

# **Commission on Human Rights**

## **Report on the sixtieth session**

(15 March-23 April 2004)

### **Part I\***

(For use by members of the Economic and Social Council during its 2004 substantive session)

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\* Part I will subsequently be published as part of the complete report of the Commission, as the *Official Records of the Economic and Social Council, 2004, Supplement No. 3.*



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## **I. Draft decisions recommended for adoption by the Economic and Social Council**

### **A. Draft decisions**

#### **1. Strengthening of the Office of the United Nations High Commissioner for Human Rights**

The Economic and Social Council, taking note of Commission on Human Rights resolution 2004/2 of 8 April 2004, endorses the Commission's recommendation that the Council and the General Assembly provide the Office of the United Nations High Commissioner for Human Rights with ways and means commensurate to its increasing tasks, as well as more resources for special rapporteurs.

[See chap. II, sect. A, resolution 2004/2, and chap. IV.]

#### **2. Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination**

The Economic and Social Council, taking note of Commission on Human Rights resolution 2004/5 of 8 April 2004, approves the decision of the Commission to extend the mandate of the Special Rapporteur on the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination for a period of three years.

The Council also approves the request to the Office of the United Nations High Commissioner for Human Rights to convene a third meeting of experts on traditional and new forms of mercenary activities as a means of impeding the exercise of the right of peoples to self-determination, whose main objectives will be:

(a) To give further consideration to the proposed new legal definition of a mercenary as contained in paragraph 47 of the report of the Special Rapporteur (E/CN.4/2004/15);

(b) To make proposals on possible means of regulation and international supervision of the activities of private companies offering military assistance, consultancy and security services on the international market;

(c) To study and evaluate recent activities of mercenaries in Africa.

[See chap. II, sect. A, resolution 2004/5, and chap. V.]

#### **3. The right to development**

The Economic and Social Council, taking note of Commission on Human Rights resolution 2004/7 of 13 April 2004, approves the decision of the Commission to extend for one year the mandate of the Working Group on the Right to Development and to convene its

sixth session before the sixty-first session of the Commission for a period of 10 working days; of these 10 working days, five shall be allocated to the high-level task force established within the framework of the Working Group to hold its meetings and submit its findings and recommendations to the Working Group well in advance of its session; the Working Group in turn would meet for a period of five working days to consider the findings and recommendations of the task force and further initiatives in accordance with its mandate.

[See chap. II, sect. A, resolution 2004/7,  
and chap. VII.]

#### **4. Question of the violation of human rights in the occupied Arab territories, including Palestine**

The Economic and Social Council, taking note of Commission on Human Rights resolution 2004/10 of 15 April 2004, approves the Commission's request that the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 to investigate Israel's violations of the principles and bases of international law, international humanitarian law and the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and, in his capacity as a monitoring mechanism, to follow up on the implementation of these recommendations and to report thereon to the General Assembly at its fifty-ninth session and to the Commission at its sixty-first session, until the end of the mandate of the Special Rapporteur, as established in Commission resolution 1993/2 A of 19 February 1993.

[See chap. II, sect. A, resolution 2004/10,  
and chap. VIII.]

#### **5. Situation of human rights in the Democratic People's Republic of Korea**

The Economic and Social Council, taking note of Commission on Human Rights resolution 2004/13 of 15 April 2004, approves the request to the Chairperson of the Commission to appoint, after consultation with the Bureau, an individual of recognized international standing and expertise in human rights as special rapporteur on the situation of human rights in the Democratic People's Republic of Korea to establish direct contact with the Government and with the people of the Democratic People's Republic, including through visits to the country, and to investigate and report on the situation of human rights in the Democratic People's Republic of Korea, including compliance with its obligations under international human rights instruments, and to seek and receive credible and reliable information from all relevant actors.

The Council further approves the request to the Secretary-General to give the Special Rapporteur all necessary assistance in the discharge of his/her mandate.

[See chap. II, sect. A, resolution 2004/13,  
and chap. IX.]

## **6. Situation of human rights in Belarus**

The Economic and Social Council, taking note of Commission on Human Rights resolution 2004/14 of 15 April 2004, approves the decision of the Commission to appoint a special rapporteur, from within existing resources, to establish direct contacts with the Government and with the people of Belarus, with a view to examining the situation of human rights in Belarus and following any progress made towards the elaboration of a programme on human rights education for all sectors of society, in particular law enforcement, the judiciary, prison officials and civil society, and to report to the Commission at its sixty-first session.

[See chap. II, sect. A, resolution 2004/14,  
and chap. IX.]

## **7. Adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights**

The Economic and Social Council, taking note of Commission on Human Rights resolution 2004/17 of 16 April 2004, endorses the decision of the Commission to extend the mandate of the Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights for a further three years.

[See chap. II, sect. A, resolution 2004/17,  
and chap. X.]

## **8. The right to food**

The Economic and Social Council, taking note of Commission on Human Rights resolution 2004/19 of 16 April 2004, approves the request to the Special Rapporteur on the right to food to submit a report to the General Assembly at its fifty-ninth session and to report to the Commission at its sixty-first session on the implementation of resolution 2004/19.

[See chap. II, sect. A, resolution 2004/19,  
and chap. X.]

## **9. Human rights and extreme poverty**

The Economic and Social Council, taking note of Commission on Human Rights resolution 2004/23 of 16 April 2004, approves the decision of the Commission to extend for a period of two years the mandate of the independent expert on the question of human rights and extreme poverty in accordance with Commission resolution 1998/25 of 17 April 1998, and the request that the independent expert report to the Commission at its sixty-first session.

[See chap. II, sect. A, resolution 2004/23,  
and chap. X.]



## **10. The right to education**

The Economic and Social Council, taking note of Commission on Human Rights resolution 2004/25 of 16 April 2004, approves the decision of the Commission to extend the mandate of the Special Rapporteur on the right to education for a period of three years and the request that the Special Rapporteur report to the Commission at its sixty-first session.

The Council also approves the request to the Secretary-General to provide the Special Rapporteur with all the assistance necessary for the execution of his or her mandate.

[See chap. II, sect. A, resolution 2004/25,  
and chap. X.]

## **11. The right of everyone to the enjoyment of the highest attainable standard of physical and mental health**

The Economic and Social Council, taking note of Commission on Human Rights resolution 2004/27 of 16 April 2004, approves the Commission's request to the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health to submit annually a report to the Commission and an interim report to the General Assembly on the activities performed under his mandate.

[See chap. II, sect. A, resolution 2004/27,  
and chap. X.]

## **12. Question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which the developing countries face in their efforts to achieve these human rights**

The Economic and Social Council, taking note of Commission on Human Rights resolution 2004/29 of 19 April 2004, approves the decision of the Commission to renew, for a period of two years, the mandate of the open-ended Working Group of the Commission with a view to considering options regarding the elaboration of an optional protocol to the International Covenant on Economic, Social and Cultural Rights, pursuant to Commission resolution 2002/24 of 22 April 2002, and authorizes the Working Group to meet for 10 working days prior to the sixty-first as well as the sixty-second sessions of the Commission.

[See chap. II, sect. A, resolution 2004/29,  
and chap. X.]

### **13. The right to restitution, compensation and rehabilitation for victims of grave violations of human rights and fundamental freedoms**

The Economic and Social Council, taking note of Commission on Human Rights resolution 2004/34 of 19 April 2004, approves the Commission's request to the United Nations High Commissioner for Human Rights to hold, with the cooperation of interested Governments, a third consultative meeting for all interested Member States, intergovernmental organizations and non-governmental organizations in consultative status with the Council, using available resources, with a view to finalizing the "Basic principles and guidelines on the right to a remedy and reparation for victims of violations of international human rights and humanitarian law" and if appropriate, to consider all options for the adoption of these principles and guidelines.

[See chap. II, sect. A, resolution 2004/34,  
and chap. XI.]

### **14. Elimination of all forms of religious intolerance**

The Economic and Social Council, taking note of Commission on Human Rights resolution 2004/36 of 19 April 2004, approves the decision of the Commission to extend, for three years, the mandate of the Special Rapporteur on freedom of religion or belief and the Commission's request to the Special Rapporteur to submit an interim report to the General Assembly at its fifty-ninth session and to report to the Commission at its sixty-first session.

The Council also endorses the Commission's request to the Secretary-General to ensure that the Special Rapporteur receives the necessary resources to enable him to discharge his mandate fully.

[See chap. II, sect. A, resolution 2004/36,  
and chap. XI.]

### **15. Extrajudicial, summary or arbitrary executions**

The Economic and Social Council, taking note of Commission on Human Rights resolution 2004/37 of 19 April 2004, endorses the Commission's decision to extend the mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions for three years, and approves the Commission's request to the Secretary-General to provide the Special Rapporteur with adequate human, financial and material resources in order to enable her or him to continue to carry out her or his mandate effectively.

[See chap. II, sect. A, resolution 2004/37,  
and chap. XI.]

