation of all acts of violence, including all acts of terror, provocation, incitement and destruction,

Guided by the provisions of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

Taking into consideration the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, the provisions of Additional Protocol I thereto of 1977 and the Hague Convention of 18 October 1907, and Annexed Regulations concerning the Laws and Customs of War on Land,

Recalling resolutions of the Security Council, the General Assembly and the Commission on Human Rights relating to the applicability of the Fourth Geneva Convention to the Occupied Palestinian Territory, including East Jerusalem, since the 5 June 1967 war,

Reaffirming the applicability of the Fourth Geneva Convention to the Palestinian territories occupied since the June 1967 war, including East Jerusalem,

Recalling General Assembly resolutions on Israeli violations of human rights in the Palestinian territories occupied since 1967, including East Jerusalem,

Recalling in particular General Assembly resolution 37/43 of 3 December 1982 reaffirming the legitimacy of the struggle of peoples for independence from foreign domination and foreign occupation and for self-determination, in conformity with international law,

Recalling the Vienna Declaration and Programme of Action, adopted in June 1993 by the World Conference on Human Rights,

Welcoming the report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, John Dugard (E/CN.4/2004/6 and Add.1), and the report of the Special Rapporteur on the right to food, Jean Ziegler (E/CN.4/2004/10/Add.2),

Expressing its deep concern at the failure of the Government of Israel to cooperate with the Human Rights Inquiry Commission established pursuant to Commission resolution S-5/1 of 19 October 2000 and its failure to cooperate with other relevant special rapporteurs, in particular Mr. Dugard,

Gravely concerned at the continued deterioration of the situation in the Occupied Palestinian Territory and at the gross violations of human rights and international humanitarian law, in particular acts of extrajudicial killing, closures, collective punishments, the persistence in establishing settlements, arbitrary detentions, siege of Palestinian towns and villages, the shelling of Palestinian residential neighbourhoods by warplanes, tanks and Israeli battleships, and incursions into towns, villages and camps to kill innocent men, women and children, as was the case in Jenin, Balata, Khan Younis, Rafah, Ramallah, Gaza, Nablus, Al-Birah, Al-Amari, Jabalia, Bethlehem and Dheisheh and in the Al-Daraj and Al-Zaitoun neighbourhoods in the city

of Gaza, and also during recent months in the Rafah and in Al-Shajai'ia neighbourhood in Gaza, as well as during the last Israeli massacres in the Al-Nusseirat and Al-Burreij refugee camps in the centre of the Gaza Strip on 7 March 2004,

Expressing its grave concern at the continued Israeli aggression and the resulting deaths and injuries, mostly among Palestinians, the toll of casualties having increased to over 2,800 martyrs and over 25,000 wounded since 28 September 2000,

Taking note of the reports of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories submitted to the General Assembly since 1968, the last of which was A/58/311,

Expressing its grave concern at the continued Israeli refusal to abide by the resolutions of the Security Council, the General Assembly and the Commission on Human Rights calling upon Israel to put an end to the violations of human rights and affirming the applicability of the Fourth Geneva Convention to the Palestinian territories occupied by Israel since 1967, including East Jerusalem,

Convinced that the basis of negotiations and of achieving a just and lasting peace should be Security Council resolutions 242 (1967), 338 (1973) and other relevant United Nations resolutions, including the principle of the inadmissibility of acquisition of territory by war, the need for every State in the area to be able to live in security and the principle of land for peace,

Recalling all its previous resolutions in this respect, the latest of which is resolution 2003/6 of 15 April 2003,

Recalling also the inadmissibility of the acquisition of others' land by force, which constitutes a jus cogens in international law,

Gravely concerned at the construction of the Israeli wall inside the Occupied Palestinian Territory, aimed at expropriating further Palestinian lands by force, with all the drastic consequences that this wall will have on the Palestinian community, namely on its social, economic, educational, health and psychological aspects, and which is destroying any possibility of achieving a genuine peace based on the two-State solution, with an independent Palestinian State and an Israeli State,

Affirming that the construction of this wall on the Palestinian territories constitutes a violation of the right of the Palestinian people to self-determination and hinders the exercise by the Palestinian people of this right,

Recalling in this respect General Assembly resolution ES-10/13 of 21 October 2003,

Recalling also the report of the Secretary-General (A/ES-10/248), which concluded that Israel is not in compliance with the Assembly's demand that "it stop and reverse the construction of the wall in the Occupied Palestinian Territory",

