



**Economic and Social  
Council**

Distr.  
LIMITED

E/CN.4/2004/L.88/Rev.2  
21 April 2004

Original: ENGLISH

---

COMMISSION ON HUMAN RIGHTS  
Sixtieth session  
Agenda item 17

**PROMOTION AND PROTECTION OF HUMAN RIGHTS**

**Cuba: revised draft resolution**

**2004/... Question of arbitrary detentions in the area of  
the United States naval base in Guantánamo**

*The Commission on Human Rights,*

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

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

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

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

*Recalling also* general comment No. 31 of the Human Rights Committee adopted on 29 March 2004,

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

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

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

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

*Deeply concerned* that according to reliable information a situation of deprivation of those rights exists, affecting an undisclosed number of persons detained as a result of military operations launched in Afghanistan and being held at present in detention camps located in the area of the United States naval base in Guantánamo, including minors,

*Aware* that the Office of the United Nations High Commissioner for Human Rights, several thematic procedures of the Commission on Human Rights and a large number of non-governmental organizations, as well as a number of States with nationals imprisoned in those camps have expressed their most serious concerns with respect to such a situation,

*Noting* the requests made during its sixtieth session by some thematic procedures mandate-holders to visit detention camps located in the area of the United States naval base in Guantánamo,

*Taking note* of recent releases of some persons who were detained in the United States naval base in Guantánamo and the transfer of others to their countries of origin,

*Taking into account* the provisions of the Geneva Convention relative to the Treatment of Prisoners of War, of 12 August 1949,

1. *Requests* the State exercising effective jurisdiction over the detention camps located in the areas of the United States naval base in Guantánamo to provide to the Office of the United Nations High Commissioner for Human Rights and to the other States the necessary information to clarify the living conditions and legal status of the persons being held at present in these camps, as well as the steps taken to secure respect for their human rights and fundamental freedoms and their protection under international humanitarian law;

2. *Also requests* the State concerned to investigate the alleged violations mentioned above and to take the necessary steps to prevent those that may take place while such persons are still under its effective jurisdiction;

3. *Requests* the Special Rapporteur on the question of torture, the Special Rapporteur on the independence of judges and lawyers and the Working Group on Arbitrary Detention in the discharge of their mandates to give consideration to the situation described in the present resolution and to report on their findings to the High Commissioner for Human Rights;

4. *Requests* the High Commissioner for Human Rights to submit a comprehensive report on the implementation of the present resolution to the Commission at its sixty-first session.

-----