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

Draft report of the Commission

Rapporteur: Mr. Mike OMOTOSHO (Nigeria)

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2004/74. Regional cooperation for the promotion and protection of human rights in the Asian and Pacific region

The Commission on Human Rights,

Recalling its resolution 2003/73 of 25 April 2003,

Reiterating that one of the purposes of the United Nations is to achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion,

Reaffirming that all human rights are universal, indivisible, interdependent and interrelated, that the international community must treat human rights globally in a fair and equal manner, on the same footing and with the same emphasis, and that, while the significance of national and regional particulars and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms,

Stressing that regional cooperation can play an important role in promoting universal respect for, and observance of, human rights and fundamental freedoms,

Recognizing the importance of an inclusive, step-by-step, practical and building-block approach towards enhancing regional cooperation for the promotion and protection of human rights in accordance with the pace and priorities to be set by the Governments of the Asian and Pacific region by consensus,

Recognizing also that democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing,

Recognizing further the importance of human rights education in both formal and non-formal contexts in the promotion and protection of human rights,

Recognizing the valuable contribution that independent national institutions, intergovernmental organizations and non-governmental organizations can make in the field of human rights in the Asian and Pacific region,

Welcoming the convening of the twelfth Workshop on Regional Cooperation for the Promotion and Protection of Human Rights in the Asian and Pacific region, held in Doha from 2 to 4 March 2004,

1. *Welcomes* the report of the Secretary-General (E/CN.4/2004/89) and the progress achieved in the implementation of Commission resolution 2003/73 of 25 April 2003;
2. *Stresses* the importance of the linkages and mutually reinforcing aspects of all four areas of the Framework for Regional Technical Cooperation Programme in the Asian and Pacific region (E/CN.4/1998/50, annex II) adopted at the sixth Workshop on Regional Cooperation for the Promotion and Protection of Human Rights in the Asian and Pacific region, held in Tehran from 28 February to 2 March 1998, namely human rights education, national institutions for the promotion and protection of human rights, national plans of action for the promotion and protection of human rights and the strengthening of national human rights capacities, and strategies for the realization of the right to development and economic, social and cultural rights, and in this context notes the developments in connection with the Programme of Action for 2002-2004 adopted in Islamabad at the eleventh Workshop;
3. *Commends* the contribution of the Government of the State of Qatar, as the host of the twelfth Workshop, to the promotion and protection of human rights in the Asian and Pacific region;
4. *Expresses deepest sorrow* for the loss of former United Nations High Commissioner for Human Rights, Sergio Vieira de Mello, who participated in the eleventh Workshop and whose life was tragically lost while pursuing human rights in the Asian and Pacific region;
5. *Stresses* that developing and strengthening national capacities for the promotion and protection of human rights in accordance with national conditions provides the strongest foundation for effective and enduring regional cooperation in the field of human rights in the Asian and Pacific region;
6. *Endorses* the conclusions of the twelfth Workshop on the next steps to be taken to facilitate the process of regional cooperation in the Asian and Pacific region;

7. *Welcomes* the in-depth discussion held during the twelfth Workshop reviewing developments in the Asian and Pacific region over the past year in the four priority areas under the Framework for the Regional Technical Cooperation Programme in the Asian and Pacific region;

8. *Also welcomes* the greater and valuable sharing of concrete national experiences at the twelfth Workshop on the implementation of all four areas of the Framework;

9. *Takes note* of the contribution of independent national institutions, intergovernmental organizations and representatives of non-governmental organizations to the twelfth Workshop and the initiative by the Office of the United Nations High Commissioner for Human Rights to hold a consultation of non-governmental actors one day prior to the official opening of the twelfth Workshop;

10. *Also takes note* of the diversity of views expressed at the twelfth Workshop on possible regional or subregional modalities of cooperation for the promotion and protection of human rights in the Asian and Pacific region as part of an inclusive, step-by-step, practical and building-block approach, as well as the evaluation undertaken on the implementation of the Framework;

11. *Takes note* of the call by the Acting High Commissioner for Human Rights for an international convention on human rights education;

12. *Reaffirms* the desirability of developing national human rights plans of action through a process which ensures the participation of a wide range of relevant national, provincial and local government ministries and agencies, national human rights institutions, non-governmental organizations, academic institutions and other sectors of civil society and of evaluating these plans in order to benefit from lessons learned;

13. *Takes note with appreciation* of the establishment of independent national institutions in countries of the Asian and Pacific region and their important contribution to the process of regional cooperation;

14. *Encourages* Governments to promote the development of national strategies for human rights education which are comprehensive, participatory, effective and sustainable, and to accelerate the pace of implementation of such plans and strategies within the United Nations Decade for Human Rights Education, 1995-2004 so as to realize significant achievements by the end of the Decade;

15. *Recognizes* the importance of good governance at the national and international levels to ensure that all human rights are protected and that development resources are properly and effectively utilized to implement the right to development;

16. *Takes note* of the discussions at the twelfth Workshop on, inter alia, all the obstacles to the effective realization of economic, social and cultural rights and the right to development and the need for international cooperation to support the efforts of countries to overcome them;

17. *Encourages* all States in the region to take concrete steps at the national level in connection with the implementation of the Framework for Regional Technical Cooperation Programme in the Asian and Pacific region and to ensure that regional workshops undertaken within the Framework are accompanied by concrete and sustainable subregional and national activities, as well as training and awareness programmes for government officials and key professional groups concerned such as the police, prison officials, educators, judges, lawyers and parliamentarians, as appropriate;

18. *Welcomes* contributions made to the Office of the High Commissioner by States of the Asian and Pacific region and invites all States of the region to consider contributing for the first time or increasing their contributions, particularly with respect to activities in the areas of technical cooperation and the strengthening of national capacities and infrastructures in the field of human rights as outlined in the Annual Appeal 2004;

19. *Welcomes* the efforts of the Office of the High Commissioner in developing partnerships for the implementation of its activities under the Framework for Regional Technical Cooperation Programme in the Asian and Pacific region to enhance national capacities for the promotion and protection of human rights in the region;

20. *Requests* the Secretary-General to submit to the Commission at its sixty-first session a report containing the conclusions of the thirteenth Workshop on Regional Cooperation for the Promotion and Protection of Human Rights in the Asian and Pacific region and information on the progress achieved in the implementation of the present resolution;

21. *Decides* to continue its consideration of the question at its sixty-first session under the same agenda item.

58th meeting

21 April 2004

[Adopted without a vote. See chap. XVIII.]

2004/75. National institutions for the promotion and protection of human rights

The Commission on Human Rights,

Recalling the relevant resolutions of the General Assembly, notably resolution 48/134 of 20 December 1993, and its own resolutions concerning national institutions for the promotion and protection of human rights,

Welcoming international recognition of the importance of establishing and strengthening independent, pluralistic national institutions for the promotion and protection of human rights consistent with the Principles relating to the status of national institutions (the Paris Principles),

Convinced of the important role such national institutions play in promoting and protecting human rights and fundamental freedoms and in developing and enhancing public awareness of those rights and freedoms,

Recognizing that it is the prerogative of each State to choose, for the establishment of a national institution, the legal framework that is best suited to its particular needs and circumstances to ensure that human rights are promoted and protected at the national level in accordance with international human rights standards,

Recalling the Vienna Declaration and Programme of Action adopted in June 1993 by the World Conference on Human Rights, which reaffirmed the important and constructive role played by national human rights institutions and their role in remedying human rights violations and in the dissemination of human rights information and education concerning human rights,

Recalling the Programme of Action adopted by national institutions meeting in Vienna during the World Conference on Human Rights, which recommended that United Nations activities and programmes should be reinforced to meet the requests for assistance from States wishing to establish or strengthen their national institutions for the promotion and protection of human rights,

Welcoming the strengthening of international cooperation among national human rights institutions, including through the International Coordinating Committee of National Institutions,

Welcoming also the strengthening in all regions of regional cooperation among national human rights institutions and between national human rights institutions and other regional human rights forums,

Noting with appreciation efforts to strengthen regional human rights networks in Europe and Africa, the continuing work of the Network of National Human Rights Institutions of the Americas, including workshops held in Cartagena, Colombia, in September 2003 and in Merida, Mexico, in March 2004, and the work of the Asia Pacific Forum of National Human Rights Institutions, including the holding of their eighth annual meeting and third session of the Advisory Council of Jurists in Kathmandu in February 2004,

Noting the conclusions and programme of action adopted at the 12th Workshop on Regional Cooperation for the Promotion and Protection of Human Rights in the Asian and Pacific Region held in Doha in March 2004 with regard to the role of national institutions (see E/CN.4/2004/89),

Welcoming the call of the 12th Regional Workshop for the Office of the High Commissioner for Human Rights to support a subregional workshop for the Arab Region on national human rights protection systems, including national human rights institutions,

Noting the valuable role played and contributions made by national institutions in United Nations meetings dealing with human rights and the importance of their continued appropriate participation,

1. *Reaffirms* the importance of the development of effective, independent, pluralistic national institutions for the promotion and protection of human rights consistent with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) annexed to General Assembly resolution 48/134 of 20 December 1993;

2. *Reiterates* the continued importance of the Paris Principles, recognizes the value of further strengthening their application and encourages States, national institutions and other interested parties to consider ways to achieve this and, in this context, welcomes the holding of the round table “The Paris Principles: a reflection” in Geneva in December 2003 with members of the International Coordinating Committee of National Institutions and civil society;

3. *Welcomes* the decisions of a growing number of States to establish, or to consider establishing, national institutions consistent with the Paris Principles;

4. *Encourages* States to establish or, where they already exist, to strengthen such institutions, as outlined in the Vienna Declaration and Programme of Action;

5. *Recognizes* that national institutions have a potentially crucial role to play in promoting and ensuring the indivisibility and interdependence of all human rights and calls upon all States to ensure that all human rights are appropriately reflected in the mandate of their national human rights institutions when established;

6. *Takes note with satisfaction* of the efforts of those States that have provided their national institutions with more autonomy and independence, including through giving them an investigative role or enhancing such a role, and encourages other Governments to consider taking similar steps;

7. *Recognizes* the important and constructive role that individuals, groups and organs of society can play for the better promotion and protection of human rights and encourages efforts by national institutions to establish partnerships and increase cooperation with civil society;

8. *Welcomes* greater efforts by the Office of the High Commissioner to engage national institutions as partners and provide them with opportunities to exchange experiences and best practices amongst themselves, and in this context welcomes:

(a) The active participation of national human rights institutions in the International Race Relations Round Table, held in Auckland, New Zealand, in February 2004;

(b) The Round Table on National Human Rights Institutions and the Administration of Justice, held in Copenhagen in November 2003;

(c) Plans for similar round tables regarding good governance, gender-based discrimination and migration to be held in 2004;

9. *Also welcomes* the practice of national institutions which conform with the Paris Principles of participating in an appropriate manner in their own right in meetings of the Commission and its subsidiary bodies;

10. *Welcomes* the continuation of the practice of national institutions' convening regional meetings and encourages national institutions, in cooperation with the Office of the High Commissioner, to continue to organize similar events with Governments and non-governmental organizations in their own regions;

11. *Also welcomes* the active attention paid to the issue of disability by national institutions, including through the holding of workshops for national institutions held in San Jose in March 2003, in New Delhi in May 2003, and in Kampala in June 2003, and also welcomes their continued contribution in their independent capacity to the work of the Ad Hoc Committee established pursuant to General Assembly resolution 56/168 of 19 December 2001;

12. *Affirms* the important role of national human rights institutions, in cooperation with other mechanisms for the promotion and protection of human rights, in combating racial and related forms of discrimination and in the protection and promotion of the human rights of women and the rights of particularly vulnerable groups, including children and people with disabilities;

13. *Recognizes* the important and constructive role that national institutions can play in human rights education, including by the publication and dissemination of human rights material and other public information activities during the United Nations Decade for Human Rights Education, 1995-2004, and calls upon all existing national institutions to implement human rights education training programmes across all relevant sectors of society;

14. *Commends* the High Commissioner for the priority accorded to the establishment and strengthening of national human rights institutions, including through technical cooperation, and calls upon the Office of the High Commissioner to continue to strengthen its coordinating role in this field and to allocate the resources necessary for this work from both core and extrabudgetary sources;

15. *Welcomes* efforts, through the Secretary-General's action 2 programme, to ensure effective engagement by all parts of the United Nations with national institutions and notes in this regard the importance of strengthening the National Institutions Unit within the Office of the High Commissioner, including with appropriate specialist expertise;

16. *Expresses its appreciation* to those Governments that have contributed additional resources for the purpose of the establishment and strengthening of national human rights institutions;

17. *Welcomes* the important role of the International Coordinating Committee of National Institutions, in close cooperation with the Office of the High Commissioner, in assessing conformity with the Paris Principles and in assisting Governments and national institutions, when requested, to follow up on relevant resolutions and recommendations concerning the strengthening of national institutions;

18. *Requests* the Secretary-General to continue to provide, from within existing resources, the necessary assistance for holding meetings of the International Coordinating Committee during the sessions of the Commission, under the auspices of, and in cooperation with, the Office of the High Commissioner;

19. *Also requests* the Secretary-General to continue to provide, from within existing resources and from the United Nations Voluntary Fund for Technical Cooperation in the Field of Human Rights, the necessary assistance for international and regional meetings of national institutions;

20. *Welcomes* the report of the Secretary-General (E/CN.4/2004/101) and requests him to report to the Commission at its sixty-first session on the implementation of the present resolution and on ways and means to enhance participation of national human rights institutions in the work of the Commission, to enable them to continue to contribute substantially to the work of the Commission by passing on their expert knowledge and practical experience in human rights matters;

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

58th meeting
21 April 2004
[Adopted without a vote. See chap. XVIII.]