1. *Reaffirms* the legitimate right of the Palestinian people to resist the Israeli occupation in order to free its land and be able to exercise its right to self-determination, in conformity with the goals and purposes stipulated by the Charter of the United Nations;
2. *Strongly condemns* once more the human rights violations of the Israeli occupation authorities in the Occupied Palestinian Territory, including East Jerusalem, since 1967;
3. *Also strongly condemns* the Israeli occupation of the Palestinian territories as being an aggression and an offence against humanity and a flagrant violation of human rights;
4. *Further strongly condemns* the war launched by the Israeli army, particularly since October 2000, against Palestinian towns and camps, which has resulted so far in the death of hundreds of Palestinian civilians, including women and children;
5. *Strongly condemns* anew the practice of "liquidation" or "extrajudicial executions" carried out by the Israeli army against Palestinians, a practice which not only constitutes a violation of human rights norms, a flagrant violation of article 3 of the Universal Declaration of Human Rights and of the rule of law, but which is also damaging for the relationship between the parties and therefore constitutes an obstacle to peace, and urges the Government of Israel to respect international law and immediately to put an end to such practices;
6. *Strongly condemns once again* the establishment of Israeli settlements and other related activities in the Occupied Palestinian Territory, including East Jerusalem, such as the

construction of new settlements and the expansion of the existing ones, land confiscation, biased administration of water resources and the construction of bypass roads, which not only constitute grave violations of human rights and international humanitarian law, especially article 49 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949 (the Fourth Geneva Convention) and Additional Protocol I thereto of 1977, according to which such violations are categorized as war crimes, but are also major obstacles to peace, urges the Government of Israel to implement the relevant United Nations resolutions as well as the resolutions of the Commission on Human Rights relative to the Israeli settlements, and affirms that the dismantling of Israeli settlements constitutes an essential factor for achieving a just, comprehensive and lasting peace in the region;

7. *Condemns once again* the expropriation of Palestinian homes in Jerusalem, Hebron and the rest of the Occupied Palestinian Territory, the revocation of the identity cards of the residents of East Jerusalem and the policy of imposing fabricated and exorbitant taxes with the aim of forcing Palestinians living in Jerusalem, who cannot afford to pay these high taxes, out of their homes and out of their city, with the aim of Judaizing Jerusalem, and calls upon the Government of Israel to put an end immediately to these practices;

8. *Also condemns once again* the use of torture against Palestinians during interrogation, as it constitutes a grave violation of the principles of international humanitarian law, of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and also of article 5 of the Universal Declaration of Human Rights, and calls upon the Government of Israel to immediately put an end to such practices and to bring the perpetrators of these violations to justice;

9. *Strongly condemns once more* the offensives of the Israeli army of occupation against hospitals and sick persons and the use of Palestinian citizens as human shields during Israeli incursions into Palestinian areas;

10. *Also strongly condemns once more* the Israeli army of occupation's practices of opening fire on ambulances and paramedical personnel and preventing ambulances and vehicles of the International Committee of the Red Cross from reaching the wounded and the dead in order to transport them to hospital, thus leaving the wounded bleeding to death in the streets;

11. *Strongly condemns* acts of mass killing of Palestinians at the hands of the Israeli occupation authorities, including the killing of children, such as recently took place in Nablus, Gaza, Rafah, Al-Nusseirat and Al-Burreij and which persist to this day;

12. *Also strongly condemns* acts that consist of imposing collective punishments, military siege of Palestinian territories, isolating Palestinian towns and villages from each other by military roadblocks used as a trap to kill Palestinians, demolishing houses and levelling agricultural lands, as these practices contribute, together with other factors, to the acts of violence that have prevailed in the region for over three and a half years, and calls upon the Government of Israel immediately to put an end to these practices and to lift its military siege of Palestinian towns and villages and its military roadblocks, and affirms anew that such collective punishments are prohibited under international law, as they constitute grave violations of the provisions of the Fourth Geneva Convention and Additional Protocol I thereto, and also are war crimes;

13. *Expresses its grave concern once again* at the restriction of the freedom of movement imposed by the Israeli occupation authorities on Yasser Arafat, the democratically elected Palestinian President, in violation of articles 9 and 13 of the Universal Declaration of Human Rights;

14. *Strongly condemns* campaigns of massive arrests conducted by the Israeli occupation authorities to detain thousands of Palestinians without trial and without any criminal charges having been brought against them, in violation of article 9 of the Universal Declaration of Human Rights and of the provisions of the Fourth Geneva Convention in this respect;