## **16. Enforced or involuntary disappearances**

The Economic and Social Council, taking note of Commission on Human Rights resolution 2004/40 of 19 April 2004, approves the decision of the Commission to extend the mandate of the Working Group on Enforced or Involuntary Disappearances for three years.

The Council also approves the Commission's request to the intersessional open-ended working group to elaborate a draft legally binding normative instrument for the protection of all persons from enforced disappearance to meet for a period of 15 working days in two formal sessions before the sixty-first session of the Commission, with one session of 10 working days and one session of five working days, the latter held from within existing resources, with a view to the prompt completion of its work, and to report to the Commission at its sixty-first session.

[See chap. II, sect. A, resolution 2004/40,  
and chap. XI.]

## **17. Torture and other cruel, inhuman or degrading treatment or punishment**

The Economic and Social Council, taking note of Commission on Human Rights resolution 2004/41 of 19 April 2004, endorses the Commission's decision to extend for three years the mandate of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

[See chap. II, sect. A, resolution 2004/41,  
and chap. XI.]

## **18. Human rights of migrants**

The Economic and Social Council, taking note of Commission on Human Rights resolution 2004/53 of 20 April 2004, endorses the Commission's requests to the Special Rapporteur on the human rights of migrants to submit a report on her activities to the General Assembly at its fifty-ninth session and to the Commission at its sixty-first session.

[See chap. II, sect. A, resolution 2004/53,  
and chap. XIV.]

## **19. Internally displaced persons**

The Economic and Social Council, taking note of Commission on Human Rights resolution 2004/55 of 20 April 2004, endorses the Commission's requests to the Secretary-General, in effectively building upon the work of his Representative on internally displaced persons, to establish a mechanism that will address the complex problem of internal displacement, in particular by mainstreaming human rights of the internally displaced into all relevant parts of the United Nations system.

The Council also endorses the request to the Secretary-General to ensure that the mechanism submits annual reports on its activities to the Commission and to the General Assembly, making suggestions and recommendations regarding the human rights of internally displaced persons and engaging in an interactive dialogue thereon.

[See chap. II, sect. A, resolution 2004/55,  
and chap. XIV.]

## **20. Working Group on Indigenous Populations of the Sub-Commission on the Promotion and Protection of Human Rights, and the International Decade of the World's Indigenous Peoples**

The Economic and Social Council, taking note of Commission on Human Rights resolution 2004/58 of 20 April 2004, endorses the Commission's recommendation to authorize the Working Group to meet for five working days prior to the fifty-sixth session of the Sub-Commission on the Promotion and Protection of Human Rights.

[See chap. II, sect. A, resolution 2004/58,  
and chap. XV.]

## **21. Working group of the Commission on Human Rights to elaborate a draft declaration in accordance with paragraph 5 of General Assembly resolution 49/214 of 23 December 1994**

The Economic and Social Council, taking note of Commission on Human Rights resolution 2004/59 of 20 April 2004, authorizes the working group established in accordance with Commission resolution 1995/32 of 3 March 1995 to meet for a period of 10 working days prior to the sixty-first session of the Commission, the costs of the meeting to be met from within existing resources.

[See chap. II, sect. A, resolution 2004/59,  
and chap. XV.]

## **22. Situation of human rights in Myanmar**

The Economic and Social Council, taking note of Commission on Human Rights resolution 2004/61 of 21 April 2004, endorses the Commission's decision to extend the mandate of the Special Rapporteur on the situation of human rights in Myanmar, as contained in Commission resolution 1992/58 of 3 March 1992, for a further year, to request the Special Rapporteur to submit an interim report to the General Assembly at its fifty-ninth session, to report to the Commission at its sixty-first session and to integrate a gender perspective throughout his work.

[See chap. II, sect. A, resolution 2004/61,  
and chap. IX.]

### **23. Human rights and indigenous issues**

The Economic and Social Council, taking note of Commission on Human Rights resolution 2004/62 of 21 April 2004, approves the decision of the Commission to extend the mandate of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people for a further period of three years, and the request to the Special Rapporteur to submit a report on his activities to the General Assembly at its fifty-ninth session and to the Commission at its sixty-first session.

The Council also endorses the Commission's request to the Secretary-General and the United Nations High Commissioner for Human Rights to provide all the necessary human, technical and financial assistance to the Special Rapporteur for the effective fulfilment of his mandate.

[See chap. II, sect. A, resolution 2004/62,  
and chap. XV.]

### **24. Follow-up to the United Nations Decade for Human Rights Education**

The Economic and Social Council, taking note of Commission on Human Rights resolution 2004/71 and decision 2004/121 of 21 April 2004, endorses the Commission's recommendation to the Council that at its substantive session of 2004 it recommend to the General Assembly that it proclaim at its fifty-ninth session a world programme for human rights education, to begin on 1 January 2005, structured in consecutive phases, in order to maintain and develop the implementation of human rights education programmes in all sectors.

The Council also endorses the Commission's request to the Office of the United Nations High Commissioner for Human Rights to prepare, in cooperation with the United Nations Educational, Scientific and Cultural Organization and other relevant governmental and non-governmental actors, and submit for consideration and adoption to the General Assembly at its fifty-ninth session, a plan of action for the first phase (2005-2007) of the proposed world programme, focusing on the primary and secondary school systems.

[See chap. II, sect. A, resolution 2004/71  
and decision 2004/121, and chap. XVII.]

### **25. Impunity**

The Economic and Social Council, taking note of Commission on Human Rights decision 2004/72, of 21 April 2004, approves the decision of the Commission to request the Secretary-General to appoint an independent expert, from within existing resources and for a period of one year, to update the Set of Principles for the protection and promotion of human rights through action to combat impunity (E/CN.4/Sub.2/1997/20/Rev.1, annex II), to

reflect recent developments in international law and practice, including international jurisprudence and State practice, and taking into account the independent study on impunity (E/CN.4/2004/88) commissioned by the Secretary-General pursuant to Commission resolution 2003/72 of 25 April 2003, and comments received pursuant to Commission resolution 2004/72, for consideration by the Commission no later than at its sixty-first session.

[See chap. II, sect. A, resolution 2004/72,  
and chap. XVII.]

## **26. Composition of the staff of the Office of the United Nations High Commissioner for Human Rights**

The Economic and Social Council, taking note of Commission on Human Rights resolution 2004/73 of 21 April 2004, draws the attention of the General Assembly to the resolution in the context of the consideration of the agenda item on human resources management.

The Council further endorses the Commission's:

(a) Invitation to the General Assembly and its appropriate subsidiary bodies, inter alia, the Advisory Committee on Administrative and Budgetary Questions, the Committee for Programme and Coordination and the Fifth Committee of the Assembly, to give due consideration to Commission on Human Rights resolution 2004/73 and to the report of the Joint Inspection Unit entitled "Management review of the Office of the United Nations High Commissioner for Human Rights" (JIU/REP/2003/6), transmitted to the Assembly in a note by the Secretary-General (A/59/65-E/2004/48 and Add.1), in particular to any other organization, management, executive direction, structure, administrative, financial and more technical human resources management issues and recommendations contained therein and not addressed in this resolution;

(b) Request to the Joint Inspection Unit to assist the Commission on Human Rights to monitor systematically the implementation of Commission resolution 2004/73 and to submit a follow-up comprehensive review of the implementation of the decisions of the Commission and other United Nations intergovernmental bodies regarding the management, programmes and administration of the Office of the United Nations High Commissioner for Human Rights, in particular, with regard to their impact on the recruitment policies and the composition of the staff, to the Commission at its sixty-third session and to the General Assembly at its sixty-first session, containing any concrete proposals for corrective action, if required, for the implementation of the relevant intergovernmental bodies' resolutions, including Commission resolution 2004/73.

[See chap. II, sect. A, resolution 2004/73,  
and chap. XVIII.]

## **27. Assistance to Somalia in the field of human rights**

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 appointed by the Secretary-General 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.

[See chap. II, sect. A, resolution 2004/80,  
and chap. XIX.]

## **28. Advisory services and technical assistance in Burundi**

The Economic and Social Council, taking note of Commission on Human Rights resolution 2004/82 of 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 the commitments they have made, and the Commission's request to the independent 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.

[See chap. II, sect. A, resolution 2004/82,  
and chap. XIX.]

## **29. Technical cooperation and advisory services in the Democratic Republic of the Congo**

The Economic and Social Council, taking note of Commission on Human Rights resolution 2004/84 of 21 April 2004, approves the decision of the Commission:

(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 Commission resolution 2004/84 to the General Assembly at its fifty-ninth session, and to report to the Commission 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 agenda item.

[See chap. II, sect. A, resolution 2004/84,  
and chap. XIX.]

### **30. Technical cooperation and advisory services in Chad**

The Economic and Social Council, taking note of Commission on Human Rights resolution 2004/85 of 21 April 2004, endorses the Commission's decision 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 United Nations High Commissioner for Human Rights in the promotion and protection of human rights and to submit a report to the Commission at its sixty-first session.