2004/76. Human rights and special procedures

The Commission on Human Rights,

Recalling its previous resolutions on human rights and thematic procedures,

Considering that special procedures duly established by the Commission with regard to the consideration of questions relating to the promotion and protection of economic, social and cultural and civil and political rights represent a major achievement and an essential element of United Nations efforts to promote and protect internationally recognized human rights,

Emphasizing the importance of the impartiality, objectivity, independence and expertise of the special procedures mandate-holders in the field of human rights relevant to their mandates, as well as the need for due attention to violations of all human rights wherever they may occur,

Noting with satisfaction that an increasing number of Governments have developed a working relationship with the special procedures,

Recognizing that standing invitations constitute announcements by States that they will always accept requests to visit from all special procedures and encouraging States that have not yet done so to consider making such an announcement,

Noting the fact that a growing number of Governments have announced that they will always accept requests to visit from special procedures of the Commission,

Emphasizing the obligation of all Governments not to subject individuals, organizations or groups of persons who have provided information to the special procedures to adverse treatment due to such action,

Recalling:

(a) The recommendations concerning special procedures contained in the Vienna Declaration and Programme of Action (A/CONF.157/23), which called for preserving and strengthening special procedures in order to enable them to carry out their mandates in all countries throughout the world, providing them with the necessary human and financial resources as well as to enable them to harmonize and rationalize their work through periodic meetings, and asked all States to cooperate fully with them,

(b) The Secretary-General's programme for United Nations reform (A/51/950 and Add.1-7), which calls for mainstreaming human rights in United Nations activities, and the report of the Secretary-General on strengthening of the United Nations: an agenda for further change (A/57/387 and Corr.1), which calls for improving the quality of reports and analyses produced by special procedures and strengthening the capacity to support the special procedures, as well as General Assembly resolution 57/300 of 20 December 2002,

(c) The report of the Intersessional open-ended working group on enhancing the effectiveness of the mechanisms of the Commission, including the recommendations on selection of special procedures mandate-holders, support for them, coherence in their work and rationalization of their mandates and other provisions relevant to the special procedures, effective functioning, such as overall geographical and gender balance among the mandate-holders and that an individual should not hold more than one mandate at a given time (E/CN.4/2000/112), in the context of the need to safeguard their independence,

Recalling also the request of the General Assembly to the Commission on Human Rights and the relevant intergovernmental bodies to review the human rights special procedures in order to rationalize their work and enhance their effectiveness, consistent with their mandates, and also its request to the United Nations High Commissioner for Human Rights to support this exercise, including through submission of recommendations, as appropriate, and by providing adequate administrative support to each of these special procedures, as contained in General Assembly resolution 57/300 of 20 December 2002,

Noting the establishment of the Special Procedures Branch, enabling the Office of the High Commissioner for Human Rights to assist in efforts to improve the quality of the special procedures reports and analyses and to better support all of them, as requested by the Secretary-General in his report on strengthening of the United Nations: an agenda for further change (A/57/387 and Corr.1) and the subsequent General Assembly resolution 57/300, including in follow-up to communications with Governments, bearing in mind the continuous need to avoid unnecessary duplication and overlapping, and to streamline, rationalize, strengthen and enhance the effectiveness of human rights machinery,

Mindful of the fact that financial constraints limit the proper functioning of special procedures and stressing the need in this respect for adequate resources to be allocated to all the mandates consistent with the equal priority to be accorded to civil and political rights and economic, social and cultural rights,

Noting the call of the Office of the High Commissioner for voluntary contributions to be unearmarked as far as possible so as to offer improved flexibility in resource allocation within the Office,

Welcoming the organization by the High Commissioner of annual meetings of the mandate-holders, as recommended by the World Conference on Human Rights, and the efforts to coordinate activities among various mandates in the areas of urgent actions, missions to the field and relevant meetings and consultations, so as to enhance their effectiveness, taking into account the need to avoid unnecessary duplication and overlapping,

Noting that some human rights violations are specific to or primarily directed against women, and that the identification and reporting of these violations demand specific awareness and sensitivity,

Noting also that children and members of other vulnerable groups are frequently subject to abuses of their human rights and deserve specific attention when reporting on violations of their human rights,

Recalling the applicability of the provisions of the Convention on the Privileges and Immunities of the United Nations to the work of the experts of the special procedures system in the exercise of their functions, as well as other United Nations rules and regulations applicable to the conduct of experts on missions,

1. *Commends* those Governments that have cooperated with the special procedures and those that have issued standing invitations to all special procedures to visit their countries and developed ongoing forms of cooperation with the special procedures;

2. *Urges* all Governments to cooperate with the Commission through the pertinent special procedures, including by:

(a) Responding without undue delay to requests for information made to them through the special procedures, so that the procedures may carry out their mandates effectively;

(b) Considering special procedures to visit their countries and considering favourably accepting visits from special procedures when requested;

(c) Facilitating follow-up visits as appropriate in order to help to contribute to the effective implementation of recommendations by the special procedures concerned;

3. *Calls upon* the Governments concerned to study carefully the recommendations addressed to them by special procedures and to keep the relevant mechanisms informed without undue delay on the progress made towards their implementation;

4. *Calls upon* all States to protect individuals, organizations or groups of persons who provide information to, meet with, or otherwise cooperate with the special procedures from any type of violence, coercion, harassment, or other form of intimidation or reprisal;

5. *Invites* civil society, in particular non-governmental organizations, to continue and to strengthen their cooperation with special procedures, including through inputs to special procedures' collection of information and to ensure that the material provided is as detailed and accurate as possible and falls under the mandate of these procedures;

6. *Requests* the special procedures:

(a) To make recommendations for the prevention of and protection from human rights violations within their respective mandates, as established by relevant resolutions and decisions of the Commission on Human Rights, the Economic and Social Council and the General Assembly, including through urgent appeals and their follow-up when necessary;

(b) To follow closely and reflect in their reports progress made by Governments in the investigations carried out within their respective mandates;

(c) To continue close coordination and cooperation with relevant treaty bodies;

(d) To continue close coordination and cooperation with each other, taking into consideration, where relevant and appropriate, available findings, observations, conclusions and recommendations by special procedures and treaty bodies provided in official United Nations documents in order to strengthen the coherence of human rights mechanisms;

(e) To focus the resources available to them in ways that best advance the fulfilment of their mandates;

(f) To provide concise, comprehensive and focused reports within their respective mandates based on credible and reliable information;

(g) To include in their reports information provided by Governments on follow-up action, as well as their own observations thereon, including in regard to both problems and improvements, as appropriate;

(h) To include gender-disaggregated data regularly in their reports and to address the characteristics and practice of human rights violations under their mandates that are specifically or primarily directed against women, or to which women are particularly vulnerable, in order to ensure the effective protection of their human rights;

(i) To address also in their reports the characteristics and practice of human rights violations under their mandates that are specifically or primarily directed against children and members of other vulnerable groups, or to which they are particularly vulnerable, in order to ensure the effective protection of their human rights, and, if possible, also to include age-disaggregated data;

(j) To continue a fruitful dialogue with Governments;

7. *Also requests* the special procedures to include in their reports comments on problems of responsiveness and the result of analyses, as appropriate, in order to carry out their mandates even more effectively, and to include also in their reports suggestions as to areas where Governments might request relevant assistance through the programme of advisory services and technical cooperation administered by the Office of the United Nations High Commissioner for Human Rights;

8. *Welcomes* the establishment and recommends the further strengthening and improvement of the interactive dialogue between the special procedures mandate-holders and States at the sessions of the Commission;

9. *Suggests* that the special procedures of the Commission, acting within their mandates, consider how they can also promote public awareness about human rights and about the particular situation of individuals, groups and organs of society that promote and protect human rights and fundamental freedoms;

10. *Requests* the High Commissioner for Human Rights:

(a) To continue to organize periodic meetings among the special procedures and also joint meetings of special procedures with States and joint meetings with chairpersons of treaty bodies in order to enable participants to continue to exchange views, cooperate and coordinate more closely within their respective mandates and make recommendations to that effect so as to enhance the overall effectiveness of the special procedures and avoid unnecessary duplication and overlapping of their mandates and tasks;

(b) To facilitate the implementation of the special procedures' recommendations, as appropriate, from within existing resources, through various programmes for technical cooperation if the State concerned so requests;

(c) To continue to prepare a comprehensive and regularly updated electronic compilation of special procedures' recommendations by country, where such does not yet exist, including the relevant comments of States thereto as published within the United Nations system;

(d) To support the work of all special procedures based on the relevant resolutions and decisions and objectives set out in the biennial programme of the Office of the United Nations High Commissioner for Human Rights;

(e) To work with special procedures to intensify their coordination and to further enhance the quality, consistency and independence of their work and to continue, on a regular basis, to organize systematically briefings for new mandate-holders and to provide them with updated induction materials;

(f) To continue to develop criteria and strengthen the methodologies for operations and reporting functions of special procedures;

(g) To include in her report for the consideration of the Commission the information on the implementation of the recommendations contained in the present resolution;

11. *Encourages* the High Commissioner to further strengthen cooperation among the special procedures of the Commission and other relevant United Nations bodies, including the human rights treaty bodies, with a view to promoting greater efficiency and effectiveness through better coordination of the various bodies, mechanisms and procedures, including through internal systematic debriefing after country visits in order to facilitate follow-up, taking into account the need to avoid unnecessary duplication and overlapping of their mandates and tasks;

12. *Requests* the Secretary-General:

(a) To issue annually, and sufficiently early, in close collaboration with the special procedures, their conclusions and recommendations, so as to enable further discussion of their implementation at subsequent sessions of the Commission;

(b) To present annually a list of all persons currently mandated to carry out the special procedures mandates, including their country of origin and summaries of their professional background and activities, in an annex to the annotations to the provisional agenda of each session of the Commission;

(c) To continue to convene and ensure necessary administrative and financial support within the regular budget to periodic meetings among special procedures of the Commission and their meetings with States and other relevant United Nations bodies, including with chairpersons of the human rights treaty bodies, pursuant to General Assembly resolution 49/178 of 23 December 1994;

(d) To facilitate the strengthening of cooperation with the United Nations country teams and other United Nations field presences, in particular in the preparation, conduct and follow-up of special procedures country visits, including reflecting on the special procedures' recommendations, within the United Nations programmes, as agreed by the special procedures mandate-holders at their tenth annual meeting and reflected in reports of the Secretary-General (A/57/387 and Corr.1 and A/58/351);

13. *Also requests* the Secretary-General, in implementing the United Nations budget for the current biennium, to ensure the availability of such resources as are necessary for the Office of the High Commissioner to support the effective exercise of all the special procedures mandates, including any additional tasks entrusted to the special procedures by the appropriate United Nations organs;

14. *Decides* to continue its consideration of this question at its sixty-second session.

*58th meeting
21 April 2004*

[Adopted by a recorded vote of 35 votes to none,
with 18 abstentions. See chap. XVIII.]

2004/77. Protection of United Nations personnel

The Commission on Human Rights,

Recalling its resolution 2002/81 of 26 April 2002,

Strongly condemning the acts of murder and various forms of physical violence, rape and sexual assault, abduction, hostage-taking, kidnapping, harassment, illegal arrest and detention, acts of destruction and looting of property, shooting at vehicles and aircraft, mine-laying, looting of assets, physical and psychological threats and other hostile acts against United Nations and associated personnel and other personnel acting under the authority of United Nations operations, as well as personnel of international humanitarian organizations,

Guided by the relevant provisions on protection contained in the Convention on the Privileges and Immunities of the United Nations, the Convention on the Privileges and Immunities of the Specialized Agencies, the Convention on the Safety of United Nations and Associated Personnel, the Geneva Conventions of 12 August 1949 and the Additional Protocols thereto of 1977 and the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which May Be Deemed to Be Excessively Injurious or Have Indiscriminate Effects, and its Protocols,

Guided also by the International Bill of Human Rights,

Welcoming the adoption by the Security Council of resolution 1502 (2003) of 26 August 2003 on the safety and security of humanitarian personnel and the United Nations and its associated personnel,

Taking note of the statements by the Presidents of the Security Council of 15 March 2002 and 15 December 2003 on the protection of civilians in armed conflicts (S/PRST/2002/6 and S/PRST/2003/27) and recalling the report of the Secretary-General on the protection of civilians in armed conflict (S/2001/331) and Council resolutions 1265 (1999) of 17 September 1999 and 1296 (2000) of 19 April 2000,

Welcoming General Assembly resolution 58/122 of 17 December 2003 on the safety and security of humanitarian personnel and protection of United Nations personnel,

Welcoming also General Assembly resolution 58/82 of 9 December 2003 on the scope of legal protection under the Convention on the Safety of United Nations and Associated Personnel,

Welcoming the fact that the Convention on the Safety of United Nations and Associated Personnel, which entered into force on 15 January 1999, has been ratified or acceded to by seventy-one Member States as at the present date, and mindful of the need to promote its universality,

Welcoming the inclusion of attacks intentionally directed against personnel involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations as a war crime in the Rome Statute of the International Criminal Court, which entered into force on 1 July 2002, and noting the role that the Court can play in bringing to justice those responsible for serious violations of human rights and international humanitarian law, as a measure of preventing impunity,

Recalling that the primary responsibility under international law for the security and protection of United Nations and associated personnel lies with the Government hosting a United Nations operation conducted under the Charter or its agreements with the relevant organizations,

Urging all parties involved in armed conflicts to ensure the security and protection of all United Nations and associated personnel and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation, in compliance with international humanitarian law, in particular their obligations under the Geneva Conventions of 12 August 1949 and the obligations applicable to them under the Additional Protocols thereto of 8 June 1977,

Emphasizing that there are existing prohibitions under international law against attacks knowingly and intentionally directed against personnel involved in a humanitarian assistance or peacekeeping mission undertaken in accordance with the Charter of the United Nations, which in situations of armed conflict constitute war crimes, and recalling the need for States to end impunity for such criminal acts,

Gravely concerned at the acts of violence in many parts of the world against humanitarian personnel and the United Nations and its associated personnel, in particular deliberate attacks, which are in violation of international humanitarian law, as well as other international law that may be applicable, such as the attack against the headquarters of the United Nations Assistance Mission in Iraq in Baghdad on 19 August 2003,

Expressing concern that the occurrence of attacks and threats against United Nations and associated personnel and other personnel is a factor that increasingly affects and restricts the ability of the Organization to provide assistance and protection to civilians in fulfilment of its mandate under the Charter,

Reaffirming the fundamental requirement that appropriate modalities for the safety and security of United Nations and associated personnel should be incorporated in all new and ongoing United Nations and field operations, as well as a culture of accountability for the safety of personnel at all levels throughout the United Nations system, and in this regard welcoming the ongoing efforts of the Secretary-General to further enhance the security management system of the United Nations,

Emphasizing the need to give further consideration to the safety and security of locally recruited United Nations and associated personnel and other personnel, who account for the majority of casualties,

1. *Welcomes* the reports of the Secretary-General to the General Assembly (A/58/344 and A/57/300);

2. *Calls upon* all States:

(a) To consider promptly becoming parties to and to respect fully their obligations under the relevant international instruments, in particular the Convention on the Safety of United Nations and Associated Personnel, especially those receiving United Nations operations on their territories;

(b) To consider as a matter of priority becoming parties to the Rome Statute of the International Criminal Court;

(c) To consider acceding to or ratifying the Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations of 18 June 1998;

3. *Urges* all States:

(a) To take the necessary measures to ensure the full and effective implementation of the relevant provisions of human rights and refugee law relating to the safety and security of United Nations and associated personnel, as well as relevant principles and rules of international humanitarian law;

(b) To take stronger actions to ensure that any threat or act of violence committed against United Nations and associated personnel on their territory is investigated fully and to ensure that the perpetrators of such acts are brought to justice in accordance with international law and national law, and notes the need for States to end impunity for such acts;

(c) To facilitate and expedite, consistent with their national laws and regulations, the use of communications resources necessary to ensure the protection and safety of United Nations and associated personnel and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation, and emphasizes the importance of States' facilitating communications, inter alia through limiting and, whenever possible, lifting the restrictions placed on the use of communications equipment by United Nations and its associated personnel;

4. *Calls upon* all States and others concerned:

(a) To respect and ensure respect for the rights of United Nations and associated personnel and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation and to take the necessary measures to ensure the safety and security of those personnel as well as the inviolability of United Nations premises which are essential to the continuation and successful implementation of United Nations operations;

(b) To ensure, in compliance with international humanitarian law, in particular their obligations under the Geneva Conventions of 12 August 1949 and the obligations applicable to them under the Additional Protocols thereto of 1977, the security and protection of all United Nations and associated personnel and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation;

(c) To provide adequate and prompt information concerning the arrest or detention of United Nations and associated personnel and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation;

(d) To grant the representatives of the competent international organization safe, prompt and unhindered access to such personnel, in compliance with international law, in particular international humanitarian law;

(e) To allow independent medical teams to investigate the health of detained United Nations and associated personnel and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation and to afford them the necessary medical assistance;

(f) To allow representatives of the competent international organization to attend hearings involving United Nations and associated personnel and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation, provided that such attendance is consistent with domestic law;

(g) To ensure the prompt release of United Nations and associated personnel and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation who have been arrested or detained in violation of their immunity, in accordance with the relevant conventions and applicable international humanitarian law;

(h) To adopt and/or enforce appropriate domestic legislation and judicial and administrative measures to ensure that the perpetrators of unlawful acts against United Nations and associated personnel and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation are held accountable for their actions;

(i) To promote a climate of respect for the security of United Nations and associated personnel and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation;

(j) To cooperate fully, in conformity with relevant provisions of international law, with United Nations and associated personnel and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation and to ensure their safe and unhindered access in order to allow them to perform efficiently their task of assisting the affected civilian population, including refugees and internally displaced persons;

5. *Encourages* all States to contribute to the Trust Fund for the Security of United Nations Personnel;

6. *Takes note with appreciation* of the work being done by the Ad Hoc Committee on the Scope of Legal Protection under the Convention on the Safety of United Nations and Associated Personnel, established pursuant to General Assembly resolution 56/89 of 12 December 2001, which will be reconvened in accordance with Assembly resolution 58/82 of 9 December 2003, with a mandate to expand the scope of legal protection under the Convention on the Safety of United Nations and Associated Personnel, including by means of a legal instrument;

7. *Requests* the Secretary-General:

(a) To take the necessary measures to ensure full respect for the human rights, privileges and immunities of United Nations and associated personnel and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation and, when those human rights, privileges and immunities are violated, to ensure that such personnel are restored to their organization, and, where appropriate, to seek redress and compensation for the damage caused to them;

(b) To take further steps, within his mandate, to improve the safeguards for the security and safety of locally recruited United Nations and associated personnel and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation, and to continue to consider ways and means of strengthening their protection, bearing in mind that these personnel account for the majority of casualties as they are often most directly affected by insecurity and threats to their safety;

(c) To ensure the inclusion in headquarters and other mission agreements of the applicable principles and rules on protection contained in the Convention on the Privileges and Immunities of the United Nations, the Convention on the Privileges and Immunities of the Specialized Agencies and the Convention on the Safety of United Nations and Associated Personnel;

(d) To ensure that security matters are an integral part of the planning for existing and newly mandated United Nations operations and in this regard invites the United Nations and other humanitarian organizations to strengthen the analysis of threats to their safety and security in order to minimize security risks and to facilitate informed decisions on the maintenance of an effective presence in the field, inter alia to fulfil their humanitarian mandate;

(e) To take further measures to ensure that United Nations and associated personnel and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation are properly aware about the conditions under which they are called to operate,

including relevant customs and traditions in the host country, and the standards they are required to respect, including those contained in relevant domestic and international law, and that adequate training in security, human rights and humanitarian law is provided so as to enhance their security and effectiveness in accomplishing their functions, and reaffirms the necessity for all other humanitarian organizations to provide their personnel with similar support.

*58th meeting
21 April 2004*

[Adopted without a vote. See chap. XVIII.]

2004/78. Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights

The Commission on Human Rights,

Reaffirming that the full and effective implementation of United Nations human rights instruments is of major importance to the efforts of the United Nations to promote universal respect for and observance of human rights and fundamental freedoms and that the effective functioning of human rights treaty bodies is indispensable for the full and effective implementation of such instruments,

Recalling General Assembly resolution 57/202 of 18 December 2002 and its own resolution 2002/85 of 26 April 2002 and all previous resolutions on the effective implementation of international instruments on human rights,

Takes note with appreciation:

(a) Of the report of the Secretary-General entitled “Strengthening of the United Nations: an agenda for Further Change” (A/57/387 and Corr.1) and the report on the status of its implementation (A/58/351), as well as of General Assembly resolution 57/300 of 20 December 2002, which calls for, inter alia, a more coordinated approach by human rights treaty bodies and standardized reporting requirements,

(b) Of the report of the Secretary-General on the implementation of international instruments on human rights, including reporting obligations under international instruments on human rights (E/CN.4/2004/98),

(c) Of the report on the chairpersons of the human rights treaty bodies on their fifteenth meeting, held in June 2003 (A/58/350) and the report of the second inter-committee meeting of human rights treaty bodies annexed thereto,

(d) Of the report of the brainstorming meeting on reform of the human rights treaty body system, held in Malbun, Liechtenstein, in May 2003 (HRI/ICM/2003/4),

1. *Welcomes* the measures taken by the human rights treaty bodies to improve their functioning, as reflected in their annual reports, the report of the chairpersons of the human rights treaty bodies and the report of the inter-committee meeting;

2. *Encourages* the continuing efforts by the human rights treaty bodies and the Secretary-General aimed at improving the effectiveness of the treaty body system with a view to a more coordinated approach to its activities and standardized reporting, including by streamlining, rationalizing, rendering more transparent and otherwise improving working methods and reporting procedures;

3. *Notes with appreciation* the recent efforts of the Office of the United Nations High Commissioner for Human Rights to strengthen the United Nations treaty body system including through thematic workshops, including at the regional level, technical assistance, the creation of the Treaties and Follow-up Unit and the Petitions Unit, and the pooling of substantive and administrative support;

4. *Encourages* all key stakeholders, such as the Secretary-General, the Office of the High Commissioner for Human Rights in particular, the Division for the Advancement of Women of the Secretariat, the treaty bodies and States parties, to continue to examine ways of improving the effectiveness of the treaty body system, including by:

(a) Reducing the duplication of reporting required under the different instruments as well as the reporting burden on States parties, including through the use of an expanded core document, without impairing the quality of reporting, and focused periodic reports based on the concluding observations;

(b) Providing preliminary lists of issues to States in advance of consideration of reports by treaty bodies;

(c) Harmonizing the general guidelines regarding the form and content of reports across all treaty bodies;

(d) Coordinating the reporting schedule for the consideration of reports;

(e) Limiting the length of States parties' reports;

(f) Establishing consistent methods of work for the treaty bodies;

5. *Recalls* relevant provisions of the human rights treaties providing for individual complaints and stresses the important role of the treaty bodies in furthering the implementation of the human rights treaties by examining individual complaints under the various complaints procedures relating to States that have accepted them, and encourages all treaty bodies dealing with individual complaints to consider further ways of improving their working methods in this regard;

6. *Welcomes* the holding of inter-committee meetings of the human rights treaty bodies to discuss issues of common concern, including issues relating to the methods of work of the treaty bodies, and encourages those bodies to continue this practice in future on an annual basis;

7. *Welcomes* the holding of regular meetings with States and encourages the treaty bodies to continue this practice in future on an annual basis;

8. *Acknowledges* the important contribution of the treaty bodies towards furthering the interpretation of the rights contained in the human rights treaties and, in this regard, takes note of the practice of elaborating general comments;

9. *Urges* States parties to contribute, individually and collectively, such as through meetings of States parties, to identifying practical proposals and ideas for improving the functioning of the treaty bodies, encourages those that are already doing so to continue their efforts, and strongly encourages the treaty bodies to take these efforts into consideration in their ongoing work;

10. *Welcomes* the availability of documentation regarding the treaty bodies on the web sites of the Office of the High Commissioner for Human Rights and the Division for the Advancement of Women and the electronic distribution of concluding observations, general comments and views issued by the treaty bodies and encourages them to continue to enhance their use of information technology at all stages of the reporting process with a view to strengthening the treaty body system and making more efficient use of existing resources, including through harmonizing the treaty body web sites and providing the option to States of receiving electronic copies of documentation rather than hard copies;

11. *Welcomes* the contribution to the work of the human rights treaty bodies made by the specialized agencies and other United Nations bodies and encourages the specialized agencies and other United Nations bodies, the various organs of the Commission on Human Rights, including its special procedures, the Sub-Commission on the Promotion and Protection of Human Rights, the Office of the High Commissioner and the chairpersons of the human rights treaty bodies to continue to explore specific measures to intensify this cooperation among themselves and improve communication and information flow to improve further the quality of their work, including by avoiding unnecessary duplication;

12. *Affirms* the importance of concrete and practical concluding observations addressed to States parties and encourages the efforts of human rights treaty bodies to provide them;

13. *Welcomes* new initiatives by human rights treaty bodies to actively follow up concluding observations and comments with States parties, including through the appointment of one of their members as rapporteur for follow-up, and encourages all human rights treaty bodies to consider enhancing emphasis on implementation and follow-up;

14. *Encourages* the efforts made by human rights treaty bodies to consider the situations of some States parties whose reports are overdue and the suggestions of the inter-committee meeting for harmonizing these efforts;

15. *Recognizes* the important role played by non-governmental organizations and national human rights institutions in all parts of the world in the effective implementation of all human rights instruments and encourages the inter-committee meeting to consider the development of harmonized working methods for the exchange of information between the human rights treaty bodies and such organizations;

16. *Encourages* the efforts of the treaty bodies to monitor more effectively the human rights of women in their activities and reaffirms that it is the responsibility of all treaty bodies to integrate a gender perspective throughout their work;

17. *Urges* States parties to make every effort to meet their reporting obligations under United Nations human rights instruments, in particular those with overdue reports;

18. *Urges* States parties that have not already done so to make every effort to submit their initial report, as called for by the United Nations human rights instruments;

19. *Urges* each State party whose report has been examined by a human rights treaty body to provide effective follow-up to the observations of the treaty body;

20. *Also urges* each State party whose report has been examined by a human rights treaty body to disseminate effectively in its territory the full text of the concluding observations of the treaty body on its report;

21. *Urges* States that have been subject to individual complaints to consider carefully the views of the treaty bodies and to provide adequate follow-up to those views;

22. *Reiterates* that a priority of the Office of the High Commissioner for Human Rights and the Division for the Advancement of Women should be to provide assistance to States parties, upon their request and, if possible, in coordination with other United Nations bodies, Governments and other interested parties, in order:

(a) To assist those States in the process of ratifying United Nations human rights instruments;

(b) To assist States with the implementation of their obligations under such instruments, including the preparation of their core documents and initial reports;

(c) To assist States in following up on concluding observations;

23. *Invites* States parties that have not yet submitted their core documents or initial reports under United Nations human rights instruments to avail themselves, where necessary, of technical assistance for this purpose;

24. *Encourages* the human rights treaty bodies to continue to identify specific possibilities for technical assistance, to be provided at the request of the State concerned, in the regular course of their work of reviewing the periodic reports of States parties, and encourages States parties to consider carefully the concluding observations of the treaty bodies in identifying their needs for technical assistance;

25. *Emphasizes* the need to ensure financing and adequate staff and information resources for the operations of the human rights treaty bodies, in particular in view of the additional demands placed on the system by the creation of a new treaty body, new reporting requirements, the increasing number of ratifications and enhanced reporting by States and, with this in mind:

(a) Welcomes the additional resources committed to the Office of the High Commissioner for Human Rights for the Treaties and Follow-up Unit and the Petitions Unit which strengthen its ability to support the treaty bodies effectively;

(b) Reiterates its request that the Secretary-General provide adequate resources in respect of each treaty body, while making the most efficient use of existing resources, in order to give the human rights treaty bodies adequate administrative support and better access to technical expertise and relevant information;

(c) Calls upon the Secretary-General to seek in the next biennium the resources within the United Nations regular budget necessary to give the human rights treaty bodies adequate administrative support and better access to technical expertise and relevant information;

(d) Welcomes the programme prepared by the High Commissioner to enhance the resources available to all the human rights treaty bodies and thereby strengthen the implementation of these human rights treaties, and encourages all Governments, United Nations bodies and specialized agencies, non-governmental organizations and interested persons to consider contributing to the appeal for extra budgetary resources for the treaty bodies made by the High Commissioner until the regular budget funding meets their needs;

26. *Requests* the Secretary-General to report to the Commission at its sixty-second session on measures taken to implement the present resolution and obstacles to its implementation, including the efforts of the treaty bodies to integrate a gender perspective throughout their work;

27. *Decides* to consider this question at its sixty-second session under the same agenda item.

*58th meeting
21 April 2004*

[Adopted without a vote. See chap. XVIII.]