15. *Affirms anew* that the demolitions carried out by the Israeli occupying forces of at least thirty thousand Palestinian houses, facilities and property constitute grave violations of articles 33 and 53 of the Fourth Geneva Convention and that acts of levelling farmlands, uprooting trees and destroying what is left of the Palestinian infrastructure constitute a form of collective punishment to which Palestinians are subjected, grave violations of the provisions of international humanitarian law and war crimes according to international law;

16. *Affirms anew* that the Fourth Geneva Convention is applicable to the Palestinian territories occupied by Israel since 1967, including East Jerusalem, and considers any change in the geographical, demographic and institutional status of the city of East Jerusalem from its status prior to the June 1967 war to be illegal and void;

17. *Calls once again upon* Israel, the occupying Power, to desist from all forms of human rights violations in the Occupied Palestinian Territory, including East Jerusalem, and other occupied Arab territories, and to respect the principles of international law, international humanitarian law, the Universal Declaration of Human Rights, its international commitments and its signed agreements with the Palestine Liberation Organization;

18. *Also calls once again upon* Israel to withdraw from the Palestinian territories occupied since 1967, including East Jerusalem, in accordance with the relevant resolutions of the United Nations and the Commission on Human Rights, as a basic condition for achieving a just, lasting and comprehensive peace in the Middle East;

19. *Strongly condemns* the construction of the Israeli wall inside the Occupied Palestinian Territory, in the West Bank, as it constitutes a new Israeli pretext for the forcible confiscation of further Palestinian lands, it endangers the social, economic, cultural, educational, health and psychological aspects of the lives of hundreds of thousands of Palestinians as well as their familial unity, it prevents Palestinians from having access to their natural resources and it constitutes a major obstacle to achieving a just and lasting peace on the basis of the two-State solution, with an independent Palestinian State and Israeli State, the only solution which guarantees peace and stability in the region, and it also prevents Palestinians from exercising their right to self-determination; and calls on Israel immediately to stop the construction of the said wall and to erase what it has already built of this wall inside the Palestinian territories occupied since 1967;

20. *Requests* the Special Rapporteur on the situation of human rights in the Palestinian territories occupied by Israel since 1967 to investigate Israel's violations of the principles and bases of international law, international humanitarian law and the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and, in his capacity as a monitoring mechanism, to follow up on the implementation of these

recommendations and to report thereon to the General Assembly at its fifty-ninth session and to the Commission on Human Rights at its sixty-first session, until the end of the mandate of the Special Rapporteur, as established in Commission resolution 1993/2 A of 1993;

21. *Calls upon* the relevant United Nations organs urgently to consider the best ways to provide the necessary international protection for the Palestinian people until the end of the Israeli occupation of the Palestinian territories;

22. *Requests* the Secretary-General to bring the present resolution to the attention of the Government of Israel and all other Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations, to disseminate it on the widest possible scale and to report on its implementation by the Government of Israel to the Commission on Human Rights at its sixty-first session;

23. *Also requests* the Secretary-General to provide the Commission with all United Nations reports issued between the sessions of the Commission that deal with the conditions in which the populations of the Palestinian and other occupied Arab territories are living under the Israeli occupation;

24. *Decides* to consider this question at its sixty-first session under the same agenda item, as a matter of high priority.

*49th meeting
15 April 2004*

[Adopted by a recorded vote of 31 votes to 7,
with 15 abstentions. See chap. VIII.]

2004/11. Situation of human rights in Cuba

The Commission on Human Rights,

Taking into account its resolution 2003/13 of 17 April 2003,

Considering that, in the above-mentioned resolution, the Commission urged the Government of Cuba to receive the Personal Representative of the United Nations High Commissioner for Human Rights and to provide all the facilities necessary for her to be able to fulfil the mandate contained in resolution 2002/18 of 19 April 2002,

Aware that respect for human rights and fundamental freedoms is an obligation attaching to all States in the framework of the purposes and principles of the Charter of the United Nations,

1. *Considers* that the Government of Cuba, like those of all other sovereign States, irrespective of the current exceptional international circumstances which have obliged many States to step up security measures, should refrain from adopting measures which could jeopardize the fundamental rights, the freedom of expression and the right to due process of its citizens, and, in that regard, deplores the events which occurred last year in Cuba involving verdicts against certain political dissidents and journalists, as reported internationally;