[See chap. II, sect. A, resolution 2004/85,  
and chap. XIX.]

### **31. Assistance to Sierra Leone in the field of human rights**

The Economic and Social Council, taking note of Commission on Human Rights resolution 2004/86 of 21 April 2004, endorses the Commission's request to the United Nations High Commissioner for Human Rights 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 United Nations Mission in Sierra Leone.

[See chap. II, sect. A, resolution 2004/86,  
and chap. XIX.]

### **32. Protection of human rights and fundamental freedoms while countering terrorism**

The Economic and Social Council, taking note of Commission on Human Rights resolution 2004/87 of 21 April 2004, endorses the Commission's decision to designate, from within existing resources, for a period of one year, an independent expert to assist the United Nations High Commissioner for Human Rights in the fulfilment of the mandate described in paragraphs 8 and 9 of Commission resolution 2004/87 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.

[See chap. II, sect. A, resolution 2004/87,  
and chap. XVII.]

### **33. World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action**

The Economic and Social Council, taking note of Commission on Human Rights resolution 2004/88 of 22 April 2004, endorses the Commission's requests to the Secretary-General to provide the Special Rapporteur on contemporary forms of racism, racial



discrimination, xenophobia and related intolerance with all the necessary human and financial assistance to carry out his mandate efficiently, effectively and expeditiously, and to enable him to submit an interim report to the General Assembly at its fifty-ninth session and to the Commission at its sixty-first session.

[See chap. II, sect. A, resolution 2004/88,  
and chap. VI.]

### **34. Decision relating to Paraguay under the procedure established in accordance with Economic and Social Council resolution 1503 (XLVIII)**

The Economic and Social Council, taking note of Commission on Human Rights decision 2004/103 of 31 March 2004, endorses the Commission's recommendation that the documentation relating to Paraguay which was examined by the Commission between 1978 and 1990 under Council resolution 1503 (XLVIII) of 27 May 1970 should no longer be considered confidential in accordance with the request made by the Government of Paraguay.

[See chap. II, sect. B, decision 2004/103,  
and chap. IX.]

### **35. Corruption and its impact on the full enjoyment of human rights, in particular economic, social and cultural rights**

The Economic and Social Council, taking note of Commission on Human Rights decision 2004/106 of 16 April 2004, endorses the Commission's:

(a) Decision to appoint Ms. Christy Mbonu as special rapporteur with the task of preparing a comprehensive study on corruption and its impact on the full enjoyment of human rights, in particular economic, social and cultural rights, based on her working paper (E/CN.4/Sub.2/2003/18) as well as the comments received and the useful discussions that took place at the fifty-fifth session of the Sub-Commission on the Promotion and Protection of Human Rights;

(b) Request to the Special Rapporteur to submit a preliminary report to the Sub-Commission at its fifty-sixth session, a progress report at its fifty-seventh session and a final report at its fifty-eighth session;

(c) Decision to endorse the request to the Secretary-General to provide the Special Rapporteur with all the assistance necessary to enable her to accomplish her task.

[See chap. II, sect. B, decision 2004/106,  
and chap. X.]

### **36. Globalization and its impact on the full enjoyment of human rights**

The Economic and Social Council, taking note of Commission on Human Rights decision 2004/107 of 16 April 2004, endorses the Commission's request that the reports (E/CN.4/Sub.2/2000/13, E/CN.4/Sub.2/2001/10 and E/CN.4/Sub.2/2003/14) of the Special Rapporteurs of the Sub-Commission on the Promotion and Protection of Human Rights, on globalization and its impact on the full enjoyment of economic, social and cultural rights be published in the official languages of the United Nations.

[See chap. II, sect. B, decision 2004/107,  
and chap. X.]

### **37. Special Rapporteur on trafficking in persons, especially in women and children**

The Economic and Social Council, taking note of Commission on Human Rights decision 2004/110 of 19 April 2004, endorses the Commission's decision to appoint, for a period of three years, a special rapporteur, whose mandate will focus on the human rights aspects of the victims of trafficking in persons, especially women and children.

The Council also endorses the Commission's request to the Special Rapporteur to submit an annual report, commencing with the sixty-first session of the Commission, together with recommendations, on measures required to uphold and protect the human rights of the victims.

The Council further approves the Commission's request to the Secretary-General to provide all the necessary resources for the effective fulfilment of the mandate of the Special Rapporteur.

[See chap. II, sect. B, decision 2004/110,  
and chap. XII.]

### **38. Traditional practices affecting the health of women and the girl child**

The Economic and Social Council, taking note of Commission on Human Rights decision 2004/111 of 20 April 2004, endorses the Commission's decision to renew the mandate of the Special Rapporteur on traditional practices affecting the health of women and the girl child for a further three years and its request to the Special Rapporteur to submit an updated report to the Sub-Commission on the Promotion and Protection of Human Rights at its fifty-sixth session.

[See chap. II, sect. B, decision 2004/111,  
and chap. XII.]

### **39. Publishing the report of the Special Rapporteur on the rights of non-citizens**

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, in particular to Governments, specialized agencies, 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), regional intergovernmental organizations and non-governmental organizations.

[See chap. II, sect. B, decision 2004/113,  
and chap. XIV.]

### **40. Voluntary fund on minority-related activities**

The Economic and Social Council, taking note of Commission on Human Rights decision 2004/114 of 20 April 2004, endorses the recommendation that a voluntary fund on minority-related activities be established to facilitate the participation in the Working Group on Minorities - of the Sub-Commission on the Promotion and Protection of Human Rights - 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 Council also recommends to the General Assembly that it give favourable consideration to the establishment of a voluntary fund on minority-related activities.

[See chap. II, sect. B, decision 2004/114,  
and chap. XIV.]

### **41. International year and decade for the world's minorities**

The Economic and Social Council, taking note of Commission on Human Rights decision 2004/115 of 20 April 2004, endorses the Commission's recommendation 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 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, calling for greater cooperation among the specialized agencies and other organizations of the United Nation system in order to contribute, within their respective competence, to the full realization of the rights and principles set forth in the Declaration.

[See chap. II, sect. B, decision 2004/115,  
and chap. XIV.]

## **42. Responsibilities of transnational corporations and related business enterprises with regard to human rights**

The Economic and Social Council, taking note of Commission on Human Rights decision 2004/116 of 20 April 2004,

(a) Confirms 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) Requests the Office of the United Nations 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 Sub-Commission on the Promotion and Protection of Human Rights document (E/CN.4/Sub.2/2003/12/Rev.2), 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) Affirms 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. II, sect. B, decision 2004/116,  
and chap. XVI.]

## **43. Human rights and bioethics**

The Economic and Social Council, taking note of Commission on Human Rights decision 2004/120 of 21 April 2004, approves the Commission's decision 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 on the Promotion and Protection of Human Rights at its fifty-sixth session and her final report to the Commission at its sixty-first session.

The Council also approves the Commission's request to the Secretary-General to provide the Special Rapporteur with the necessary assistance to enable her to carry out her study.

[See chap. II, sect. B, decision 2004/120,  
and chap. XVII.]

#### **44. The universal implementation of international human rights treaties**

The Economic and Social Council, taking note of Commission on Human Rights decision 2004/123 of 21 April 2004, approves the Commission's decision 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 on the Promotion and Protection of Human Rights, 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 Council also endorses the Commission's request to the Secretary-General to provide the Special Rapporteur with all necessary assistance to enable him to carry out his mandate, inter alia in his contacts with States.

[See chap. II, sect. B, decision 2004/123,  
and chap. XVII.]

#### **45. Dates of the sixty-first session of the Commission on Human Rights**

The Economic and Social Council, taking note of Commission on Human Rights decision 2004/125 of 21 April 2004, endorses the Commission's decision 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. II, sect. B, decision 2004/125,  
and chap. III.]

#### **46. Organization of work of the sixty-first session of the Commission on Human Rights**

The Economic and Social Council, taking note of Commission on Human Rights decision 2004/127 of 23 April 2004, authorizes six fully serviced additional meetings, including summary records, in accordance with rules 29 and 31 of the rules of procedure of the functional commissions of the Council, for the Commission's sixty-first session.

The Council further requests the Chairperson of the sixty-first session of the Commission to make every effort to organize the work of the session within the time normally allotted so that the additional meetings that the Council might authorize would be utilized only if they proved to be absolutely necessary.

[See chap. II, sect. B, decision 2004/127,  
and chap. III.]

#### **47. Situation of human rights in the Sudan**

The Economic and Social Council, taking note of Commission on Human Rights decision 2004/128 of 23 April 2004, endorses the Commission's request to appoint an independent expert on the situation of human rights in the Sudan for a period of one year and its request to the independent expert to submit an interim report to the General Assembly at its fifty-ninth session and to report to the Commission at its sixty-first session on the situation of human rights in the Sudan.