2004/79. Technical cooperation and advisory services in Cambodia

The Commission on Human Rights,

Bearing in mind its resolution 2003/79 of 25 April 2003, General Assembly resolution 58/191 of 22 December 2003 and previous relevant resolutions,

Welcoming the report of the Secretary-General (E/CN.4/2004/104) as well as the report of the Special Representative of the Secretary-General for human rights in Cambodia (E/CN.4/2004/105),

Recognizing that the tragic recent history of Cambodia requires special measures to ensure the protection of human rights and the non-return to the policies and practices of the past, as stipulated in the Agreement on a Comprehensive Political Settlement of the Cambodia Conflict, signed in Paris on 23 October 1991,

I. KHMER ROUGE TRIBUNAL

1. *Welcomes* the Agreement reached between the United Nations and the Government of Cambodia to set up Extraordinary Chambers exercising their jurisdiction in accordance with international standards of justice, fairness and due process as set out in article 12 of the Agreement, urges the Secretary-General and the Government of Cambodia to take all necessary measures for the early establishment of these Chambers, and appeals to the international community to provide assistance, including financial and personnel support, to the Extraordinary Chambers, in accordance with General Assembly resolution 57/228 B of 13 May 2003;

II. DEMOCRACY AND THE SITUATION OF HUMAN RIGHTS

2. *Welcomes* the generally peaceful conclusion of the general elections held in July 2003, which demonstrated the steady development of the democratic process in Cambodia, while recognizing the need further to strengthen the enforcement capacity and impartiality of the National Election Committee;

3. *Urges* the concerned parties to make every effort urgently to form a new government and to solve all related problems through peaceful and democratic means;

4. *Welcomes* the progress that Cambodia has been making in improving its human rights situation for the past decade while still concerned about continuing violations of human rights, including torture, excessive pre-trial detention, issues relating to land reform as well as violence against political and civil activists, and notes in particular the continuing problems relating to the rule of law, impunity and corruption;

5. *Urges* the Government of Cambodia:

(a) To strengthen its efforts to establish the rule of law, including through the adoption and implementation of essential laws and codes for establishing a democratic society, and to address as a matter of priority, inter alia, the climate of impunity, and to enhance its efforts to investigate urgently and to prosecute, in accordance with due process of law and international human rights standards, all those who have perpetrated serious crimes, including violations of human rights;

(b) To further enhance its judicial reform, especially by strengthening its efforts to ensure the independence, impartiality and effectiveness of the judicial system as a whole;

(c) To take all necessary steps to meet its obligations under international human rights instruments and to continue to cooperate with the Office of the United Nations High Commissioner for Human Rights and other United Nations agencies;

(d) To continue its efforts to improve human rights, especially those of women and children, and to make additional efforts in concert with the international community to combat key problems such as human trafficking, sexual violence, domestic violence and sexual exploitation of women and children;

(e) To continue to create an environment conducive to the conduct of legitimate political activity as well as to support the role of non-governmental organizations in order to solidify democratic development in Cambodia;

III. CONCLUSION

6. *Invites* the Secretary-General and the international community, including non-governmental organizations, to continue to assist, especially in the field of capacity-building, the Government of Cambodia in improving democracy as well as in ensuring the protection and promotion of human rights of all people in Cambodia;

7. *Also requests* the Secretary-General to report to the Commission at its sixty-first session on the role and achievements of the Office of the High Commissioner for Human Rights in assisting the Government and the people of Cambodia in the promotion and protection of human rights and on the recommendations made by the Special Representative of the Secretary-General for human rights in Cambodia on matters within his mandate;

8. *Decides* to continue its consideration of the situation of human rights in Cambodia at its sixty-first session under the same agenda item.

58th meeting
21 April 2004
[Adopted without a vote. See chap. XIX.]

2004/80. Assistance to Somalia in the field of human rights

The Commission on Human Rights,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the African Charter on Human and Peoples' Rights and other relevant human rights instruments,

Recalling its resolution 2003/78 of 25 April 2003,

Bearing in mind the statements by the President of the Security Council on the situation in Somalia of 31 October 2001 (S/PRST/2001/30), 28 March 2002 (S/PRST/2002/8), 12 December 2002 (S/PRST/2002/35), 12 March 2003 (S/PRST/2003/2), 11 November 2003 (S/PRST/2003/19) and 25 February 2004 (S/PRST/2004/3), the report of the Secretary-General on the situation in Somalia of 12 February 2004 (S/2004/115 and Corr.1), Council resolutions 751 (1992), 1407 (2002), 1425 (2002), 1474 (2003) and 1519 (2003), respectively of 24 April 1992, 3 May 2002, 22 July 2002, 8 April 2003 and 16 December 2003, 1265 (1999) of 17 September 1999 on protection of civilians in armed conflict, 1460 (2003) of 30 January 2003 on the use of children in armed conflicts and 1325 (2000) of 31 October 2000 on women, peace and security, the report of the Secretary-General on protection for humanitarian assistance to refugees and others in conflict situations (S/1998/883),

General Assembly resolution 58/122 of 17 December 2003, entitled “Safety and security of humanitarian personnel and protection of United Nations personnel”, and the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2, annex),

Recalling the statement made by the President of the Security Council on the situation in Somalia of 25 February 2004 (S/PRST/2004/3), in which the Council reaffirmed its commitment to a comprehensive and lasting settlement of the situation in Somalia and its respect for the sovereignty, territorial integrity, political independence and unity of the country, consistent with the purposes and the principles of the Charter of the United Nations,

Noting the recent mission and subsequent report of the Panel of Experts, established pursuant to Security Council resolutions 1425 (2002) and 1474 (2003) and the establishment of the Monitoring Group mandated to investigate the ongoing arms embargo violations pursuant to Security Council resolution 1519 (2003),

Reaffirming its serious concern at the continued flow of weapons and ammunition to and through Somalia and bearing in mind that the Somali National Reconciliation Process and the implementation of the arms embargo serve as mutually reinforcing processes,

Emphasizing that the efforts to combat terrorism in Somalia are inseparable from the establishment of peace and governance in the country,

Recognizing that the people of Somalia have the principal responsibility for their national reconciliation process and that they are the ones to decide freely on their political, economic and social systems,

Noting with grave concern that insecurity still prevails in several parts of Somalia, and noting with disquiet that conflicts continue in areas of the country such as Mogadishu, Gedo, Sool, Sanaag and Baidoa,

Noting also with grave concern that the humanitarian situation remains fragile throughout Somalia and recognizing the massive challenges facing Somalia with respect to immediate assistance as well as reconstruction and development,

Noting further with grave concern that attacks have been committed against humanitarian workers in Somalia and the impact this has on the ability of aid agencies to carry out their assistance and protection activities,

Underlining that the peace process in Somalia must continue and be completed through dialogue and not by resorting to the use of force,

Reiterating that the Somali parties should abide by and implement expeditiously the Eldoret Declaration of 27 October 2002 on cessation of hostilities and calling on the Somali parties to continue working towards a comprehensive security arrangement for Somalia,

Encouraging the Somali parties to build on the progress achieved and swiftly conclude the Somali National Reconciliation Conference with a durable and inclusive solution to the conflict in Somalia, by establishing a viable transitional Government,

Reaffirming its full and firm support to the peace process sponsored by the Intergovernmental Authority on Development,

Commending the Governments of Kenya, host of the National Reconciliation Conference, of Uganda and of all other States members of the Intergovernmental Authority on Development, for their outstanding efforts in favour of the Somali National Reconciliation Process,

Expressing its appreciation for the efforts made in support of peace by the United Nations, the African Union, in particular its commitment to deploy a military observer mission to Somalia, the League of Arab States, the European Union, the Organization of the Islamic Conference, the Movement of Non-Aligned Countries and the Intergovernmental Authority on Development Partners' Forum,

Considering that the people of Somalia should not be abandoned by the international community, that the deterioration in the security situation produces significant negative consequences for the protection and promotion of human rights, and that human rights should be placed on the agenda of talks regarding the future of Somalia,

Highlighting the progress and the increasing efforts of the United Nations specialized agencies and programmes in improving the living conditions of the Somali people, as well as in supporting authorities to improve the administration of justice by developing the rule of law, building their capacity to enforce the law and improving the application of human rights standards,

Highlighting also the meaningful work done by Somali civil society groups and non-governmental organizations, including humanitarian organizations, in the humanitarian field in their efforts to protect and promote human rights,

Reiterating that a comprehensive peace-building programme with special emphasis on disarmament, demobilization, rehabilitation and reintegration will be important to post-conflict Somalia,

Considering that humanitarian, human rights and development assistance is of paramount importance in contributing to the alleviation of poverty, promoting a more peaceful, equitable and democratic society in Somalia and supporting sustainable improvement of the livelihood of the Somali people and their improved access to basic public and social services, as well as the establishment of good governance,

Taking into account the establishment of the Trust Fund for Peace-Building in Somalia,

1. *Welcomes:*

(a) The relevant decisions taken by the Intergovernmental Authority on Development at its tenth summit and the establishment of the Authority's Facilitation Committee, including all States members of the Authority;

(b) The signing, on 29 January 2004, of the "Declaration on the harmonization of various issues proposed by the Somali delegates at the consultative meetings from 9 to 29 January 2004", as an important step towards lasting peace and reconciliation in Somalia;

(c) The integration by a number of United Nations agencies of human rights issues into their programmes;

2. *Emphasizes* the necessity of lasting efforts against international terrorism in accordance with Security Council resolution 1373 (2001) of 28 September 2001 and urges all States and relevant international agencies to provide assistance to Somalia for the implementation of that resolution;

3. *Encourages*:

(a) All parties throughout Somalia to participate in the process, which offers a unique opportunity for all Somalis to end the suffering of their people and to restore peace and stability to their country;

(b) The Intergovernmental Authority on Development, the Authority's Facilitation Committee and all neighbouring States to move the peace process forward and to continue their active and positive role in support of the reconciliation process and the attainment of peace in the region;

(c) All States through the Intergovernmental Authority on Development Partners' Forum to play an active and positive role in support of the reconciliation process;

4. *Expresses concern* that, as a result of the combination of food insecurity and poor health conditions, Somalis continue to suffer from high rates of malnutrition and, more generally, from an ongoing humanitarian crisis;

5. *Expresses deep concern* at reported cases of rape, arbitrary and summary executions, torture and other cruel, inhuman or degrading treatment or punishment and violence, in particular against women and children, and at the absence of an effective judicial system, essential to ensure the right to a fair trial in accordance with international standards;

6. *Calls upon* all States, regional and international organizations and other actors to support appropriate investigations throughout Somalia in order to combat impunity and bring perpetrators to justice;

7. *Expresses deep concern* at the prevalence of sexual violence, in particular among displaced children, imprisoned children and children engaged in exploitative and hazardous labour, including those working and living on the streets, and at discrimination against children belonging to minority clans, who are vulnerable to violence, including murder, poverty and lack of access to education;

8. *Also expresses deep concern* at the practice of *asiwalid*, whereby parents send their disobedient children to be kept in prison until they order them to be released, which continues to prevail, with all the negative human rights implications this entails;

9. *Condemns:*

(a) The serious violations of the commitment undertaken by the parties on 27 October 2002, which are still occurring;

(b) Those who obstruct the peace process and persist on the path of confrontation and conflict;

(c) The ongoing widespread violations and abuses of human rights and humanitarian law, in particular against internally displaced persons, minorities, vulnerable groups, women and children, including domestic violence, the continuing practice of female genital mutilation, which remains a matter of serious concern, as well as the forced displacement of civilians;

(d) The forced or compulsory recruitment of children for use in armed conflict, the use of these children in armed conflict by the militias, the practice of child labour, particularly domestic labour and the involvement of children in exploitative and hazardous labour, and a juvenile justice system not in accordance with international standards;

(e) All acts of violence such as hostage-taking, abduction and murder, including of humanitarian relief workers and of United Nations agency personnel;

10. *Underlines:*

(a) The need for human rights to be an integral part of a future United Nations peace-building mission;

(b) The need to support the relevant authorities in integrating human rights standards into the institutions and frameworks that will be forged in Somalia;

(c) The need to integrate a gender perspective into all peace-building, reconstruction and reconciliation processes;

11. *Calls upon:*

(a) All parties throughout Somalia to strengthen their commitment to dialogue with the objective of widening and deepening the process of national reconciliation and to abide by and implement expeditiously the decisions adopted throughout the process, including the Declaration on the Cessation of Hostilities (Eldoret Declaration);

(b) All parties to ensure the effective participation of women in the Somali National Reconciliation Process;

(c) All States to commit themselves to the long-term objective of regional stability, inter alia by playing a positive role in the process of rebuilding national institutions in Somalia and in particular in supporting the Intergovernmental Authority on Development in its facilitation role in the Somali National Reconciliation Process;

(d) All stakeholders to continue to intensify the coordinated efforts aimed at facilitating the national reconciliation process in Somalia, aware of the fact that the peaceful coexistence of all parties and groups is an important foundation for the respect of human rights;

(e) All States, regional and international organizations and other actors to support a stronger field presence of the Office of the High Commissioner for Human Rights in Somalia, greater independence while maintaining close collaboration with other agencies working in the area of human rights, as well as effective participation in the United Nations Country Team;

(f) All Member States to continue to provide increased assistance in response to the United Nations appeals for relief, rehabilitation and reconstruction efforts in all regions, including those aimed at the strengthening of civil society, encouraging good governance and the

re-establishment of the rule of law, in particular the improvement of the juvenile justice system, and to support the development of a culture of human rights and other activities of the Office of the High Commissioner concerning Somalia, including human rights advocacy and documenting human rights violations;

(g) The United Nations, its Member States and specialized agencies, non-governmental organizations and the Bretton Woods institutions to intensify their assistance and to enhance their projects, in particular in the fields of human rights, including rights of the child, women's rights and gender equality, health, with special attention to combating HIV/AIDS and other sexually transmitted diseases, demobilization of militia, disarmament, the struggle against the proliferation of small arms, mine clearing and rehabilitation of basic infrastructures;

(h) All relevant authorities and Member States to provide support for the voluntary return and reintegration of Somali refugees and the provision of urgent and extensive humanitarian assistance to, and protection for, those who have been internally displaced;

(i) All relevant international stakeholders to support the Joint Action and Recovery Plan for Somalia, which seeks to find sustainable solutions for the reintegration and resettlement of internally displaced persons;

(j) The United Nations, its Member States and specialized agencies fully to support and assist the Intergovernmental Authority on Development in the implementation of its decisions on Somalia and to take concrete measures, inter alia "smart sanctions" targeting individuals blocking the reconciliation process and positive incentives, including targeted financial support;

(k) The United Nations and its Member States to support the efforts of the African Union to improve the security situation in Somalia, inter alia by the establishment of a mechanism for monitoring;