2. *Expresses the hope* that the Government of Cuba will continue its efforts to boost religious freedom and will initiate measures designed to facilitate the transition towards the establishment of a fruitful dialogue with all schools of thought and organized political groups in Cuban society, notwithstanding the delicate international environment, with the aim of fostering the all-round development of democratic institutions and civil liberties;

3. *Urges* the Government of Cuba, within the context of the full exercise of its sovereignty, to cooperate with the Personal Representative of the United Nations High Commissioner for Human Rights by facilitating the discharge of her mandate, as other sovereign States must do in keeping with the purposes and principles set out in the Charter of the United Nations;

4. *Decides* to consider this matter further at its sixty-first session, under the same agenda item.

*50th meeting
15 April 2004*

[Adopted by a recorded vote of 22 votes to 21,
with 10 abstentions. See chap. IX.]

2004/12. Situation of human rights in Turkmenistan

The Commission on Human Rights,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms and the duty to fulfil the obligations they have undertaken under the international human rights instruments to which they are parties,

Mindful that Turkmenistan is a party to the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

Recalling its previous resolution on the subject, 2003/11 of 16 April 2003, and taking note of General Assembly resolution 58/194 of 22 December 2003,

Noting the conclusion of the first needs-assessment mission of the Office of the United Nations High Commissioner for Human Rights to Turkmenistan in March 2004,

Noting with appreciation that the Government of Turkmenistan has received the Personal Envoy of the Chairman-in-Office of the Organization for Security and Cooperation in Europe for Participating States in Central Asia and the High Commissioner for National Minorities of the Organization,

Reaffirming that improving security and the fight against terrorism should be conducted in full respect of human rights and democratic principles,

Welcoming the decree on freedom of movement of 11 March 2004 and hoping that it will apply to the large number of people who, regrettably, were unable to leave the country following the earlier repeal of exit visas, and that it will be followed by further positive measures,

Noting with appreciation the decision on 11 March 2004 by the President of Turkmenistan to issue a decree on religious freedom, with the hope that its provisions will be implemented to allow unfettered registration by all religious minority groups,

Welcoming the demonstrated readiness of the Government of Turkmenistan to discuss human rights matters with interested third parties on an ad hoc basis and to agree on the desirability of continuing dialogue and practical cooperation,

1. *Expresses its grave concern at:*

(a) The persistence of a governmental policy based on the repression of all political opposition activities;

(b) The abuse of the legal system through arbitrary detention, imprisonment and surveillance of persons who try to exercise their freedoms of thought, expression, assembly and association, and harassment of their families;

(c) Restrictions on the freedoms of information and expression, including through the suppression of independent media;

(d) Restrictions on the exercise of the freedoms of thought, conscience, religion and belief, including by the harassment and persecution of members of independent faith groups and the discriminatory use of registration procedures for such groups;

(e) Discrimination by the Government of Turkmenistan against ethnic Russian, Uzbek and other minorities in the fields of education and employment;

(f) The poor conditions in prisons in Turkmenistan;

2. *Expresses its grave concern at* the continuing failure of the Government of Turkmenistan to respond to the criticisms identified in the report of the Rapporteur of the Moscow Mechanism of the Organization for Security and Cooperation in Europe as regards the investigation, trial and detention procedures following the reported assassination attempt against President Niyazov in November 2002, as well as the failure of the Turkmen authorities to allow appropriate independent bodies, family members and lawyers access to those convicted, or to provide any kind of evidence to dispel rumours that some of the latter have now died in detention;

3. *Calls upon* the Government of Turkmenistan:

(a) To ensure full respect for all human rights and fundamental freedoms, in particular the freedoms of expression, religion, association and assembly, the right to a fair trial by an independent and impartial tribunal established by law and the protection of the rights of persons belonging to ethnic and religious minorities, and to stop imprisoning conscientious objectors;

(b) To grant immediate access by appropriate independent bodies, including the International Committee of the Red Cross, as well as lawyers and relatives, to detained persons, especially to persons detained following the events of 25 November 2002;

(c) To put an end to forced displacement and guarantee freedom of movement inside the country;

(d) To fulfil its responsibility to ensure that those responsible for human rights violations are brought to justice;

(e) To remove the new restrictions on the activities of public associations, including non-governmental organizations, stipulated in the new Law on Public Associations adopted on 21 October 2003 and paralleled in the new rules of registration of religious organizations released in January 2004, and to enable non-governmental organizations, particularly human rights organizations, and other civil society actors to carry out their activities without hindrance;