The Council also endorses the Commission's request to the Secretary-General to provide all necessary assistance to the independent expert to enable him/her to discharge his/her mandate fully.

[See chap. II, sect. B, decision 2004/128,  
and chap. III.]

#### **48. Technical cooperation in the field of human rights in Afghanistan**

The Economic and Social Council, taking note of the Chairperson of the Commission on Human Rights' statement of 21 April 2004 on technical cooperation in the field of human rights in Afghanistan, adopted by consensus at the fifty-eighth session of the Commission, endorses the Commission's request to the Secretary-General to extend the mandate of the independent expert on the situation of human rights in Afghanistan for a further year, and the request to the independent expert to report to the General Assembly at its fifty-ninth session and to the Commission at its sixty-first session.

[See chap. XIX.]

## **II. Resolutions and decisions adopted by the Commission at its sixtieth session**

### **A. Resolutions**

#### **2004/1. Grave situation in the Occupied Palestinian Territory**

*The Commission on Human Rights,*

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

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

*Recalling its previous relevant resolutions, in particular resolution 2003/6 of 15 April 2003, in which it strongly condemned the practice of “liquidation” and “extrajudicial executions” carried out by the Israeli army against Palestinians,*

1. *Strongly condemns* the continuing grave violations of human rights in the Occupied Palestinian Territory, in particular the tragic assassination of Sheikh Ahmed Yassin on 22 March 2004, in contravention of the Geneva Convention relative to the Protection of Civilian Persons in Time of War;

2. *Notes with grave concern* the implications of such targeted assassinations, liquidation and murder of political leadership by the Israeli occupation forces on the overall situation in the Occupied Palestinian Territory, in particular the possibility of a fresh wave of violence;

3. *Calls upon Israel* to respect to the fullest the principles of international humanitarian law and to desist from all forms of violation of human rights in the Occupied Palestinian Territory;

4. *Decides* to remain actively seized of the matter.

*18th meeting  
24 March 2004*

[Adopted by a recorded vote of 31 votes to 2,  
with 18 abstentions. See chap. III.]

**2004/2. Strengthening of the Office of the United Nations  
High Commissioner for Human Rights**

*The Commission on Human Rights,*

*Recalling* all relevant resolutions of the General Assembly and the Commission, in particular Assembly resolutions 48/141 of 20 December 1993 and 55/234 of 23 December 2000, and Commission resolutions 1998/83 of 24 April 1998, 1999/54 of 27 April 1999, 2000/1 of 7 April 2000 and 2002/2 of 12 April 2002,

*Reaffirming* that all human rights are universal, indivisible, interdependent and interrelated and that the international community must treat human rights globally in a fair and equal manner, on the same footing and with the same emphasis,

*Recalling* that one of the purposes of the United Nations is to achieve international cooperation in promoting and encouraging respect for human rights,

*Reaffirming* the importance of ensuring universality, objectivity and non-selectivity in the consideration of human rights issues and, in this context, underlining the need for continuing to ensure the implementation of these principles by the United Nations High Commissioner for Human Rights in the fulfilment of her mandate and the activities of her Office,

*Recalling* that the mandate of the High Commissioner includes promotion and protection of the effective enjoyment by all of all civil, cultural, economic, political and social rights,

*Recalling also* that the Vienna Declaration and Programme of Action adopted in June 1993 at the World Conference on Human Rights (A/CONF.157/23), recognized the necessity for an adaptation and strengthening of United Nations human rights machinery in accordance with current and future needs in the promotion and protection of human rights,

*Reaffirming* that the High Commissioner shall be a person of high moral standing and personal integrity and shall possess expertise, including in the field of human rights, and the general knowledge and understanding of diverse cultures necessary for impartial, objective, non-selective and effective performance of the duties of the High Commissioner,

*Encouraging* the High Commissioner, within her mandate as set out in General Assembly resolution 48/141, to continue to play an active role in promoting and protecting all human rights,

*Convinced* of the need for further and continued support and consideration of the programmes and activities of the Office of the United Nations High Commissioner for Human Rights,

1. *Emphasizes* that the Office of the High Commissioner is a common office for all and should therefore reflect a diversity of backgrounds and, in this context, recalls that the Office of the High Commissioner, as part of the United Nations Secretariat, is governed by Article 101 of the Charter of the United Nations concerning staffing policies, which is essential for ensuring the implementation of the principles of universality, objectivity and non-selectivity in the consideration of human rights issues;



2. *Welcomes* the appointment of the new High Commissioner by the Secretary-General;
3. *Requests* the Secretary-General to give due consideration to geographical rotation when appointing the High Commissioner, as set out in General Assembly resolution 48/141;
4. *Encourages* the Office of the High Commissioner to continue the current practice of making the best use of available human rights expertise relevant to and, as appropriate, from, the regions where activities are undertaken;
5. *Calls upon* the High Commissioner to take into account all relevant resolutions of the General Assembly and the Commission in planning the activities of the Office and requests her to reflect them appropriately in her annual reports to the Commission and the Assembly;
6. *Encourages* the Office of the High Commissioner to ensure transparency in its activities and operation through a process of continued dialogue and consultations with Member States through, inter alia, regular briefings and taking into account relevant resolutions of the General Assembly and the Commission;
7. *Reiterates* the need to ensure that all necessary financial, material and personnel resources are provided from the regular budget of the United Nations without delay to the United Nations human rights programme to enable the Office of the High Commissioner to carry out its mandates efficiently, effectively and expeditiously;
8. *Welcomes* the voluntary contributions to the Office of the High Commissioner, in particular those from developing countries, and in this context calls upon donors to take into account the High Commissioner's call for unearmarked contributions in order to give the Office flexibility in the allocation of resources for its operational activities in accordance with the resolutions of the Commission and with a view to treating all human rights in a fair and equal manner;
9. *Reaffirms* that the tasks of the High Commissioner include promoting and protecting the realization of the right to development and that the Office of the High Commissioner should devote adequate resources and staff to its follow-up, with a view to enhancing activities of the Office for its effective realization;
10. *Calls upon* the High Commissioner to continue to emphasize the promotion and protection of economic, social and cultural rights in the activities of her Office and, in that regard, encourages the High Commissioner to continue to strengthen her relationship with the appropriate bodies, funds and specialized agencies of the United Nations;
11. *Also calls upon* the High Commissioner to continue to strengthen the management structure of her Office, including human resource management, and to improve the responsiveness of her Office in all priority areas, especially economic, social and cultural rights, which require particular research and analytical capacity;
12. *Requests* the High Commissioner to enhance international cooperation for the promotion and protection of all human rights and to engage in a dialogue with all Governments in the implementation of her mandate with a view to securing respect for all human rights;

13. *Recommends* that the Economic and Social Council and the General Assembly provide the Office of the High Commissioner with ways and means commensurate with its increasing tasks, as well as more resources for special rapporteurs;
14. *Declares* that advisory services and technical cooperation provided at the request of Governments with a view to developing national capacities in the field of human rights constitute one of the most efficient and effective means of promoting and protecting all human rights and democracy;
15. *Emphasizes* the need for an increase in the allocation of resources from within the United Nations regular budget for advisory services and technical cooperation in the field of human rights;
16. *Invites* the High Commissioner to continue to provide information on cooperation with other United Nations bodies and also invites her to make available information concerning agreements with other United Nations bodies and their implementation, in an open and transparent manner, as appropriate;
17. *Requests* the High Commissioner to continue to provide States with information as well as to hold informal briefings on voluntary contributions, including their share of the overall full-cost budget of the human rights programme and their allocation;
18. *Takes note* of the practice of publishing an annual appeal and an annual report which provide Member States with information on the activities of the Office of the High Commissioner, and calls upon the High Commissioner to include detailed information on the status and use of all voluntary, in particular earmarked, contributions to the budget of the Office in her next annual appeal and annual report;
19. *Invites* the High Commissioner to inform Member States, as appropriate, on all aspects of follow-up to, and preparation of, annual appeals, including through the periodic information meeting, and looks forward to the publication of the *Annual Appeal 2005* and the *Annual Report 2003*;
20. *Again invites* the High Commissioner to submit information pursuant to the present resolution in her annual report to the Commission;
21. *Decides* to consider the implementation of the present resolution at its sixty-second session under the relevant agenda item.

*44th meeting*

*8 April 2004*

[Adopted by a recorded vote of 51 votes to none,  
with 2 abstentions. See chap. IV.]