(l) Donor countries to contribute to the Somali National Reconciliation Process, to the Trust Fund for Peace-Building in Somalia and the United Nations Consolidated Inter-Agency Appeal for Somalia;

(m) Individual donor countries, international organizations and non-governmental organizations further to incorporate human rights principles and objectives in the humanitarian and development work they carry out in Somalia and to cooperate with the independent expert of the Commission;

12. *Urges:*

(a) All parties to stop all acts of violence, to abstain from engaging in hostilities and to prevent any act likely to increase tension during the peace negotiation;

(b) All parties throughout Somalia to respect human rights and international humanitarian standards as set out in international instruments, in particular those pertaining to internal armed conflicts;

(c) All parties to halt the forced or compulsory recruitment of children for use in armed conflict and to pay serious attention to their protection;

(d) All parties throughout Somalia to facilitate the delivery of much-needed humanitarian assistance and to protect and facilitate the work of United Nations personnel, humanitarian relief workers, human rights defenders and representatives of non-governmental organizations and of the international media, and to guarantee all persons involved in humanitarian action freedom of movement throughout the country and safe and unhindered access to civilians in need of protection and humanitarian assistance;

(e) All States and other actors to comply scrupulously with the arms embargo established by Security Council resolution 733 (1992) and to continue to work closely with the mechanisms established to enforce the embargo pursuant to Security Council resolution 733 (1992);

(f) All States and other actors contacted outside the region to continue to cooperate fully with the Panel of Experts, in accordance with Council resolutions 1425 (2002) and 1519 (2003);

(g) All States, in particular those of the region, not to interfere in the internal affairs of Somalia; such interference only further destabilizes Somalia, contributes to a climate of fear, impacts adversely on human rights, and could jeopardize the sovereignty, territorial integrity, political independence and unity of Somalia; the territory of Somalia should not be used to undermine stability in the subregion, as reiterated in Council resolution 1519 (2003);

(h) All States to prevent persons and entities from taking advantage of the situation in Somalia to finance, plan, facilitate, support or commit terrorist acts from the country, emphasizing that efforts to combat terrorism in Somalia are inseparable from the establishment of peace and governance in the country;

(i) All States to provide assistance to Somalia for the further and comprehensive implementation of Council resolution 1373 (2001);

13. *Invites* Governments and organizations in a position to do so to respond positively to requests by the Secretary-General for assistance in the implementation of the present resolution;

14. *Requests* the United Nations High Commissioner for Human Rights to provide for the translation of the present resolution, accompanied by an appropriate background explanatory note, into the Somali language and for its wide dissemination within the country;

15. *Commends* the work carried out by the independent expert and welcomes his report (E/CN.4/2004/103);

16. *Decides:*

(a) To extend the mandate of the independent expert on the situation of human rights in Somalia for a further year and requests the independent expert to report to the Commission at its sixty-first session;

(b) To request the Secretary-General to continue to provide the independent expert with all necessary assistance in carrying out his mandate and to provide adequate resources, from within existing overall United Nations resources, to fund the activities of the independent expert and the High Commissioner in providing advisory services and technical assistance;

(c) To continue its consideration of this question at its sixty-first session under the same agenda item;

17. *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 2004/80 of 21 April 2004, approves the decision of the Commission to extend for a further year the mandate of the independent expert on the situation of human rights in Somalia and the Commission’s request to the independent expert to report to the Commission at its sixty-first session. The Council also approves the decision to request the Secretary-General to continue to provide the independent expert with all necessary assistance in carrying out his mandate.”

*58th meeting
21 April 2004*

[Adopted without a vote. See chap. XIX.]

**2004/81. Advisory services and technical cooperation
in the field of human rights**

The Commission on Human Rights,

Recalling:

(a) That one of the principal purposes of the United Nations is to achieve international cooperation in promoting and encouraging respect for human rights and fundamental freedoms,

(b) General Assembly resolution 926 (X) of 14 December 1955, in which the Assembly established the United Nations programme of advisory services in the field of human rights, and Economic and Social Council decision 1987/147 of 29 May 1987, pursuant to which the Secretary-General established the United Nations Voluntary Fund for Technical Cooperation in the Field of Human Rights, as well as Commission resolution 2002/87 of 26 April 2002,

Recalling also that the Vienna Declaration and Programme of Action adopted in June 1993 by the World Conference on Human Rights, inter alia:

(a) Calls upon the Office of the United Nations High Commissioner for Human Rights to assume a larger role in the promotion of human rights through cooperation with Member States and by an enhanced programme of advisory services in the field of human rights,

(b) Recommends increased coordination in support of human rights and fundamental freedoms within the United Nations system, and urges all United Nations organs, bodies and the specialized agencies whose activities deal with human rights to cooperate to this end in order to strengthen, rationalize and streamline their activities, taking into account the need to avoid unnecessary duplication,

(c) Recommends that a comprehensive programme be established within the United Nations in order to help States in the task of building and strengthening adequate national structures which have a direct impact on the promotion and the protection of human rights, democracy and the rule of law,

Mindful that the mandate of the United Nations High Commissioner for Human Rights includes responsibilities for:

(a) Provision of advisory services and technical and financial assistance at the request of States,

(b) Enhancing international cooperation for the promotion and protection of all human rights,

(c) Coordination of human rights promotion and protection activities throughout the United Nations system,

(d) Coordination of relevant United Nations education and public information programmes in the field of human rights,

Reaffirming that developing and strengthening national capacities and institutions for the promotion of human rights is an important area for international cooperation,

Acknowledging the importance of further strengthening the provision of advisory services and technical cooperation by the Office of the High Commissioner,

Mindful that the technical cooperation programmes of the Office of the High Commissioner are and should be developed and implemented on the basis of a common understanding with the Government concerned in the context of the pursuit of national development objectives and national programmes aimed at the promotion and protection of all human rights,

1. *Takes note with appreciation* of the report of the Secretary-General on advisory services and technical cooperation in the field of human rights (E/CN.4/2004/99) as well as the annual appeals of the United Nations High Commissioner for Human Rights;

2. *Notes* the completion of the global review of the Technical Cooperation Programme of the Office of the United Nations High Commissioner for Human Rights;

3. *Declares* that advisory services and technical cooperation, when requested by Governments for the purpose of developing and strengthening national capacities in the field of human rights, constitute one of the most efficient and effective means of promoting and protecting all human rights, democracy and the rule of law;

4. *Welcomes*, therefore, the increasing number of requests for advisory services and technical cooperation in the field of human rights as an expression of the growing commitment of States to promote and protect human rights and fundamental freedoms, and encourages all States to consider making use of advisory services and technical cooperation in order to achieve the full enjoyment of all human rights;

5. *Calls* for a substantial increase in available financial resources, including from voluntary contributions, for advisory services and technical cooperation, which should be managed in a more efficient and coordinated way;

6. *Expresses its appreciation* for the contributions made to the United Nations Voluntary Fund for Technical Cooperation in the Field of Human Rights, welcomes in particular the increasing contributions made by developing countries and invites more Governments and non-governmental organizations to consider contributing;

7. *Invites* all Governments considering making voluntary contributions to the Office of the High Commissioner to consider providing unearmarked contributions to the extent possible;

8. *Encourages* efforts to integrate in a comprehensive manner into technical cooperation programmes economic, social and cultural rights, as well as strategies aiming at gender mainstreaming;

9. *Reaffirms* that United Nations field activities in the area of human rights should, when requested, be complemented by advisory services and technical cooperation projects aimed at producing sustainable results through the enhancement of national capacities and the promotion of national institutions;

10. *Stresses* that, when assisting States in promoting and protecting all human rights and strengthening the rule of law and democracy, priority should be given to technical cooperation programmes designed to address their specific requirements;

11. *Notes* the importance of coherent long-term planning and strategic programming, along with systematic monitoring and evaluation thereof, in order to effectively develop national capacity and institutions with respect to human rights;

12. *Affirms* that, in order to secure the sustainability of advisory services and technical cooperation projects, these should incorporate qualified national human rights expertise to the extent possible, and further develop and strengthen such expertise;

13. *Reaffirms* the importance of effective participation, national ownership of projects and programmes and strengthening of partnerships by the Office of the High Commissioner with national institutions in promoting and protecting human rights;

14. *Encourages* the Office of the High Commissioner to continue its current practice of making the best use of available human rights expertise relevant to, and, as appropriate, from, the regions where technical cooperation activities are undertaken and to make available relevant information in this regard;

15. *Recognizes* the usefulness of advisory services and technical cooperation for all countries, and calls upon the Office of the High Commissioner to continue to develop its potential for the promotion and protection of all human rights through advisory services and technical cooperation projects and to accord these activities the highest priority;

16. *Notes* the interdependence between social and economic development, poverty eradication and the promotion and realization of all human rights, and in this regard welcomes the lead role of the High Commissioner in inter-agency coordination in the field of human rights;

17. *Encourages* Governments, relevant United Nations treaty bodies, special rapporteurs and representatives, as well as working groups, to consult each other in order to elaborate proposals for specific projects to be realized under the programme of advisory services and technical cooperation in the field of human rights with a view to contributing to practical and tangible change in the human rights situation;

18. *Invites* States to assist the Office of the High Commissioner in developing and funding, upon the request of States, specific technical cooperation projects aimed at combating racism, racial discrimination, xenophobia and related intolerance;

19. *Requests* the Secretary-General:

(a) To continue, in accordance with Part II, paragraph 16, of the Vienna Declaration and Programme of Action and in cooperation with the Board of Trustees of the Voluntary Fund, to ensure efficient management of the Voluntary Fund, strict and transparent project-management rules and periodic evaluations of the programme and projects and to arrange for the holding of information meetings open to all Member States and organizations directly involved in the programme of advisory services and technical cooperation;

(b) To continue to provide the necessary administrative assistance for the Board of Trustees, to arrange meetings of the Board and to ensure that its conclusions are reflected in the annual report to the Commission on technical cooperation in the field of human rights;

(c) To submit a further analytical report to the Commission at its sixty-second session on the progress and concrete achievements made, as well as obstacles encountered in the implementation of the programme of advisory services and technical cooperation in the field of human rights and on the operation and administration of the Voluntary Fund;

20. *Decides* to continue consideration of this subject at its sixty-second session.

*58th meeting
21 April 2004*

[Adopted without a vote. See chap. XIX.]

2004/82. Advisory services and technical assistance in Burundi

The Commission on Human Rights,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms as stated in the Charter of the United Nations, the Universal Declaration of Human Rights, the international covenants on human rights and other applicable human rights instruments, and the duty to fulfil the obligations that they have undertaken under the various instruments in this field,

Mindful that Burundi is required to implement all the international and regional instruments to which it is party, and applauding the close cooperation between the Burundian Government and the Office of the United Nations High Commissioner for Human Rights in Burundi in the promotion and protection of human rights,

Applauding the Burundian Government's compliance with the Arusha Peace and Reconciliation Agreement signed on 28 August 2000 and the various subsequent agreements seeking genuinely to promote the rule of law,

Recalling its resolution 2003/16 of 17 April 2003 and welcoming the positive turn in the situation in the country,

Hailing the decision by the Security Council on 23 January 2004 to send to Burundi an evaluation mission on the establishment of an international judicial commission of inquiry for Burundi as requested by the transitional Government,

Acknowledging the efforts made by the United Nations, the African Union and the European Union to contribute to a peaceful settlement of the Burundi crisis,

Also acknowledging the duty of the transitional Government to ensure the safety of all, civil population groups in particular, on Burundian territory,

Mindful of the need to back efforts by the Burundian Government to ensure the safety of humanitarian workers in accordance with the principles of international law,

Hailing the alternation of the presidency on 30 April 2003 as called for in the transitional Constitution,

Applauding the signature on 8 October 2003 of the Pretoria Protocol on Political, Defence and Security Power-sharing in Burundi by the transitional Government and Pierre Nkurunziza's Conseil national pour la défense de la démocratie - Forces pour la défense de la démocratie (CNDD-FDD), the signature of the Global Ceasefire Agreement on 16 November 2003 in Dar es Salaam, and the start made to its implementation through the creation of a transitional Government including representatives of CNDD-FDD (Nkurunziza wing),

Recalling the decision of the Organization of African Unity of July 2000 (CM/Dec.522 (LXXII) Rev.1), the statement by the President of the Security Council of 2 March 2001 (S/PRST/2001/6) and the statements issued by the Presidency of the European Union on 6 March 2001 and 19 November 2003, all on Burundi,

Applauding the establishment of the Arusha Agreement Implementation Monitoring Committee, with headquarters in Burundi, and the initial implementation of some ceasefire-accompanying measures such as the arrival of the team of observers and the establishment of the Mixed Ceasefire Commission, the integrated army general staff and the police general staff,

Recognizing the personal contribution of the late Mr. Julius K. Nyerere to the Arusha negotiation process and the facilitation work by the former President of South Africa, Mr. Nelson Mandela, which has already yielded tangible results, including the signature of the Arusha Agreement, and contributions by the Chairman of the subregional initiative on Burundi, President Yoweri Kaguta Museveni of Uganda, and by President Thabo Mbeki and Deputy President Jacob Zuma of South Africa,

Also recognizing the important role of women in the reconciliation process and the search for peace,

Applauding the constructive attitude of the Burundian Government and its willingness to continue to cooperate with the Office of the United Nations High Commissioner for Human Rights in consolidating the principles of human rights,

1. *Takes note* of the report of the Special Rapporteur on the situation of human rights in Burundi (E/CN.4/2004/35);
2. *Encourages* the transitional Government to continue its actions aimed at associating all sectors of society in the work of national reconciliation and the restoration of an institutional order that is safe and reassuring for everyone so as to bring back democracy and peace in the interest of the Burundian population;
3. *Also encourages* the transitional Government, with support from its partners, to continue the cantonment and disarmament process as part of the national programme of demobilization, disarmament and reintegration;
4. *Condemns* all acts of violence and violations of human rights and international humanitarian law and calls on the transitional Government to put an end to impunity within the context of the rule of law and ensure that those responsible for violence in general, and violence against women in particular, are brought to justice in accordance with international conventions and the law;

5. *Also condemns* the sale and illegal distribution of weapons and related materials, which hinder peace and security in the region;

6. *Deplores* the killing of the Apostolic Nuncio, Mgr. Michael Courtney, and calls upon the Government to bring those responsible to justice;