(f) To implement fully the recommendations outlined in the report of the Rapporteur of the Moscow Mechanism of the Organization for Security and Cooperation in Europe, to work constructively with the various institutions of the Organization and to facilitate further visits of the Personal Envoy of the Organization's Chairman-in-Office for Participating States in Central Asia and of the Organization's High Commissioner on National Minorities;

(g) To develop further a constructive dialogue with the United Nations High Commissioner for Human Rights and her Office and to cooperate fully with all the mechanisms of the Office;

(h) To submit reports to all relevant United Nations treaty bodies and to ensure full implementation of their recommendations;

4. *Urges* the Government of Turkmenistan to release immediately and unconditionally all prisoners of conscience;

5. *Requests* the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the question of torture, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the right to freedom of opinion and expression and the Special Rapporteur on freedom of religion or belief, as well as the Working Group on Arbitrary Detention and the Representative of the Secretary-General on internally displaced persons and the Special Representative of the Secretary-General on the situation of human rights defenders to consider visiting Turkmenistan as part of their programme of visits in 2004-2005, and calls upon the Government of Turkmenistan to facilitate such visits;

6. *Decides* to continue its consideration of this question at its sixty-first session.

*50th meeting
15 April 2004*

[Adopted by a recorded vote of 25 votes to 11,
with 17 abstentions. See chap. IX.]

2004/13. Situation of human rights in the Democratic People's Republic of Korea

The Commission on Human Rights,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights and other human rights instruments,

Reaffirming that all States Members of the United Nations have the obligation to promote and protect human rights and fundamental freedoms and to implement the obligations they have assumed under international instruments,

Mindful that the Democratic People's Republic of Korea is a party to the International Covenant on Civil and Political Rights and to the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women,

Recalling its resolution 2003/10 of 16 April 2003,

Noting the submission by the Democratic People's Republic of Korea of its second periodic report concerning the implementation of the International Covenant on Economic, Social and Cultural Rights (E/1990/6/Add.35), and its second periodic report on the implementation of the Convention on the Rights of the Child (CRC/C/65/Add.24) as a sign of more active engagement in international cooperative efforts in the field of human rights, and encouraging the Democratic People's Republic of Korea to continue to submit its reports in a timely manner,

Taking note of the concluding observations of the Committee on Economic, Social and Cultural Rights on the reports submitted by the Democratic People's Republic of Korea,

Expressing its deep concern at the precarious humanitarian situation in the country, in particular the prevalence of infant malnutrition which, despite recent progress, still affects a significant percentage of children and their physical and mental development,

Reaffirming that it is the responsibility of the Government of the Democratic People's Republic of Korea to ensure the full enjoyment of all human rights and fundamental freedoms of its entire population,

Underlining the importance of the effective continuation of the process of rapprochement between the two Koreas and noting progress in this respect,

Welcoming the fact that the Democratic People's Republic of Korea has held consultations with some countries on human rights issues,

Desiring to promote a constructive approach leading to concrete progress in the field of human rights,

1. *Expresses its deep concern* about continuing reports of systemic, widespread and grave violations of human rights in the Democratic People's Republic of Korea, including:

(a) Torture and other cruel, inhuman or degrading treatment or punishment, public executions, extrajudicial and arbitrary detention, imposition of the death penalty for political reasons, the existence of a large number of prison camps and the extensive use of forced labour, and lack of respect for the rights of persons deprived of their liberty;

(b) Sanctions on citizens of the Democratic People's Republic of Korea who have been repatriated from abroad, such as treating their departure as treason leading to punishments of internment, torture, inhuman or degrading treatment or the death penalty, and infanticide in prison and labour camps;

(c) All-pervasive and severe restrictions on the freedoms of thought, conscience, religion, opinion and expression, peaceful assembly and association and on access of everyone to information, and limitations imposed on every person who wishes to move freely within the country and travel abroad;

(d) Continued violation of the human rights and fundamental freedoms of women, in particular the trafficking of women for prostitution or forced marriage, ethnically motivated forced abortions and infanticide, including by labour-inducing injection, or natural delivery, by repatriated mothers, including in police detention centres and labour-training camps;

2. *Notes with regret* that the authorities of the Democratic People's Republic of Korea have not created the necessary conditions to permit the international community, including the United Nations system, to examine these reports in an independent manner and calls upon the Government to address these reports and concerns in an open and constructive manner, including:

(a) By providing all pertinent information concerning the above-mentioned issues and removing restrictions on access to the country by the international community;

(b) By ratifying human rights instruments to which the Democratic People's Republic of Korea is not yet a party, in particular the Convention against Torture and Other Cruel,

Inhuman or Degrading Treatment or Punishment and the International Convention on the Elimination of All Forms of Racial Discrimination, and by implementing its obligations under the human rights instruments to which the Democratic People's Republic of Korea is a party, namely the International Covenant on Economic, Social and Cultural Rights, in particular concerning the right of everyone to be free from hunger, the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child, ensuring that all necessary measures are undertaken to this end;

(c) By adhering to internationally recognized labour standards and considering as a matter of priority joining the International Labour Organization and becoming party to the Convention concerning Forced or Compulsory Labour, 1930 (Convention No. 29) and the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (Convention No. 182) of the International Labour Organization;

(d) By implementing the recommendations of the Committee on the Rights of the Child, the Human Rights Committee and the Committee on Economic, Social and Cultural Rights;

(e) By refraining from sanctioning citizens of the Democratic People's Republic of Korea who have moved to other countries and refraining from treating their departure as treason leading to punishments of internment, inhuman or degrading treatment or the death penalty, and put an immediate end to maltreatment and infanticide in prison and labour camps;

(f) By cooperating with the United Nations system in the field of human rights and cooperating without restriction with the thematic procedures of the Commission on Human Rights relevant to the situation of the Democratic People's Republic of Korea, in particular with the Special Rapporteur on the right to food, the Special Rapporteur on the question of torture, the Special Rapporteur on freedom of religion or belief, the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur on violence against women, the Working Group on Arbitrary Detention and the Working Group on Enforced or Involuntary Disappearances, as well as with international human rights organizations, including human rights defenders;

(g) By developing a constructive dialogue with the United Nations High Commissioner for Human Rights and her Office;

(h) By resolving, clearly and transparently and urgently, all the unresolved questions relating to the abduction of foreigners;

(i) By cooperating with its neighbouring Governments to bring an end to the trafficking of women;

3. *Urges* the authorities of the Democratic People's Republic of Korea to ensure that humanitarian organizations, including non-governmental organizations and United Nations agencies, in particular the World Food Programme, have full, free, safe and unimpeded access to all parts of the Democratic People's Republic of Korea in order for them to ensure that humanitarian assistance is delivered impartially on the basis of need, in accordance with humanitarian principles;

4. *Requests* the international community to continue to urge the Government of the Democratic People's Republic of Korea to ensure that humanitarian assistance, especially food aid, destined for the people of the Democratic People's Republic of Korea is distributed in accordance with humanitarian principles and that representatives of international humanitarian actors are allowed to travel throughout the country to monitor this distribution, and to ensure the respect for the fundamental principles of asylum;

5. *Requests* the Chairperson of the Commission, after consultations within the Bureau, to appoint an individual of recognized international standing and expertise in human rights as Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea;

6. *Requests* the Special Rapporteur to establish direct contact with the Government and with the people of the Democratic People's Republic of Korea, including through visits to the country, and to investigate and report on the situation of human rights in the Democratic People's Republic of Korea and on the Government's compliance with its obligations under international human rights instruments;

7. *Also requests* the Special Rapporteur, in carrying out this mandate, to seek and receive credible and reliable information, including through visits to the country, from all relevant actors, including Governments, non-governmental organizations and any other parties who have knowledge of these matters;

8. *Calls upon* the Government of the Democratic People's Republic of Korea to extend its full and unreserved cooperation to, and to assist the Special Rapporteur in the discharge of his/her mandate and, to this end, to take all necessary steps to ensure that the Special Rapporteur has free and unlimited access to any person in the Democratic People's Republic of Korea whom he/she might wish to meet;

9. *Requests* the Secretary-General to give the Special Rapporteur all necessary assistance in the discharge of his/her mandate;

10. *Requests* the Special Rapporteur to report his/her findings and recommendations to the General Assembly at its fifty-ninth session and to the Commission on Human Rights at its sixty-first session;

11. *Requests* all relevant special rapporteurs and special representatives to examine alleged human rights violations in the Democratic People's Republic of Korea and to report thereon to the Commission at its sixty-first session, and requests the Secretary-General to give all necessary assistance to enable the special rapporteurs and special representatives to discharge their mandates fully, including through visits to the country;