### 2004/3. Situation in occupied Palestine

*The Commission on Human Rights,*

*Guided* by the purposes and principles of the Charter of the United Nations, in particular the provisions of Articles 1 and 55 thereof, which affirm the right of peoples to self-determination, and reaffirming the need for the scrupulous respect of the principle of refraining in international relations from the threat or use of force, as specified in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, adopted by the General Assembly in its resolution 2625 (XXV) of 24 October 1970,

*Guided also* by the provisions of article 1 of the International Covenant on Economic, Social and Cultural Rights and article 1 of the International Covenant on Civil and Political Rights, which affirm that all peoples have the right to self-determination,

*Guided further* by the provisions of the Vienna Declaration and Programme of Action, adopted in June 1993 by the World Conference on Human Rights (A/CONF.157/23), and in particular Part I, paragraphs 2 and 3, relating to the right of self-determination of all peoples and especially those subject to foreign occupation,

*Recalling* General Assembly resolutions 181 A and B (II) of 29 November 1947 and 194 (III) of 11 December 1948, as well as all other resolutions which confirm and define the inalienable rights of the Palestinian people, particularly their right to self-determination,

*Recalling also* Security Council resolutions 242 (1967) of 22 November 1967, 338 (1973) of 22 October 1973, 1397 (2002) of 12 March 2002 and 1402 (2002) of 30 March 2002,

*Recalling further* its previous resolutions in this regard, the latest of which is resolution 2003/3 of 14 April 2003,

*Reaffirming* the right of the Palestinian people to self-determination in accordance with the provisions of the Charter of the United Nations, the relevant United Nations resolutions and declarations, and the provisions of international covenants and instruments relating to the right to self-determination as an international principle and as a right of all peoples in the world, as it is a *jus cogens* in international law and a basic condition for achieving a just, lasting and comprehensive peace in the region of the Middle East,

1. *Reaffirms* the inalienable, permanent and unqualified right of the Palestinian people to self-determination, including their right to establish their sovereign and independent Palestinian State, and looks forward to the early fulfilment of this right;

2. *Requests* the Secretary-General to transmit the present resolution to the Government of Israel and all other Governments, to disseminate it on the widest possible scale and to make available to the Commission, prior to the convening of its sixty-first session, all information pertaining to the implementation of the present resolution by the Government of Israel;

3. *Decides* to include in the provisional agenda of its sixty-first session the item entitled “The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation” and to consider the situation in occupied Palestine under that agenda item, as a matter of high priority.

*44th meeting*

*8 April 2004*

[Adopted by a recorded vote of 52 votes to 1.

See chap. V.]

#### **2004/4. Question of Western Sahara**

*The Commission on Human Rights,*

*Having considered in depth* the question of Western Sahara,

*Reaffirming* the inalienable right of all peoples to self-determination and independence, in accordance with the principles set forth in the Charter of the United Nations and in General Assembly resolution 1514 (XV) of 14 December 1960, containing the Declaration on the Granting of Independence to Colonial Countries and Peoples,

*Taking note* of General Assembly resolution 58/109 of 9 December 2003,

*Recalling* its resolution 2003/1 of 14 April 2003,

*Recalling also* all resolutions of the General Assembly, the Security Council and the Commission on Human Rights on the question of Western Sahara,

*Recalling further* Security Council resolutions 658 (1990) of 27 June 1990 and 690 (1991) of 29 April 1991, in which the Council approved the settlement plan for Western Sahara,

*Recalling* Security Council resolutions 1359 (2001) of 29 June 2001 and 1429 (2002) of 30 July 2002, and taking note of resolution 1495 (2003) of 31 July 2003, in which the Council indicated its support for the peace plan for self-determination of the people of Western Sahara as an optimum political solution on the basis of agreement between the two parties,

*Taking note* of the responses of the parties and neighbouring States to the Personal Envoy of the Secretary-General concerning the peace plan, contained in the report of the Secretary-General (S/2003/565 and Corr.1),

*Reaffirming* the responsibility of the United Nations towards the people of Western Sahara,

*Noting with satisfaction* the entry into force of the ceasefire in accordance with the proposal of the Secretary-General, and stressing the importance that it attaches to the maintenance of the ceasefire as an integral part of the settlement plan,

*Underlining*, in this regard, the validity of the settlement plan, while noting the fundamental differences between the parties in its implementation,

*Stressing* that the lack of progress in the settlement of the dispute on Western Sahara continues to cause suffering to the people of Western Sahara, remains a source of potential instability in the region and obstructs the economic development of the Maghreb region and that, in view of this, the search for a political solution is critically needed,

*Welcoming* the efforts of the Secretary-General and his Personal Envoy in search of a mutually acceptable political solution which will provide for self-determination for the people of Western Sahara,

*Recalling* that the General Assembly has examined the relevant chapter of the report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples,

*Recalling also* that the General Assembly has examined the report of the Secretary-General (A/58/171),

1. *Takes note* of the report of the Secretary-General;
2. *Underlines* Security Council resolution 1495 (2003), in which the Council expressed its support of the peace plan for self-determination of the people of Western Sahara as an optimum political solution on the basis of agreement between the two parties;
3. *Strongly supports* the efforts of the Secretary-General and his Personal Envoy in order to achieve a mutually acceptable political solution to the dispute over Western Sahara;
4. *Commends* the Secretary-General and his Personal Envoy for their outstanding efforts and the two parties for the spirit of cooperation they have shown in the support that they provide for those efforts;
5. *Calls upon* all the parties and the States of the region to cooperate fully with the Secretary-General and his Personal Envoy;
6. *Reaffirms* the responsibility of the United Nations towards the people of Western Sahara;
7. *Calls upon* the parties to cooperate with the International Committee of the Red Cross in its efforts to solve the problem of the fate of people unaccounted for, and calls upon the parties to abide by their obligation under international humanitarian law to release without further delay all those held since the start of the conflict;
8. *Notes* that the General Assembly has requested the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples to continue to consider the situation in Western Sahara and to report thereon to the Assembly at its fifty-ninth session;

9. *Also notes* that the General Assembly has invited the Secretary-General to submit to it, at its fifty-ninth session, a report on the implementation of its resolution 58/109.

*44th meeting*

*8 April 2004*

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

**2004/5. Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination**

*The Commission on Human Rights,*

*Taking note* of General Assembly resolution 58/162 of 22 December 2003 and recalling its own resolution 2003/2 of 14 April 2003,

*Recalling* all of its relevant resolutions, in which, inter alia, it condemned any State that permitted or tolerated the recruitment, financing, training, assembly, transit and use of mercenaries with the objective of overthrowing the Governments of States Members of the United Nations, especially those of developing countries, or of fighting against national liberation movements, and recalling also the relevant resolutions and international instruments adopted by the General Assembly, the Security Council, the Economic and Social Council and the Organization of African Unity, inter alia the Convention of the Organization of African Unity on the Elimination of Mercenarism in Africa, as well as the African Union,

*Reaffirming* the purposes and principles enshrined in the Charter of the United Nations concerning the strict observance of the principles of sovereign equality, political independence, territorial integrity of States, self-determination of peoples, the non-use of force or threat of use of force in international relations and non-interference in affairs within the domestic jurisdiction of States,

*Reaffirming also* that by virtue of the principle of self-determination, all peoples have the right to determine freely their political status and to pursue freely their economic, social and cultural development,

*Reaffirming further* the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,

*Alarmed and concerned* about the danger which the activities of mercenaries constitute to peace and security in developing countries, particularly in Africa and in small States,

*Deeply concerned* about the loss of life, the substantial damage to property and the negative effects on the policy and economies of affected countries resulting from mercenary international criminal activities,

*Extremely alarmed and concerned* about recent mercenary activities in Africa and the threat they pose to the integrity and respect of the constitutional order of these countries,

*Convinced* that, notwithstanding the way in which mercenaries or mercenary-related activities are used or the form they take to acquire some semblance of legitimacy, they are a threat to peace, security and the self-determination of peoples and an obstacle to the enjoyment of human rights by peoples,

1. *Welcomes* the report of the Special Rapporteur on the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination (E/CN.4/2004/15), and commends Mr. Enrique Bernales Ballesteros for the valuable work and contributions he made in fulfilling his mandate for 16 years;
2. *Decides* to extend the mandate of the Special Rapporteur for a period of three years;
3. *Reaffirms* that the use of mercenaries and their recruitment, financing and training are causes for grave concern to all States and violate the purposes and principles enshrined in the Charter of the United Nations;
4. *Recognizes* that armed conflicts, terrorism, arms trafficking and covert operations by third Powers, inter alia, encourage the demand for mercenaries on the global market;
5. *Urges once again* all States to take the necessary steps and to exercise the utmost vigilance against the menace posed by the activities of mercenaries, and to take legislative measures to ensure that their territories and other territories under their control, as well as their nationals, are not used for the recruitment, assembly, financing, training and transit of mercenaries for the planning of activities designed to impede the right to self-determination, to overthrow the Government of any State, or dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the right to self-determination of peoples;
6. *Requests* all States to exercise the utmost vigilance against any kind of recruitment, training, hiring or financing of mercenaries by private companies offering international military consultancy and security services, as well as to impose a specific ban on such companies' intervening in armed conflicts or actions to destabilize constitutional regimes;
7. *Welcomes once again* the entry into force of the International Convention against the Recruitment, Use, Financing and Training of Mercenaries;
8. *Calls upon* all States that have not yet done so to consider taking the necessary action to sign or ratify the Convention;
9. *Welcomes* the cooperation extended by those countries that received a visit by the Special Rapporteur on mercenaries;
10. *Also welcomes* the adoption by some States of national legislation that restricts the recruitment, assembly, financing, training and transit of mercenaries;
11. *Invites* States to investigate the possibility of mercenary involvement whenever and wherever criminal acts of a terrorist nature occur;