7. *Enjoins* all parties, namely the transitional Government, the signatories of the Arusha Agreement and the signatories of the ceasefire, to honour their commitments and to pay special attention to the protection of human rights in the implementation and follow-up machinery for the ceasefires that have been signed, and urges Agathon Rwasa's armed movement, the Forces nationales pour la libération, to come to the negotiating table and conclude a ceasefire like the other armed groups in order to arrive at a complete and definitive ceasefire;

8. *Encourages* the continuing voluntary repatriation of refugees hosted in the United Republic of Tanzania pursuant to the tripartite agreements between the Office of the United Nations High Commissioner for Refugees and the Governments of Tanzania and Burundi, calls on the parties concerned to establish and promote conditions permitting voluntary, permanent return in full security, further recommends the transitional Government and humanitarian partners to provide the displaced persons with humanitarian assistance and to facilitate their return and reintegration, and encourages the transitional Government to continue the settlement of disputes relating to the property of repatriated and displaced persons;

9. *Again encourages* the transitional Government in Burundi to ratify the Rome Statute of the International Criminal Court;

10. *Applauds* the establishment by the transitional Government of a "child soldier project" to deal with disarmament, demobilization and return to life in society and normal occupations, and of the general demobilization programme under the Office of the President of the Republic, while urging those parties which have not yet done so to stop using children as soldiers;

11. *Applauds* the progress made towards ratification of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict;

12. *Encourages* the transitional Government to continue to improve the status of women and promote the rehabilitation of female victims of armed conflict and violence, improving their living conditions;

13. *Applauds* the fact that the proportion of at least 30 per cent female membership of institutions advocated in the Arusha Agreement has been respected and put into effect in the transitional Government, National Assembly and Senate;

14. *Expresses its appreciation* of the efforts by the mediators of the United Nations, the African Union and the European Union in the search for a lasting solution to the problems of Burundi;

15. *Reaffirms* that respect for human rights and international humanitarian law and development make for peace, notes the proposal to hold an international conference on peace, security and stability in the Great Lakes region, calls on the international community to participate in that conference as recommended by the Security Council in its resolution 1234 (1999) of 9 April 1999, and also calls on all the parties to facilitate access for humanitarian personnel to the civilian populations affected by the conflict;

16. *Urges* States and international, governmental and non-governmental organizations to coordinate planning initiatives so as to promote sustainable development with a view to encouraging reconstruction and reconciliation;

17. *Exhorts* the transitional Government to take steps to promote and protect all human rights in Burundi;

18. *Calls on* the transitional Government to establish an independent national human rights commission in conformity with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles);

19. *Applauds* the outcome of the Forum of Partners for Development in Burundi held in Brussels in January 2004, and calls upon the transitional Government and donors to continue to act upon their promises so as to give weight to the new drive for peace, reconciliation and national reconstruction;

20. *Encourages* the international community to make greater assistance available to the judicial system and the National Commission for the Rehabilitation of *Sinistrés* (Survivors), and to increase the financial and human resources available to the Office of the United Nations High Commissioner for Human Rights in Burundi so that it can improve its work in the field and carry out its mandate effectively;

21. *Requests* the United Nations High Commissioner for Human Rights, in consultation with the Government of Burundi, to continue with his programme of technical assistance in accordance with the framework agreement on collaboration in the field of human rights between the United Nations and the Government of Burundi dated 8 November 1995;

22. *Expresses its gratitude* to the Special Rapporteur, Ms. Marie-Thérèse A. Keita Bocoum, for the human rights work she has performed under her mandate;

23. *Decides* to appoint an independent expert to provide backing for the Government of Burundi in its efforts to improve the human rights situation;

24. *Requests* the independent expert to consider the situation of human rights in Burundi and ensure that the authorities are honouring the commitments they have made, to submit an interim report on the implementation of this resolution to the General Assembly at its fifty-ninth session, and to report to Commission on Human Rights at its sixty-first session;

25. *Decides* to return to this question at its sixty-first session under the same agenda item;

26. *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 2004/82 dated 21 April 2004, endorses the Commission’s decision to appoint an independent expert to consider the situation of human rights in Burundi and ensure that the authorities are honouring their commitments they have made, and to request the expert to submit an interim report to the General Assembly at its fifty-ninth session and report to the Commission at its sixty-first session.”

*58th meeting
21 April 2004*

[Adopted without a vote. See chap. XIX.]

2004/83. Technical cooperation and advisory services in Liberia

The Commission on Human Rights,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms as stated in the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable human rights instruments, and the duty to fulfil the obligations that they have undertaken under the various instruments in this field,

Mindful that Liberia has an obligation to implement all the international and regional instruments to which it is a party,

Recalling its resolution 2003/82 of 25 April 2003,

Taking into account the resolutions of the Security Council on the situation in Liberia, particularly resolution 1497 (2003) of 1 August 2003,

Noting the significant developments that have taken place in the situation in Liberia during 2003, which led to the conclusion of a peace agreement on 18 August 2003,

Taking note of the preliminary report of the independent expert on technical cooperation and advisory services in Liberia (E/CN.4/2004/113),

1. *Welcomes:*

(a) The peace initiatives led by the Economic Community of West African States with the support of the United Nations, the European Union and the Government of Ghana, which have led to the ceasefire agreement between the Government of Liberia and the two rebel movements, Liberians United for Reconciliation and Democracy and the Movement for Democracy in Liberia, signed at Accra on 17 June 2003;

(b) The deployment of a multinational force to implement the ceasefire under the leadership of Nigeria and, subsequently, of the United Nations stabilization force;

(c) The signing by the parties to the conflict of a comprehensive peace agreement on 8 August 2003 in Accra;

(d) The commitments undertaken at the International Conference for the Reconstruction of Liberia, held in New York in February 2004;

2. *Regrets* that the independent expert did not participate in the various initiatives and activities that led to the ending of the war in Liberia, that there was no official interaction between the independent expert and the Economic Community of West African States and, more generally, that it was impossible for her to travel to Liberia, which made it difficult to ensure that concern for human rights was reflected in the peace process;

3. *Expresses its deep concern:*

(a) At the continued existence of paramilitary groups;

(b) At the serious violations of human rights and international humanitarian law that continue to be perpetrated against the civilian population, particularly women and children;

(c) At the extent of the sexual violence perpetrated against women and children;

(d) At the persistent insecurity, which is due largely to the delay in the implementation of the disarmament, demobilization and reintegration programme begun by the United Nations;

(e) At the culture of impunity, which is a consequence of the improper functioning of the justice system;

4. *Calls upon* all the parties:

(a) To respect the comprehensive peace agreement signed in Accra on 18 August 2003;

(b) To put an end to the acts of violence and the violations of human rights and international humanitarian law;

5. *Urgently requests* the National Transitional Government:

(a) To establish, with the assistance of the international community, a national capacity for the promotion and protection of human rights;

(b) To take a firm stand against impunity and to bring to justice those responsible for violations of human rights and international humanitarian law in Liberia;

(c) To establish an independent national commission on human rights, in accordance with the principles relating to the status and functioning of national institutions for the protection and promotion of human rights (the Paris Principles), a truth and reconciliation commission and an independent electoral commission;

(d) To increase the participation of women and girls in the process of peace and national reconciliation;

6. *Calls upon* the international community:

(a) To support the Government of Liberia in the process of disarmament, demobilization and reintegration of former combatants, bearing in mind the specific needs of women and children;

(b) To mobilize the necessary resources to enable the National Transitional Government to implement relief and recovery programmes, including repatriation and resettlement of internally displaced persons and refugees, and, to this end, to implement the decisions taken by the International Conference for the Reconstruction of Liberia that was held in New York in February 2004;

7. *Requests* the independent expert to submit to the Commission, at its sixty-first session, a report on the situation of human rights in Liberia;

8. *Requests* the United Nations High Commissioner for Human Rights to provide the independent expert with the material and financial resources she needs to accomplish her task in Liberia;

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

*58th meeting
21 April 2004*

[Adopted without a vote. See chap. XIX.]

**2004/84. Technical cooperation and advisory services in the
Democratic Republic of the Congo**

The Commission on Human Rights,

Reaffirming that all States Members have an obligation to promote and protect human rights and fundamental freedoms,

Noting that the Democratic Republic of the Congo is a party to several international and regional human rights instruments and to several instruments pertaining to international humanitarian law,

Recalling its previous relevant resolutions, the most recent of which is resolution 2003/15 of 17 April 2003, those of the General Assembly, the most recent of which is resolution 58/123 of 17 December 2003, and the Security Council resolutions on the subject, the most recent of which is resolution 1533 (2004) of 12 March 2004,

Recalling the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (E/CN.4/2003/3/Add.3), concerning the massacres that took place in the region of Kisangani on 14 May 2002 and thereafter, and referring in that connection to the statements made by the President of the Security Council on 19 November 2003 (S/PRST/2003/21), 20 November 2003 (S/PRST/2003/23) and 26 January 2004 (S/PRST/2004/22),

Taking note of the report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo (S/2003/1098) and of his progress report on the recommendations of the Security Council mission to Central Africa (S/2004/52), and concerned at the violations of human rights and international humanitarian law committed in the territory of the Democratic Republic of the Congo,

Concerned at reports of violations of human rights and international humanitarian law in the eastern part of the Democratic Republic of the Congo, particularly in North Kivu and South Kivu, North Katanga and Ituri, as described in the above-mentioned reports,

1. *Welcomes:*

(a) The promulgation by the Head of State on 4 April 2003 of the Constitution which is to govern the country during the period of transition, the commencement of work by the transitional Government of national unity in the Democratic Republic of the Congo on 17 July 2003, the inauguration of the National Assembly and the Senate on 22 August 2003, and the official announcement of the establishment of five institutions to support the transition, on 28 August 2003;

(b) The extension of the mandate and increased deployment of the United Nations Organization Mission in the Democratic Republic of the Congo, in accordance with Security Council resolution 1493 (2003) of 28 July 2003, and the support for the implementation of the Pretoria and Lusaka Peace Agreements;

(c) The activities of human rights defenders and the action of the Congolese Ministry of Human Rights, as well as the growth in the media;

(d) The action taken by the Human Rights Field Office in the Democratic Republic of the Congo, and encourages the Government to continue to strengthen cooperation with this Office;

(e) The joint initiative of the Government of the Democratic Republic of the Congo and United Nations agencies and non-governmental organizations to combat sexual violence against women and children;

(f) The report submitted by the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo to the fifty-eighth session of the General Assembly (A/58/534), her visit to the Democratic Republic of the Congo from 29 November to 10 December 2003 and her report to the Commission at its sixtieth session (E/CN.4/2004/34), and thanks the Special Rapporteur for her work;

(g) The consultations between the Secretary-General and the United Nations High Commissioner for Human Rights on ways of dealing with the problem of impunity in the Democratic Republic of the Congo, and recalls the High Commissioner's proposal to establish an international body of inquiry to investigate violations of human rights and international humanitarian law;

2. *Expresses its concern at:*

(a) Persistent reports of serious violations of human rights and international humanitarian law in the eastern part of the Democratic Republic of the Congo, particularly in North Kivu and South Kivu, North Katanga and Ituri, as described in the above-mentioned reports;

(b) The violations of freedom of expression, opinion, association and assembly, and the attacks against human rights defenders throughout the Democratic Republic of the Congo, particularly in the eastern part of the country;

3. *Condemns:*

(a) The persistent violations of human rights and international humanitarian law in the Democratic Republic of the Congo, particularly the armed violence and reprisals against the civilian population in Ituri, North Kivu and South Kivu, North Katanga and other areas in the eastern part of the country;

(b) All the massacres that have occurred in Ituri, particularly in Drodro and Katchele and, more recently, in Gobu and Kitenge (Katanga province), and supports the efforts of the United Nations Organization Mission in the Democratic Republic of the Congo and the Office of the United Nations High Commissioner for Human Rights to investigate them;

(c) The cases of summary or arbitrary execution, disappearance, torture, victimization, illegal arrest, systematic persecution and arbitrary detention for long periods;

(d) The widespread recourse to sexual violence against women and children, as a means of subduing the civilian population;

(e) The impunity of those responsible for violations of human rights and international humanitarian law, and points out in this connection that the Democratic Republic of the Congo is a party to the Rome Statute of the International Criminal Court;

(f) The illegal exploitation of the natural resources of the Democratic Republic of the Congo, which has established a link between that exploitation and the continuation of armed clashes;

4. *Urges* all the parties, including the signatories of the Global and All-Inclusive Agreement:

(a) To refrain from all military activity, including support for the armed groups allied to them, in order to promote strengthening of the sovereignty, unity and territorial integrity of the Democratic Republic of the Congo;

(b) To provide support for the transition and its institutions in order to permit the restoration of political and economic stability and the progressive strengthening of State machinery throughout the Democratic Republic of the Congo, in accordance with their obligations under the transitional constitution;

(c) To allow free and secure access to all areas in order to permit and facilitate investigations of the presumed serious violations of human rights and international humanitarian law, so that the perpetrators are brought to justice, and to that end to cooperate fully with national and international human rights protection mechanisms in the interests of the investigations of the presumed violations of human rights and international humanitarian law in the Democratic Republic of the Congo;

(d) To ensure that the military officers whose names are mentioned in the report of the High Commissioner in connection with serious violations of international humanitarian law and human rights should continue to be investigated and, if the conclusions of the investigations so warrant, be brought to justice;

(e) To prevent conditions that lead to flows of displaced persons in the territory of the Democratic Republic of the Congo and across its borders, and to apply all necessary measures to encourage the voluntary return of all refugees and displaced persons;

(f) To put an end to the recruitment and use of child soldiers, contrary to international law and the African Charter on the Rights and Welfare of the Child, bearing in mind that, under the Convention on the Rights of the Child and the Optional Protocol thereto on the involvement of children in armed conflict, persons under 18 are entitled to special protection, and to provide information on measures taken to discontinue such practices;

(g) To protect human rights and to respect international humanitarian law, in particular by ensuring the safety, security and freedom of movement of all civilians, and that of United Nations personnel and associated personnel, as well as free access for humanitarian personnel to all affected population groups throughout the Democratic Republic of the Congo;

(h) To respect and promote the full exercise of all human rights by women and to take special measures to protect women and children from all sexual and other violence;

5. *Calls upon* the transitional Government of national unity to take specific measures:

(a) To achieve the objectives set for the period of transition in the Global and All-Inclusive Agreement, in particular the holding of free and transparent elections at all levels, to permit the establishment of a constitutional and democratic regime and the formation of a restructured and integrated national army, as well as the formation of an integrated and properly equipped national police force;

(b) To comply fully with its obligations under international human rights instruments, and accordingly to continue to cooperate with United Nations mechanisms for the protection of human rights and further strengthen its cooperation with the Human Rights Field Office in the Democratic Republic of the Congo;

(c) To strengthen the transitional institutions, and in particular to effectively set up the Independent Electoral Commission, the Truth and Reconciliation Commission and the Human Rights Monitoring Centre, and to restore stability and the rule of law throughout the Democratic Republic of the Congo, thus enabling the population to experience peace and progress once again;

(d) To put an end to impunity and ensure, as it is duty-bound to do, that those responsible for human rights violations and grave breaches of international humanitarian law are brought to justice in accordance with due process, and to that end requests the High Commissioner to keep it informed of the consultations between the Human Rights Field Office in the Democratic Republic of the Congo and the Secretary-General concerning the ways to assist the transitional Government of the Democratic Republic of the Congo in tackling the problem of impunity;

(e) To cooperate with the International Criminal Court and to continue to cooperate with the International Tribunal for Rwanda;

(f) To continue to reform the judicial system, and notes the entry into force of the presidential decrees on the reform of the military justice system and the establishment of conventional military courts;

(g) To reinstate the moratorium on capital punishment and persevere in its declared objective of progressively abolishing the death penalty;

(h) To adopt speedily and implement the national disarmament, demobilization and reintegration programme, and to cooperate closely with the United Nations Organization Mission in the Democratic Republic of the Congo in that regard;

(i) To respond to the specific needs of women and girls during the period of post-conflict reconstruction and ensure as soon as possible the full participation of women in all aspects of the settlement process and the peace process, in particular peacekeeping, conflict management and the consolidation of peace;

(j) To continue to cooperate with the United Nations system, humanitarian organizations and the World Bank in order to ensure the rapid demobilization and reintegration of armed groups and of child soldiers in particular;

6. *Calls on* the international community:

(a) To support the transition and its institutions, in particular by providing financial and political support in the fields of reform of the security sector, the rule of law and the electoral process;

(b) To support the Human Rights Field Office in the Democratic Republic of the Congo to enable it to implement its programmes fully;

(c) To facilitate the scheduled holding of an international conference on peace, security, democracy and development in the Great Lakes region, under the auspices of the United Nations and the African Union, to be attended by all the governments of the region and all the other parties involved, and to promote the issue of human rights and humanitarian questions as one of the main themes of the conference;

7. *Decides:*

(a) To appoint an independent expert to provide assistance to the Government of the Democratic Republic of the Congo in the field of human rights, to study the evolving situation of human rights in the Democratic Republic of the Congo and to verify that its obligations in this field are being fulfilled;

(b) To request the independent expert to submit a progress report on the implementation of the present resolution to the General Assembly at its fifty-ninth session, and to report to the Commission on Human rights at its sixty-first session;

(c) To request the Secretary-General to provide advisory services to this country in the field of human rights;

(d) To reconsider the matter at its sixty-first session under the same item of the agenda.

*58th meeting
21 April 2004*

[Adopted without a vote. See chap. XIX.]

2004/85. Technical cooperation and advisory services in Chad

The Commission on Human Rights,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms as stated in the Charter of the United Nations, the Universal Declaration of Human Rights, the international covenants on human rights and other applicable human rights instruments, and the duty to fulfil the obligations that they have undertaken under the various instruments in this field,

Mindful that Chad is required to implement all the international and regional instruments to which it is party,

Recalling its resolution 2003/81 of 25 April 2003,

Welcoming the positive attitude of the Government of Chad and its readiness to cooperate with the Office of the United Nations High Commissioner for Human Rights with a view to consolidating the culture of human rights,

Welcoming also the readiness of the Government of Chad to cooperate with the special procedures of the Commission,

1. *Takes note* of the existence in Chad of a formal regulatory and institutional framework answering to the requirements of the rule of law;

2. *Welcomes with satisfaction:*

(a) The joint needs-assessment mission to Chad undertaken by the Office of the United Nations High Commissioner for Human Rights and the United Nations Development Programme between 26 February and 4 March 2004 with a view to the preparation, in consultation with the Government of Chad, of a programme of technical assistance and advisory services in the field of human rights;

(b) The willingness of the Government of Chad to cooperate closely with its international partners in improving the legal and institutional environment with a view to greater respect for human rights;

(c) The existence of a lively civil society in Chad;

3. *Voices its deep concern:*

(a) At the violence, in particular the inter-communal violence exacerbated by ethnic tensions, and the unhelpful contribution made to the situation by paramilitaries and demobilized soldiers;

(b) At the dependence of the judiciary upon the executive;

(c) At the scarcity of physical and human resources in the judicial and prison sectors;

(d) At the culture of impunity resulting from the dysfunction of the justice system and the violent political and social environment;

(e) At the weakness of the national human rights structures and institutions;

4. *Urges all parties:*

(a) To establish coordination among the various national structures and institutions and between them and Chad's development partners;

(b) To promote collaboration and dialogue among the various entities active in the field of human rights with a view to preventing and resolving inter-communal conflicts;

(c) To increase the capabilities of civil society;

(d) To devise a human rights awareness, popularization and education programme and strategy for cultivating a spirit of tolerance and civic responsibility;

(e) To support reform of the justice system;

(f) To support structures and institutions for the promotion and protection of human rights;

(g) To support the common country assessment/United Nations Development Assistance Framework (CCA/UNDAF) process;

(h) To encourage the integration of human rights into the activities and programmes of the United Nations Country Team in Chad;

5. *Urges the Government of Chad:*

(a) To strengthen the justice sector in order to combat impunity;

(b) To promote the rights of women and children;

- (c) To take action to eradicate violence, insecurity and social and cultural antagonism;
- (d) To promote the rights of refugees and displaced persons;
- (e) To consider ratifying the international human rights agreements and apply them in full;

6. *Decides:*

(a) To appoint an independent expert for an initial period of one year to facilitate cooperation between the Government of Chad and the Office of the High Commissioner in the promotion and protection of human rights and to submit a report to the Commission at its sixty-first session;

(b) To return to this question at its sixty-first session under the same agenda item;

7. *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 2004/85 dated 21 April 2004, endorses the Commission’s decision to appoint an independent expert to facilitate cooperation between the Government of Chad and the Office of the High Commissioner in the promotion and protection of human rights and to submit a report to the Commission at its sixty-first session.”

58th meeting
21 April 2004
[Adopted without a vote. See chap. XIX.]

2004/86. Assistance to Sierra Leone in the field of human rights

The Commission on Human Rights,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights and the African Charter on African Human and Peoples’ Rights,

Recalling all its previous resolutions on the situation of human rights in Sierra Leone as well as relevant resolutions of the Security Council, and taking note of Council resolution 1537 (2004) of 30 March 2004,

Welcoming the official closure of the initial programme for the reintegration of ex-combatants and the successful demobilization and reintegration of child combatants,

Welcoming also the essential work being carried out by the Special Court for Sierra Leone in addressing justice and impunity and the conclusion of the work of the Truth and Reconciliation Commission, and looking forward to the publication of the Commission's report and its recommendations aimed at promoting reconciliation and national healing,

Expressing concern that ex-combatants who were involved in fighting in Liberia and Côte d'Ivoire and are now returning home to Sierra Leone could threaten the progress achieved in Sierra Leone,

Recognizing the importance of good governance and transparency,

Recognizing also the importance of technical cooperation, advisory services and capacity-building for the promotion and protection of human rights which will contribute to peace, stability and sustainable development in Sierra Leone,

1. *Welcomes:*

(a) The report of the United Nations High Commissioner for Human Rights (E/CN.4/2004/106), including his conclusion that considerable progress has been made in the field of human rights in Sierra Leone since his last report to the Commission (E/CN.4/2003/35), the report of the High Commissioner for Human Rights to the General Assembly (A/58/379) and the twenty-first report of the Secretary-General on the United Nations Mission in Sierra Leone (S/2004/228) including the work of its Human Rights Section;

(b) The indictments by the Special Court for Sierra Leone and its ongoing work to bring to justice those persons who bear the greatest responsibility for the commission of war crimes, crimes against humanity and other serious violations of international humanitarian law, as well as crimes under relevant Sierra Leonean law committed within the territory of Sierra Leone since 30 November 1996;

(c) The presentation to Parliament of a bill for the establishment of a human rights commission of Sierra Leone;

(d) The activities undertaken by United Nations agencies, the International Red Cross and the Red Crescent Movement, non-governmental organizations and other organizations to facilitate transition from relief to reconciliation, rehabilitation and sustainable development;

(e) The launching of new projects by the National Commission for Social Action, aimed at reducing poverty and promoting sustainable development and thereby help reduce the risk of renewed conflict, and welcomes the decision of the Government of Sierra Leone to undertake consultations with the private sector and the Farmers' Association on a comprehensive evaluation of its food security goals aimed at ensuring that no Sierra Leonean goes to bed hungry by 2007;

2. *Urges* the Government of Sierra Leone:

(a) To continue to promote and protect human rights in Sierra Leone, inter alia through the establishment of the Human Rights Commission of Sierra Leone, further strengthening of its judicial system as well as continued efforts to promote good governance and transparency, and to continue to work closely with and strengthen its cooperation with the United Nations Mission in Sierra Leone and the Office of the United Nations High Commissioner for Human Rights;

(b) To continue to give priority attention, in cooperation with the international community, to the special needs of all mutilated victims and of women and children in its care, in particular those sexually abused, gravely traumatized and displaced as a result of the conflict,

and taking into consideration also the needs of female ex-combatants and “female camp followers” who did not benefit from the Disarmament, Demobilization and Reintegration Programme;

(c) To continue to facilitate the effective functioning of the National Commission for War-Affected Children;

(d) To reconsider the issue of resettlement and reintegration of Sierra Leonean combatants who are being demobilized and repatriated from Côte d’Ivoire and Liberia;

3. *Decides:*

(a) To request the international community to continue its support and provide technical assistance to the judicial system in Sierra Leone, including the juvenile justice system, and to assist in the establishment of the human rights commission of Sierra Leone;

(b) To request the High Commissioner and the international community to assist the Government of Sierra Leone in strengthening its capacity to continue to undertake, as a matter of urgency, the reform and updating of national legislation, in particular those areas of legislation that affect women, children and other vulnerable segments of society;

(c) To request the High Commissioner and the international community to continue to work closely with national institutions, including the National Commission for Democracy and Human Rights and the National Forum on Human Rights, in monitoring the promotion and protection of human rights;

(d) To request the Secretary-General and the High Commissioner for Human Rights to give full consideration to the maintenance of a United Nations human rights field presence when the activities of the United Nations Mission in Sierra Leone are completed;

(e) To urge all States to submit their outstanding pledged funds to meet the budget of the Special Court and to support the Secretary-General’s request to the General Assembly to consider a further financial contribution to the functioning of the Special Court from the regular budget of the United Nations, and urges all States to cooperate fully with the Court;

(f) To request the High Commissioner to report to the General Assembly at its fifty-ninth session and to the Commission at its sixty-first session on assistance to Sierra Leone in the field of human rights, including with reference to the Human Rights Section of the Mission;

(g) To consider this question at its sixty-first session.

*58th meeting
21 April 2004*

[Adopted without a vote. See chap. XIX.]

**2004/87. Protection of human rights and fundamental freedoms
while countering terrorism**

The Commission on Human Rights,

Reaffirming the purposes and principles of the Charter of the United Nations,

Reaffirming also the fundamental importance, including in response to terrorism and the fear of terrorism, of respecting all human rights and fundamental freedoms and the rule of law,

Recalling that States are under the obligation to protect all human rights and fundamental freedoms of all persons,

Recognizing that the respect for human rights, democracy and the rule of law are interrelated and mutually reinforcing,

Recalling its resolution 2003/68 of 25 April 2003 as well as General Assembly resolution 58/187 of 22 December 2003,

Taking note of the report of the Secretary-General (A/58/266) and welcoming the various initiatives to strengthen the promotion and protection of human rights in the context of counter-terrorism adopted by the United Nations and regional intergovernmental bodies, as well as by States;

Recalling General Assembly resolution 48/141 of 20 December 1993 and, inter alia, the responsibility of the United Nations High Commissioner for Human Rights to promote and protect the effective enjoyment of all human rights,

Reiterating paragraph 17 of section I of the Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights on 25 June 1993, which states that acts, methods and practices of terrorism in all its forms and manifestations are activities aimed at the destruction of human rights, fundamental freedoms and democracy, threatening territorial integrity and security of States and destabilizing legitimately constituted Governments, and that the international community should take the necessary steps to enhance cooperation to prevent and combat terrorism,

Taking note of General Assembly resolution 58/174 of 22 December 2003 and recalling Commission resolution 2003/37 of 23 April 2003 on human rights and terrorism,

Taking note also of the declaration on the issue of combating terrorism contained in the annex to Security Council resolution 1456 (2003) of 20 January 2003, in particular the statement that States must ensure that any measures taken to combat terrorism comply with all their obligations under international law, and should adopt such measures in accordance with international law, in particular international human rights, refugee and humanitarian law,

Recalling the relevant resolutions of the General Assembly and the Security Council,

Noting the declarations, statements and recommendations by a number of human rights treaty monitoring bodies and special procedures on the question of the compatibility of counter-terrorism measures with human rights obligations,

Reaffirming its unequivocal condemnation of all acts, methods and practices of terrorism, in all their forms and manifestations, wherever and by whomsoever committed, regardless of their motivation, as criminal and unjustifiable, and renewing its commitment to strengthen international cooperation to prevent and combat terrorism,

Deploring the fact that the number of victims of terrorism has sharply increased worldwide and expressing its profound solidarity with the victims and their families,

Stressing that everyone is entitled to all the rights and freedoms recognized in the Universal Declaration of Human Rights without distinction of any kind, including on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling that, in accordance with article 4 of the International Covenant on Civil and Political Rights, certain rights are recognized as non-derogable in any circumstances and that any measures derogating from the provisions of the Covenant must be in accordance with that article in all cases, and underlining the exceptional and temporary nature of any such derogations, as stated in general comment No. 29 on derogations during a state of emergency adopted by the Human Rights Committee on 24 July 2001,

1. *Reaffirms* that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law;