12. *Requests* the United Nations High Commissioner for Human Rights to engage in a comprehensive dialogue with the authorities of the Democratic People's Republic of Korea with a view to establishing technical cooperation programmes in the field of human rights and to submit her findings and recommendations to the Commission at its sixty-first session;

13. *Decides* to continue its consideration of this question at its sixty-first session under the same agenda item as a matter of high priority;

14. *Recommends* the following draft decision to the Economic and Social Council for adoption:

“The Economic and Social Council, taking note of Commission on Human Rights resolution 2004/13 of 15 April 2004, approves the request to the Chairperson of the Commission to appoint, after consultation with the Bureau, an individual of recognized international standing and expertise in human rights as Special Rapporteur on the situation of human rights in the Democratic People’s Republic of Korea to establish direct contact with the Government and with the people of the Democratic People’s Republic, including through visits to the country, and to investigate and report on the situation of human rights in the Democratic People’s Republic of Korea, including compliance with its obligations under international human rights instruments and to seek and receive credible and reliable information from all relevant actors. The Council further approves the request to the Secretary-General to give the Special Rapporteur all necessary assistance in the discharge of his/her mandate.”

*50th meeting
15th April 2004*

[Adopted by a recorded vote of 29 votes to 8,
with 16 abstentions. See chap. IX.]

2004/14. Situation of human rights in Belarus

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, the provisions of the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable human rights instruments,

Reaffirming that all States have an obligation to promote and protect human rights and fundamental freedoms and to fulfil the international obligations they have freely undertaken,

Mindful that Belarus is a party to the International Covenant on Civil and Political Rights and the Optional Protocol thereto, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child,

Recalling its resolution 2003/14 of 17 April 2003,

Welcoming the agreement in principle of the Government of Belarus to receive the Working Group on Arbitrary Detention,

Mindful of the requests made to the Government of Belarus by the Working Group on Enforced or Involuntary Disappearances regarding the disappearance of the former Minister of Internal Affairs, Yury Zakharenko,

Noting the decision of the Governing Body of the International Labour Organization to set up a Commission of Inquiry, the conclusions and recommendations of the Committee against Torture on the third periodic report of Belarus, which appear in the report of the Committee on its twenty-fifth and twenty-sixth sessions (A/56/44), and the recommendations of the Special Rapporteur on the independence of judges and lawyers contained in his report on the mission to Belarus (E/CN.4/2001/65/Add.1), as well as the lack of progress of the Government of Belarus in addressing the noted shortfalls,

1. *Expresses deep concern:*

(a) At reports from credible sources, including statements of former investigators and senior law enforcement officials of the Government of Belarus, and the report of the Council of Europe approved by the Parliamentary Assembly's Committee on Legal Affairs and Human Rights on 26 January 2004, implicating senior officials of the Government of Belarus in the forced disappearance and/or summary execution of three political opponents of the incumbent authorities and of a journalist;

(b) About the electoral process and legislative framework in Belarus, which remain fundamentally flawed, as local elections held in March 2003 have shown, in spite of detailed recommendations being made by the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe after previous elections;

(c) About continued reports of cases of arbitrary arrest and detention;

(d) About persistent reports of harassment and closure of non-governmental organizations, national minority organizations, independent media outlets, opposition political parties and independent trade unions, and the harassment of individuals engaged in democratic activities, including independent media;

(e) About increased restrictions on the activities of religious organizations;

(f) About reports of harassment of independent and internationally oriented educational establishments such as the European Humanities University and the Yakub Kolas Humanities Lyceum;

(g) About the failure of the Government of Belarus to cooperate fully with all the mechanisms of the Commission on Human Rights, as requested in its resolution 2003/14;

(h) About the criminal prosecution of a leading opposition figure;

2. *Urges* the Government of Belarus:

(a) To dismiss or suspend from their duties law enforcement officers and public officials implicated in forced disappearances and/or summary executions, pending an impartial, credible and full investigation of those cases;

(b) To ensure that all necessary measures are taken to investigate fully and impartially all cases of forced disappearance, summary execution and torture and that perpetrators are brought to justice before an independent tribunal and, if found guilty, punished in a manner consistent with the international human rights obligations of Belarus;

(c) To bring the electoral process and legislative framework into line with international standards and facilitate the involvement of the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe in forthcoming elections;

(d) To bring the actions of its police and security forces into conformity with its obligations under the International Covenant on Civil and Political Rights as well as other relevant international standards;