12. *Condemns* recent mercenary activities in Africa and the threat they pose to the integrity and respect of the constitutional order of these countries and the exercise of the right to self-determination of their peoples;

13. *Commends* the Governments of Africa on their collaboration in thwarting these illegal actions;

14. *Calls upon* the international community to cooperate with and assist the judicial prosecution of those accused of mercenary activities, in accordance with their obligations under international law, in transparent, open and fair trials;

15. *Requests* the new Special Rapporteur on mercenaries to circulate to and consult with States on the new proposal for a legal definition of a mercenary drafted by Mr. Enrique Bernales Ballesteros (see E/CN.4/2004/15, para. 47) and to report his/her findings to the Commission;

16. *Requests* the Office of the United Nations High Commissioner for Human Rights to convene a third meeting of experts on traditional and new forms of mercenary activities as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, whose main objectives will be:

(a) To give further consideration to the proposed new legal definition of a mercenary as contained in paragraph 47 of the report of the Special Rapporteur;

(b) To make proposals on possible means of regulation and international supervision of the activities of private companies offering military assistance, consultancy and security services on the international market; and

(c) To study and evaluate recent activities of mercenaries in Africa;

17. *Also requests* the Office of the High Commissioner, as a matter of priority, to publicize the adverse effects of mercenary activities on the right of peoples to self-determination and, when requested and where necessary, to provide advisory services to States that are affected by these activities;

18. *Requests* the Special Rapporteur to continue taking into account in the discharge of his/her mandate that mercenary activities are continuing to occur in many parts of the world and are taking on new forms, manifestations and modalities and, in this regard, requests him/her to pay particular attention to the impact of the activities of private companies offering military assistance, consultancy and security services on the international market on the exercise of the right of peoples to self-determination;

19. *Urges* all States to cooperate fully with the Special Rapporteur in the fulfilment of his/her mandate;

20. *Requests* the United Nations High Commissioner for Human Rights to provide the Special Rapporteur with all the necessary assistance and support for the fulfilment of his/her mandate, including through the promotion of cooperation between the Special Rapporteur and other components of the United Nations system that deal with countering mercenary-related activities;



21. *Requests* the new Special Rapporteur on mercenaries to consult States and intergovernmental and non-governmental organizations in the implementation of the present resolution and to report, with specific recommendations, his/her findings on the use of mercenaries to undermine the right to self-determination to the Commission at its sixty-first session;

22. *Decides* to consider at its sixty-first session the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination under the same agenda item;

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

[For the text, see chap. I, draft decision 2.]

*44th meeting  
8 April 2004*

[Adopted by a recorded vote of 36 votes to 14,  
with 3 abstentions. See chap. V.]

### **2004/6. Combating defamation of religions**

*The Commission on Human Rights,*

*Recalling* that all States have pledged themselves, under the Charter of the United Nations, to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

*Recalling also* its resolutions 1999/82 of 30 April 1999, 2000/84 of 26 April 2000, 2001/4 of 18 April 2001, 2002/9 of 15 April 2002 and 2003/4 of 14 April 2003,

*Reaffirming* that discrimination against human beings on the grounds of religion or belief constitutes an affront to human dignity and a disavowal of the principles of the Charter of the United Nations,

*Convinced* that religious and cultural diversity in a globalizing world needs to be used as a vehicle for complementary creativity and dynamism and not as a rationale for a new ideological and political confrontation,

*Recalling* the United Nations Millennium Declaration adopted by the General Assembly on 8 September 2000, welcoming the resolve expressed in the Declaration to take measures to eliminate the increasing acts of racism and xenophobia in many societies and to promote greater harmony and tolerance in all societies, and looking forward to its effective implementation at all levels, including in the context of the Durban Declaration and Programme of Action adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/CONF.189/12 and Corr.1),

*Welcoming* the proclamation by the General Assembly in its resolution 56/6 of 9 November 2001 of the Global Agenda for Dialogue among Civilizations and inviting States, the organizations and bodies of the United Nations system, within existing resources, other international and regional organizations and civil societies to contribute to the implementation of the Programme of Action contained in that resolution,

*Welcoming also* the progress achieved in the follow-up to the Durban Declaration and Programme of Action,

*Expressing deep appreciation* to the Government of Turkey for hosting the Joint Organization of the Islamic Conference-European Union Forum entitled “Civilization and harmony: the political dimension”, in Istanbul on 12 and 13 February 2002, and welcoming its outcome,

*Alarmed* at the continuing negative impact of the events of 11 September 2001 on Muslim minorities and communities in some non-Muslim countries and the negative projection of Islam in the media, and the introduction and enforcement of laws that specifically discriminate against and target Muslims,

*Recognizing* the need to promote tolerance, understanding among different cultures and mutual appreciation of cultural and religious values for world peace, social justice and friendship among people,

*Recognizing also* the valuable contributions of all religions to modern civilization and the contribution that dialogue among civilizations can make to an improved awareness and understanding of the common values shared by all humankind,

*Noting with concern* that defamation of religions is among the causes of social disharmony and leads to violations of human rights of their adherents,

*Recognizing* the incompatibility of defamation of religions and cultures with the objectives of a truly globalized world and the promotion and maintenance of international peace and security,

*Alarmed* at the serious instances of intolerance, discrimination and acts of violence based on religion or belief, intimidation and coercion motivated by extremism, religious or otherwise, occurring in many parts of the world and threatening the enjoyment of human rights and fundamental freedoms,

*Stressing* the need to recognize and appreciate religious and cultural diversity and differences in perception and values,

*Underlining* the importance of creating conditions to foster greater harmony and tolerance within and among societies and conscious of the importance of education in ensuring tolerance of and respect for religion and belief,

*Emphasizing* that States, non-governmental organizations, religious bodies and the media have an important role to play in the promotion of tolerance and the protection of freedom of religion and belief,

1. *Welcomes* the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance entitled “Situation of Muslim and Arab peoples in various parts of the world” (E/CN.4/2004/19);
2. *Expresses deep concern* at negative stereotyping of religions and manifestations of intolerance and discrimination in matters of religion or belief still in evidence in some regions of the world;
3. *Urges* States to ensure equal access to education for all in law and in practice, and to refrain from any legal or any other measures leading to imposed racial segregation in any form in access to schooling;
4. *Also urges* States to commit themselves to ensuring access to education, including access to free primary education for all children, both girls and boys, and access for adults to lifelong learning and education, based on respect for human rights, diversity and tolerance, without discrimination of any kind;
5. *Expresses deep concern* that Islam is frequently and wrongly associated with human rights violations and terrorism;
6. *Notes with deep concern* the intensification of the campaign of defamation of religions, and the ethnic and religious profiling of Muslim minorities, in the aftermath of the tragic events of 11 September 2001;
7. *Deplores* the use of the print, audio-visual and electronic media, including the Internet, and any other means to incite acts of violence, xenophobia or related intolerance and discrimination towards Islam or any other religion;
8. *Expresses deep concern* at programmes and agendas pursued by extremist organizations and groups aimed at the defamation of religions, in particular when supported by Governments;
9. *Urges* all States, within their national legal framework, in conformity with international human rights instruments, to take all appropriate measures to combat hatred, discrimination, intolerance and acts of violence, intimidation and coercion motivated by religious intolerance, including attacks on religious places, and to encourage understanding, tolerance and respect in matters relating to freedom of religion or belief;
10. *Also urges* all States to ensure that all public officials, including members of law enforcement bodies, the military, civil servants and educators, in the course of their official duties respect different religions and beliefs and do not discriminate on the grounds of religion or belief, and that necessary and appropriate education or training is provided;
11. *Strongly deplors* physical attacks and assaults on businesses, cultural centres and places of worship of all religions;
12. *Encourages* States, within their respective constitutional systems, to provide adequate protection against all human rights violations resulting from defamation of religions and to take all possible measures to promote tolerance and respect for all religions and their value system;

13. *Confirms* the need to enhance knowledge about civilizations and cultures through communication and cooperation for the promotion of common universal values such as those enshrined in the Universal Declaration of Human Rights and other relevant international human rights instruments;

14. *Calls upon* the international community to initiate a global dialogue to promote a culture of tolerance based on respect for human rights and respect for religious diversity and urges States, non-governmental organizations, religious bodies and the print and electronic media to support and promote such a dialogue;

15. *Calls upon* the United Nations High Commissioner for Human Rights to promote and include human rights aspects in the dialogue among civilizations, inter alia through:

(a) Integrating them into topical seminars and special debates on the positive contributions of cultures, as well as religious and cultural diversity;

(b) Collaboration by the Office of the United Nations High Commissioner for Human Rights with other relevant international organizations in holding joint conferences designed to encourage this dialogue and promote understanding of the universality of human rights and their implementation at various levels;

16. *Requests* the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance to examine the situation of Muslim and Arab peoples in various parts of the world with special reference to physical assaults and attacks against their places of worship, cultural centres, businesses and properties in the aftermath of the events of 11 September 2001 and to submit a progress report on his findings for consideration by the Commission at its next session;

17. *Requests* the High Commissioner to report to the Commission at its sixty-first session on the implementation of the present resolution;

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

*45th meeting*

*13 April 2004*

[Adopted by a recorded vote of 29 votes to 16,  
with 7 abstentions. See chap. VI.]