2. *Calls upon* States to raise awareness of the importance of these obligations among national authorities involved in combating terrorism;

3. *Takes note* of the report of the Secretary-General (E/CN.4/2004/91), in particular the conclusions and recommendations presented therein pending the conclusion of the study requested in General Assembly resolution 58/187 of 22 December 2003;

4. *Welcomes* the publication of the *Digest of Jurisprudence of the United Nations and Regional Organizations on the Protection of Human Rights while Countering Terrorism*, and requests the High Commissioner to update and publish it periodically, in accordance with the request of the General Assembly;

5. *Also welcomes* the ongoing dialogue established in the context of the fight against terrorism between the Security Council and its Counter-Terrorism Committee and the relevant bodies for the promotion and protection of human rights, and encourages the Security Council and its Counter-Terrorism Committee to continue to develop the cooperation with relevant

human rights bodies, in particular with the Office of the United Nations High Commissioner for Human Rights, giving due regard to the promotion and protection of human rights in the ongoing work pursuant to relevant Security Council resolutions relating to terrorism;

6. *Requests* all relevant special procedures and mechanisms of the Commission, as well as the United Nations human rights treaty bodies, to consider, within their mandates, the protection of human rights and fundamental freedoms in the context of measures to combat terrorism and to coordinate their efforts where appropriate in order to promote a consistent approach on this subject;

7. *Encourages* States, while countering terrorism, to take into account relevant United Nations resolutions and decisions on human rights, and encourages them to consider the recommendations of the special procedures and mechanisms of the Commission and the relevant comments and views of treaty bodies;

8. *Requests* the High Commissioner for Human Rights, making use of existing mechanisms, to continue:

(a) To examine the question of the protection of human rights and fundamental freedoms while countering terrorism, taking into account reliable information from all sources;

(b) To make general recommendations concerning the obligation of States to promote and protect human rights and fundamental freedoms while taking actions to counter terrorism;

(c) To provide assistance and advice to States, upon their request, on the protection of human rights and fundamental freedoms while countering terrorism, as well as to relevant United Nations bodies;

9. *Also requests* the High Commissioner, taking into account the views of States, to complete the study requested in General Assembly resolution 58/187 concerning the extent to which the human rights special procedures and treaty monitoring bodies are able, within their existing mandates, to address the compatibility of national counter-terrorism measures with international human rights obligations in their work, for consideration by States in strengthening the promotion and protection of human rights and fundamental freedoms while countering terrorism, with regard to the international human rights institutional mechanisms;

10. *Decides* to designate, from within existing resources, for a period of one year, an independent expert to assist the High Commissioner in the fulfilment of the mandate described in paragraphs 8 and 9 of the present resolution and, taking fully into account the study requested in General Assembly resolution 58/187, as well as the discussions in the Assembly and the views of States thereon, to submit a report, through the High Commissioner, to the Commission at its sixty-first session on ways and means of strengthening the promotion and protection of human rights and fundamental freedoms while countering terrorism;

11. *Requests* the High Commissioner to submit a report on the implementation of the present resolution to the General Assembly at its fifty-ninth session and to the Commission at its sixty-first session.

58th meeting
21 April 2004
[Adopted without a vote. See chap. XVII.]

B. Decisions

2004/112. The rights of non-citizens

At its 56th meeting, on 20 April 2004, the Commission on Human Rights, taking note of Sub-Commission on the Promotion and Protection of Human Rights resolution 2003/21 of 13 August 2003 and recalling Commission resolution 2003/59 of 24 April 2003, in which it decided that the Sub-Commission could best assist the Commission by providing it with independent expert studies and working papers solely carried out by its members or alternates, decided, by a recorded vote of 33 votes to 10, with 10 abstentions, not to recommend to the Economic and Social Council that it authorize Mr. David Weissbrodt, as Special Rapporteur, to undertake the task of furthering the study of the rights of non-citizens.

[See chap. XIV.]

2004/113. Publishing the report of the Special Rapporteur on the rights of non-citizens

At its 56th meeting, on 20 April 2004, the Commission on Human Rights, recalling its decision 2000/104 of 25 April 2000 and Economic and Social Council decision 2000/283 of

28 July 2000 authorizing the Sub-Commission on the Promotion and Protection of Human Rights to appoint one of its members as Special Rapporteur with the task of preparing a comprehensive study of the rights of non-citizens and also its decision 2002/107 of 25 April 2002 authorizing the Sub-Commission to request information in regard to the study, and welcoming the final report (E/CN.4/Sub.2/2003/23 and Add.1-4), together with the working paper (E/CN.4/Sub.2/1999/7 and Add.1), the preliminary report (E/CN.4/Sub.2/2001/20 and Add.1) and the progress report (E/CN.4/Sub.2/2000/25 and Add.1-3) submitted by the Special Rapporteur, decided, without a vote, to request the Special Rapporteur to compile and update all his reports, addenda and questionnaire replies into a single report.

The Commission recommended to the Economic and Social Council the following draft decision for adoption:

“The Economic and Social Council, recalling its decision 2000/283 of 28 July 2000 authorizing a comprehensive study of the rights of non-citizens and Commission on Human Rights decision 2000/104 of 25 April 2000, decides that the updated and consolidated report on the rights of non-citizens should be published in all official languages of the United Nations and given the widest possible distribution, including to Governments, relevant bodies and agencies of the United Nations system (including the International Labour Organization, the Office of the United Nations High Commissioner for Refugees, treaty bodies and the Special Rapporteur on the human rights of migrants), specialized agencies, regional intergovernmental organizations and non-governmental organizations.”

[See chap. XIV.]

2004/114. Voluntary fund on minority-related activities

At its 56th meeting, on 20 April 2004, the Commission on Human Rights, taking note of Sub-Commission on the Promotion and Protection of Human Rights resolution 2003/23 of 13 August 2003, decided, without a vote, to endorse the recommendation that a voluntary fund on minority-related activities be established to facilitate the participation in the Working Group on Minorities and its related activities of minority representatives and experts from developing countries and for the organization of other activities relating to the implementation of the rights

of persons belonging to minorities, with the members of the Working Group acting as a virtual decision-making board. The Commission also decided to recommend that the Economic and Social Council approve this request and recommend to the General Assembly that it give favourable consideration to the establishment of a voluntary fund on minority-related activities.

[See chap. XIV.]

2004/115. International year/decade for the world's minorities

At its 56th meeting, on 20 April 2004, the Commission on Human Rights, taking note of resolution 2003/23 of 13 August 2003 of the Sub-Commission on the Promotion and Protection of Human Rights which recommends that an international year for the world's minorities be proclaimed, to be followed by a decade, with a view, inter alia, to advancing the implementation of article 9 of the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, decided, without a vote, to call for greater cooperation among the specialized agencies and other organizations of the United Nation system in order to contribute to the full realization of the rights and principles set forth in the Declaration, within their respective competence.

[See chap. XIV.]

2004/116. Responsibilities of transnational corporations and related business enterprises with regard to human rights

At its 56th meeting, on 20 April 2004, the Commission on Human Rights, taking note of resolution 2003/16 of 13 August 2003 of the Sub-Commission on the Promotion and Protection of Human Rights, taking note also of Sub-Commission document E/CN.4/Sub.2/2003/12/Rev.2 and expressing its appreciation to the Sub-Commission for the work it has undertaken in preparing the draft norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights, which contain useful elements and ideas for consideration by the Commission, decided, without a vote, to recommend that the Economic and Social Council:

(a) Confirm the importance and priority it accords to the question of the responsibilities of transnational corporations and related business enterprises with regard to human rights;

(b) Request the Office of the High Commissioner for Human Rights to compile a report setting out the scope and legal status of existing initiatives and standards relating to the responsibility of transnational corporations and related business enterprises with regard to human rights, inter alia, the draft norms contained in the above-mentioned document and identifying outstanding issues, to consult with all relevant stakeholders in compiling the report, including States, transnational corporations, employers' and employees' associations, relevant international organizations and agencies, treaty monitoring bodies and non-governmental organizations, and to submit the report to the Commission at its sixty-first session in order for it to identify options for strengthening standards on the responsibilities of transnational corporations and related business enterprises with regard to human rights and possible means of implementation;

(c) Affirm that document E/CN.4/Sub.2/2003/12/Rev.2 has not been requested by the Commission and, as a draft proposal, has no legal standing, and that the Sub-Commission should not perform any monitoring function in this regard.

[See chap. XVI.]

2004/117. Human rights and human responsibilities

At its 57th meeting, on 21 April 2004, the Commission on Human Rights decided, by a recorded vote of 26 votes to 25, with 2 abstentions:

(a) To request the Office of the United Nations High Commissioner for Human Rights to circulate to Member States and to intergovernmental and non-governmental organizations the pre-draft declaration on human social responsibilities (E/CN.4/2003/105, annex I), requesting their views on it;

(b) To request the Office of the High Commissioner to submit to the Commission at its sixty-first session a compilation of the essential aspects of the replies received;

(c) To continue the consideration of this issue at its sixty-first session under the same agenda item.

[See chap. XVII.]

2004/118. Fundamental standards of humanity

At its 57th meeting, on 21 April 2004, the Commission on Human Rights, recalling its resolution 2000/69 of 26 April 2000 and its decision 2002/112 of 25 April 2002 on this issue, and taking note of the report of the Secretary-General on fundamental standards of humanity (E/CN.4/2004/90), decided, without a vote, to consider the question of fundamental standards of humanity at its sixty-second session and to request the Secretary-General, in consultation with the International Committee of the Red Cross, to submit to the Commission at its sixty-second session an analytical report which would consolidate and update previous reports and studies, cover relevant developments, including regional and international case law and the forthcoming study by the International Committee of the Red Cross on customary rules of international humanitarian law, and address the issues of securing implementation.

[See chap. XVII.]

2004/119. Science and environment

At its 57th meeting, on 21 April 2004, the Commission on Human Rights, recalling its resolution 2003/71 of 25 April 2003, decided, without a vote, to request the United Nations High Commissioner for Human Rights and to invite the United Nations Environment Programme, within their respective mandates and approved work programmes and budgets, to continue to coordinate their efforts in capacity-building activities, in cooperation with other relevant bodies and organizations, and to request the Secretary-General to update the report on

the consideration being given to the relationship between the environment and human rights as part of sustainable development and to continue to consider this question at its sixty-first session under agenda item 17, entitled “Promotion and protection of human rights: (d) Science and environment”.

[See chap. XVII.]

2004/120. Human rights and bioethics

At its 57th meeting, on 21 April 2004, the Commission on Human Rights, taking note of Sub-Commission on the Promotion and Protection of Human Rights resolution 2003/4 of 13 August 2003, decided, by a recorded vote of 50 votes to 2, with 1 abstention, to approve the decision of the Sub-Commission to appoint Ms. Iulia-Antoanella Motoc as Special Rapporteur to undertake a study on human rights and the human genome, based on her working paper (E/CN.4/Sub.2/2003/36). The Special Rapporteur is requested to submit her preliminary report to the Sub-Commission at its fifty-sixth session and her final report to the Commission at its sixty-first session. The Commission also requested the Secretary-General to provide the Special Rapporteur with the necessary assistance to enable her to carry out her study.

[See chap. XVII.]

2004/121. United Nations Decade for Human Rights Education, 1995-2004

At its 57th meeting, on 21 April 2004, the Commission on Human Rights, taking into consideration the report of the High Commissioner for Human Rights on the follow-up to the United Nations Decade for Human Rights Education, 1995-2004 (E/CN.4/2003/101), as well as the recommendations contained in the report of the High Commissioner on the midterm evaluation of the Decade (A/55/360), decided, without a vote, to recommend to the Economic and Social Council that it recommend to the General Assembly the proclamation of a second Decade for Human Rights Education to begin on 1 January 2005.

[See chap. XVII.]

2004/122. Human rights implications, particularly for indigenous people, of the disappearance of States for environmental reasons

At its 57th meeting, on 21 April 2004, the Commission on Human Rights decided, without a vote, urgently to call upon the Sub-Commission on the Promotion and Protection of Human Rights to prepare a report on the legal implications of the disappearance of States for environmental reasons, including the implications for the human rights of their residents, with particular reference to the rights of indigenous people.

[See chap. XVII.]

2004/123. The universal implementation of international human rights treaties

At its 57th meeting, on 21 April 2004, the Commission on Human Rights, taking note of resolution 2003/25 of 14 August 2003 of the Sub-Commission on the Promotion and Protection of Human Rights, decided, without a vote, to approve the decision of the Sub-Commission to appoint Mr. Emmanuel Decaux Special Rapporteur to conduct a detailed study of the universal implementation of international human rights treaties based on his working paper (E/CN.4/Sub.2/2003/37), the comments made and the discussions that took place at the fifty-fifth session of the Sub-Commission, and its decision to request the Special Rapporteur to submit a preliminary report to the Sub-Commission at its fifty-sixth session, an interim report at its fifty-seventh session and a final report at its fifty-eighth session. The Commission also endorses the request to the Secretary-General to provide the Special Rapporteur with all necessary assistance to enable him to carry out its mandate, inter alia in his contacts with States.

[See chap. XVII.]

2004/124. The prevention of human rights violations caused by the availability and misuse of small arms and light weapons

At its 57th meeting, on 21 April 2004, the Commission on Human Rights, taking note of decision 2003/105 of 13 August 2003 of the Sub-Commission on the Promotion and Protection of Human Rights and recalling its own decision 2003/112 of 25 April 2003, decided, by a

recorded vote of 49 votes to 2, with 2 abstentions, to approve the request of the Sub-Commission to the Secretary-General to transmit a questionnaire elaborated by the Special Rapporteur to Governments, national human rights institutions and non-governmental organizations to solicit information required in connection with the study, in particular on the national laws and training programmes used to implement the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, in order that the Special Rapporteur may take them fully into account in preparing her progress report for the fifty-sixth session of the Sub-Commission.

[See chap. XVII.]

2004/125. Dates of the sixty-first session of the Commission on Human Rights

At its 58th meeting, on 21 April 2004, the Commission on Human Rights, recalling decision 1994/297 of 29 July 1994 of the Economic and Social Council, and taking into account Council decisions 1997/291 of 22 July 1997 and 2002/278 of 25 July 2002, decided, without a vote, that the first meeting of the Commission would be held on the third Monday in January with the sole purpose of electing its officers, and that the sixty-first session of the Commission would be held from 14 March to 22 April 2005.

[See chap. III.]