(e) To establish independence of the judiciary and end impunity for persons responsible for killing or injuring individuals;

(f) To release scientists and other individuals detained for politically motivated reasons; to cease harassment of non-governmental organizations, political parties, trade unions, independent media and democracy and human rights activists; to undertake a review of domestic laws and practices regarding the compulsory registration of non-governmental organizations; to bring the 2002 Law on Religion into conformity with its international human rights obligations and to refrain from implementing this law until it is so amended;

(g) To cooperate fully with the office of the Organization for Security and Cooperation in Europe in Minsk and respect the mandate agreed by consensus among the member States of the Organization;

(h) To use the expertise available in the Organization for Security and Cooperation in Europe and the Council of Europe to ensure that the draft law on media meets international standards and does not, directly or indirectly, further restrict the printing or distribution of independent media in Belarus;

3. *Urges* the Government of Belarus to cooperate fully with the Working Group on Arbitrary Detention, in particular through facilitating its visit in September 2004;

4. *Insists* that the Government of Belarus cooperate fully with all the mechanisms of the Commission, including by extending invitations to the Special Rapporteur on the question of

torture, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the right to freedom of opinion and expression, and the Special Representative of the Secretary-General on the situation of human rights defenders, as well as the Working Group on Enforced or Involuntary Disappearances, and through requesting technical assistance;

5. *Decides* to appoint a Special Rapporteur, from within existing resources, to establish direct contacts with the Government and with the people of Belarus, with a view to examining the situation of human rights in Belarus and following any progress made towards the elaboration of a programme on human rights education for all sectors of society, in particular law enforcement, the judiciary, prison officials and civil society, and to report to the Commission on Human Rights at its sixty-first session;

6. *Decides* to consider this question at its sixty-first session, under the same agenda item.

*50th meeting
15 April 2004*

[Adopted by a recorded vote of 23 votes to 13,
with 17 abstentions. See chap. IX.]

2004/15. Cooperation with representatives of United Nations human rights bodies

The Commission on Human Rights,

Reiterating its concern at the continued reports of intimidation and reprisals against private individuals and groups who seek to cooperate with the United Nations and representatives of its human rights bodies,

Deeply concerned that the seriousness of such reported reprisals has increased and that victims suffer violations of the most fundamental human rights, including the right to life, liberty and security of person, as well as the right to freedom from torture and cruel, inhuman or degrading treatment,

Also concerned at reports about incidents in which private individuals have been hampered in their efforts to avail themselves of procedures established under United Nations auspices for the protection of human rights and fundamental freedoms,

Recalling its resolution 2003/9 of 16 April 2003 and taking note with interest of the report of the Secretary-General on the question (E/CN.4/2004/29),

1. *Urges* Governments to refrain from all acts of intimidation or reprisal against:
 - (a) Those who seek to cooperate or have cooperated with representatives of United Nations human rights bodies, or who have provided testimony or information to them;
 - (b) Those who avail or have availed themselves of procedures established under United Nations auspices for the protection of human rights and fundamental freedoms and all those who have provided legal assistance to them for this purpose;
 - (c) Those who submit or have submitted communications under procedures established by human rights instruments;
 - (d) Those who are relatives of victims of human rights violations;
2. *Condemns* all acts of intimidation or reprisal by Governments against private individuals and groups who seek to cooperate with the United Nations and representatives of human rights bodies;
3. *Requests* all representatives of United Nations human rights bodies, as well as treaty bodies monitoring the observance of human rights, to continue to take urgent steps, in conformity with their mandates, to help prevent the occurrence of such intimidation and reprisals and the hampering of access to United Nations human rights procedures in any way;
4. *Also requests* such representatives and treaty bodies to continue to include in their respective reports to the Commission on Human Rights, the Sub-Commission on the Promotion and Protection of Human Rights or the General Assembly a reference to allegations of intimidation or reprisal and of hampering of access to United Nations human rights procedures, as well as an account of action taken by them in this regard;

5. *Requests* the Secretary-General to draw the attention of such representatives and treaty bodies to the present resolution;
6. *Invites* the Secretary-General to submit to the Commission at its sixty-first session a report containing a compilation and analysis of any available information, from all appropriate sources, on alleged reprisals against the persons referred to in paragraph 1 above;
7. *Decides* to consider the question again at its sixty-first session.

50th meeting
15 April 2004
[Adopted without a vote. See chap. IX.]