## **2004/7. The right to development**

*The Commission on Human Rights,*

*Recalling* the Declaration on the Right to Development adopted by the General Assembly in its resolution 41/128 of 4 December 1986, which confirmed the right to development as an inalienable human right and that equality of opportunity for development is a prerogative both of nations and of individuals who make up nations, and the individual as the central subject and beneficiary of development,

*Recalling also* all its previous resolutions on the right to development, in particular resolution 1998/72 of 22 April 1998 in which it referred to the urgent need to make further progress towards the realization of the right to development as set out in the Declaration,

*Recognizing* that the open-ended working group established to monitor and review progress made in the promotion and implementation of the right to development is the only global forum on the right to development mandated to monitor and review progress made in the promotion and implementation of the right to development as elaborated in the Declaration at the national and international levels, providing recommendations thereon and further analysing obstacles to its full enjoyment, focusing each year on specific commitments in the Declaration,

*Recognizing also* the valuable contribution made by the independent expert on the right to development in the course of the last six years, through his research and analytical work contained in the series of reports to the Working Group on the Right to Development, which constitute a valuable addition to the understanding of the right to development and approaches to its implementation both at the national and international levels,

*Taking note* of the report of the United Nations High Commissioner for Human Rights (E/CN.4/2004/22),

*Reaffirming* the agreed conclusions of the third session of the Working Group (see E/CN.4/2002/28/Rev.1) and the need for their follow-up and effective implementation,

*Welcoming* the convening of the high-level seminar on the right to development entitled “Global partnership for development” and appreciating the response of United Nations agencies and bodies and the international financial and multilateral trading institutions, which provided a unique opportunity to review and identify effective strategies for mainstreaming the right to development into the policies and operational activities of the major international organizations/institutions, thereby contributing to enhanced partnerships in realizing the right to development,

*Recognizing* the broad participation by States, international organizations and non-governmental organizations at the fifth session of the Working Group on the Right to Development and welcoming their active participation in enhancing the realization of the Declaration on the Right to Development as well as the adoption by consensus of the Working Group’s conclusions and recommendations,

1. *Recognizes* the importance of maintaining political will and commitment on the part of all members of the Working Group on the Right to Development and welcomes their ongoing cooperation towards the realization of its mandate;
2. *Takes note* of decision 2003/116 of 14 August 2003 of the Sub-Commission on the Promotion and Protection of Human Rights relating to the right to development;
3. *Looks forward* to the consideration at the sixty-first session of the concept document to be prepared by the Sub-Commission establishing options and their feasibility for the implementation of the right to development, inter alia, an international legal standard of a binding nature, guidelines on the implementation of the right to development and principles for

development partnership, based on the Declaration on the Right to Development, including issues which any such instrument might address, for consideration and determination of the feasibility of these options;

4. *Requests* the Office of the United Nations High Commissioner for Human Rights to continue to provide all necessary administrative support and financial and human resources to the Sub-Commission in its work on the concept document;

5. *Endorses* the agreed conclusions and recommendations adopted by the Working Group on the Right to Development at its fifth session as reflected in its report (E/CN.4/2004/23 and Corr.1, paras. 41-51), and calls for their immediate, full and effective implementation by the Office of the High Commissioner and other relevant actors;

6. *Decides* to consider the renewal of the mandate of the independent expert on the right to development at its sixty-first session;

7. *Requests* the Office of the High Commissioner to provide all necessary administrative support and financial and human resources to the proposed high-level task force on the implementation of the right to development established within the framework of the Working Group on the Right to Development;

8. *Requests* the High Commissioner, in mainstreaming the right to development, to undertake effectively activities aimed at strengthening the global partnership for development between Member States, development agencies and the international development, financial and trade institutions, and to reflect these activities in detail in her report to the Commission at its sixty-first session;

9. *Decides* to renew the mandate of the Working Group on the Right to Development for one year and to convene its sixth session before the sixty-first session of the Commission on Human Rights for a period of 10 working days; of these 10 working days, five shall be allocated to the high-level task force established within the framework of the Working Group to hold its meetings and submit its findings and recommendations to the Working Group well in advance of its session; the Working Group in turn would meet for a period of five working days to consider the findings and recommendations of the task force and further initiatives in accordance with its mandate;

10. *Decides* to review the progress of the implementation of the present resolution as a matter of priority at its sixty-first session;

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

[For the text, see chap. I, draft decision 3.]

*45th meeting*

*13 April 2004*

[Adopted by a recorded vote of 49 votes to 3.

See chap. VII.]

## **2004/8. Human rights in the occupied Syrian Golan**

*The Commission on Human Rights,*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*49th meeting  
15 April 2004*

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

## **2004/9. Israeli settlements in the occupied Arab territories**

*The Commission on Human Rights,*

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

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



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

*Welcoming* the presentation to the parties by the Quartet\* of the road map to a permanent two-State solution to the Israeli-Palestinian conflict (S/2003/529, annex) and noting the call for a freeze on settlement activity, and taking note of the proposals for an Israeli withdrawal from the Gaza Strip, which could represent a significant step towards the implementation of the road map, provided that it took place in the context of the road map; it was a step towards a two-State solution; it did not involve a transfer of settlement activity to the West Bank; there was an organized and negotiated handover of responsibility to the Palestinian Authority; and Israel facilitated the rehabilitation and reconstruction of Gaza,

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

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

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

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

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

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

2. *Expresses its grave concern* at:

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

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\* The European Union, the Russian Federation, the United Nations and the United States of America.

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

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

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

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

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

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

3. *Urges* the Government of Israel:

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

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

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

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

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

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

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

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

*49th meeting*

*15 April 2004*

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

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

*The Commission on Human Rights,*

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

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

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

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

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

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

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

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

*Recalling* the Vienna Declaration and Programme of Action, adopted in June 1993 by the World Conference on Human Rights (A/CONF.157/23),

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

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

*Gravely concerned* at the continued deterioration of the situation in the Occupied Palestinian Territory and at the gross violations of human rights and international humanitarian law, in particular acts of extrajudicial killing, closures, collective punishments, the persistence in establishing settlements, arbitrary detentions, siege of Palestinian towns and villages, the shelling of Palestinian residential neighbourhoods by warplanes, tanks and Israeli battleships, and incursions into towns, villages and camps to kill innocent men, women and children, as was the case in Jenin, Balata, Khan Younis, Rafah, Ramallah, Gaza, Nablus, Al-Birah, Al-Amari, Jabalia, Bethlehem and Dheisheh and in the Al-Daraj and Al-Zaitoun neighbourhoods in the city of Gaza, and also during recent months in Rafah and in Al-Shajai'ia neighbourhood in Gaza, as well as during the last Israeli massacres in the Al-Nusseirat and Al-Burreij refugee camps in the centre of the Gaza Strip on 7 March 2004,

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

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

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

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

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

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

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

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

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

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

1. *Reaffirms* the legitimate right of the Palestinian people to resist the Israeli occupation in order to free its land and be able to exercise its right to self-determination, in conformity with the goals and purposes stipulated by the Charter of the United Nations;

2. *Strongly condemns* once more the human rights violations of the Israeli occupation authorities in the Occupied Palestinian Territory, including East Jerusalem, since 1967;

3. *Also strongly condemns* the Israeli occupation of the Palestinian territories as being an aggression and an offence against humanity and a flagrant violation of human rights;
4. *Further strongly condemns* the war launched by the Israeli army, particularly since October 2000, against Palestinian towns and camps, which has resulted so far in the death of hundreds of Palestinian civilians, including women and children;
5. *Strongly condemns anew* the practice of “liquidation” or “extrajudicial executions” carried out by the Israeli army against Palestinians, a practice which not only constitutes a violation of human rights norms, a flagrant violation of article 3 of the Universal Declaration of Human Rights and of the rule of law, but which is also damaging for the relationship between the parties and therefore constitutes an obstacle to peace, and urges the Government of Israel to respect international law and immediately to put an end to such practices;
6. *Strongly condemns once again* the establishment of Israeli settlements and other related activities in the Occupied Palestinian Territory, including East Jerusalem, such as the construction of new settlements and the expansion of the existing ones, land confiscation, biased administration of water resources and the construction of bypass roads, which not only constitute grave violations of human rights and international humanitarian law, especially article 49 of the Fourth Geneva Convention and Additional Protocol I thereto, according to which such violations are categorized as war crimes, but are also major obstacles to peace, urges the Government of Israel to implement the relevant United Nations resolutions as well as the resolutions of the Commission on Human Rights relative to the Israeli settlements, and affirms that the dismantling of Israeli settlements constitutes an essential factor for achieving a just, comprehensive and lasting peace in the region;
7. *Condemns once again* the expropriation of Palestinian homes in Jerusalem, Hebron and the rest of the Occupied Palestinian Territory, the revocation of the identity cards of the residents of East Jerusalem and the policy of imposing fabricated and exorbitant taxes with the aim of forcing Palestinians living in Jerusalem, who cannot afford to pay these high taxes, out of their homes and out of their city, with the aim of Judaizing Jerusalem, and calls upon the Government of Israel to put an end immediately to these practices;
8. *Also condemns once again* the use of torture against Palestinians during interrogation, as it constitutes a grave violation of the principles of international humanitarian law, of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and also of article 5 of the Universal Declaration of Human Rights, and calls upon the Government of Israel to put an end immediately to such practices and to bring the perpetrators of these violations to justice;
9. *Strongly condemns once more* the offensives of the Israeli army of occupation against hospitals and sick persons and the use of Palestinian citizens as human shields during Israeli incursions into Palestinian areas;
10. *Also strongly condemns once more* the Israeli army of occupation’s practices of opening fire on ambulances and paramedical personnel and preventing ambulances and vehicles of the International Committee of the Red Cross from reaching the wounded and the dead in order to transport them to hospital, thus leaving the wounded bleeding to death in the streets;

11. *Strongly condemns* acts of mass killing of Palestinians at the hands of the Israeli occupation authorities, including the killing of children, such as recently took place in Nablus, Gaza, Rafah, Al-Nusseirat and Al-Burreij and which persist to this day;
12. *Also strongly condemns* acts that consist of imposing collective punishments, military siege of Palestinian territories, isolating Palestinian towns and villages from each other by military roadblocks used as a trap to kill Palestinians, demolishing houses and levelling agricultural lands, as these practices contribute, together with other factors, to the acts of violence that have prevailed in the region for over three and a half years, and calls upon the Government of Israel immediately to put an end to these practices and to lift its military siege of Palestinian towns and villages and its military roadblocks, and affirms anew that such collective punishments are prohibited under international law, as they constitute grave violations of the provisions of the Fourth Geneva Convention and Additional Protocol I thereto, and are also war crimes;
13. *Expresses its grave concern once again* at the restriction of the freedom of movement imposed by the Israeli occupation authorities on Yasser Arafat, the democratically elected Palestinian President, in violation of articles 9 and 13 of the Universal Declaration of Human Rights;
14. *Strongly condemns* campaigns of massive arrests conducted by the Israeli occupation authorities to detain thousands of Palestinians without trial and without any criminal charges having been brought against them, in violation of article 9 of the Universal Declaration of Human Rights and of the provisions of the Fourth Geneva Convention in this respect;
15. *Affirms anew* that the demolitions carried out by the Israeli occupying forces of at least 30,000 Palestinian houses, facilities and property constitute grave violations of articles 33 and 53 of the Fourth Geneva Convention and that acts of levelling farmlands, uprooting trees and destroying what is left of the Palestinian infrastructure constitute a form of collective punishment to which Palestinians are subjected, grave violations of the provisions of international humanitarian law and war crimes according to international law;
16. *Affirms anew* that the Fourth Geneva Convention is applicable to the Palestinian territories occupied by Israel since 1967, including East Jerusalem, and considers any change in the geographical, demographic and institutional status of the city of East Jerusalem from its status prior to the June 1967 war to be illegal and void;
17. *Calls once again upon* Israel, the occupying Power, to desist from all forms of human rights violations in the Occupied Palestinian Territory, including East Jerusalem, and other occupied Arab territories, and to respect the principles of international law, international humanitarian law, the Universal Declaration of Human Rights, its international commitments and its signed agreements with the Palestine Liberation Organization;
18. *Also calls once again upon* Israel to withdraw from the Palestinian territories occupied since 1967, including East Jerusalem, in accordance with the relevant resolutions of the United Nations and the Commission on Human Rights, as a basic condition for achieving a just, lasting and comprehensive peace in the Middle East;

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

20. *Requests* the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 to investigate Israel's violations of the principles and bases of international law, international humanitarian law and the Geneva Convention relative to the Protection of Civilian Persons in Time of War, and, in his capacity as a monitoring mechanism, to follow up on the implementation of these recommendations and to report thereon to the General Assembly at its fifty-ninth session and to the Commission at its sixty-first session, until the end of the mandate of the Special Rapporteur, as established in Commission resolution 1993/2 A of 19 February 1993;

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

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

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

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

*49th meeting*

*15 April 2004*

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



## **2004/11. Situation of human rights in Cuba**

*The Commission on Human Rights,*

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

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

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

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

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

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

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

*50th meeting*

*15 April 2004*

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

## **2004/12. Situation of human rights in Turkmenistan**

*The Commission on Human Rights,*

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

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

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

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

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

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

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

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

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

1. *Expresses its grave concern* at:

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

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

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

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

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

(f) The poor conditions in prisons in Turkmenistan;

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

3. *Calls upon* the Government of Turkmenistan:

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

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

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

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

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

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

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

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

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

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

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

*50th meeting  
15 April 2004*

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

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

*The Commission on Human Rights,*

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

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

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

*Recalling* its resolution 2003/10 of 16 April 2003,

*Noting* the submission by the Democratic People's Republic of Korea of its second periodic report concerning the implementation of the International Covenant on Economic, Social and Cultural Rights (E/1990/6/Add.35) and its second periodic report on the

implementation of the Convention on the Rights of the Child (CRC/C/65/Add.24) as a sign of more active engagement in international cooperative efforts in the field of human rights, and encouraging the Democratic People's Republic of Korea to continue to submit its reports in a timely manner,

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) By ratifying human rights instruments to which the Democratic People's Republic of Korea is not yet a party, in particular the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention on the Elimination of All Forms of Racial Discrimination, and by implementing its obligations under the human rights instruments to which the Democratic People's Republic of Korea is a party, namely the International Covenant on Economic, Social and Cultural Rights, in particular concerning the right of everyone to be free from hunger, the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child, ensuring that all necessary measures are undertaken to this end;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[For the text, see chap. I, draft decision 5.]

*50th meeting  
15 April 2004*

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

#### **2004/14. Situation of human rights in Belarus**

*The Commission on Human Rights,*

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

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

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

*Recalling* its resolution 2003/14 of 17 April 2003,

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



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

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

1. *Expresses deep concern:*

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

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

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

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

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

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

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

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

2. *Urges* the Government of Belarus:

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

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

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

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

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

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

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

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

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

4. *Insists* that the Government of Belarus cooperate fully with all the mechanisms of the Commission, including by extending invitations to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Representative of the Secretary-General on the situation of human rights defenders, as well as the Working Group on Enforced or Involuntary Disappearances, and through requesting technical assistance;

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

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

*50th meeting*

*15 April 2004*

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

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

*The Commission on Human Rights,*

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

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

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

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

1. *Urges* Governments to refrain from all acts of intimidation or reprisal against:

(a) Those who seek to cooperate or have cooperated with representatives of United Nations human rights bodies, or who have provided testimony or information to them;

(b) Those who avail or have availed themselves of procedures established under United Nations auspices for the protection of human rights and fundamental freedoms and all those who have provided legal assistance to them for this purpose;

(c) Those who submit or have submitted communications under procedures established by human rights instruments;

(d) Those who are relatives of victims of human rights violations;

2. *Condemns* all acts of intimidation or reprisal by Governments against private individuals and groups who seek to cooperate with the United Nations and representatives of human rights bodies;

3. *Requests* all representatives of United Nations human rights bodies, as well as treaty bodies monitoring the observance of human rights, to continue to take urgent steps, in conformity with their mandates, to help prevent the occurrence of such intimidation and reprisals and the hampering of access to United Nations human rights procedures in any way;

4. *Also requests* such representatives and treaty bodies to continue to include in their respective reports to the Commission on Human Rights, the Sub-Commission on the Promotion and Protection of Human Rights or the General Assembly a reference to allegations of intimidation or reprisal and of hampering of access to United Nations human rights procedures, as well as an account of action taken by them in this regard;

5. *Requests* the Secretary-General to draw the attention of such representatives and treaty bodies to the present resolution;

6. *Invites* the Secretary-General to submit to the Commission at its sixty-first session a report containing a compilation and analysis of any available information, from all appropriate sources, on alleged reprisals against the persons referred to in paragraph 1 above;

7. *Decides* to consider the question again at its sixty-first session.

*50th meeting*

*15 April 2004*

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

**2004/16. Inadmissibility of certain practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance**

*The Commission on Human Rights,*

*Guided* by the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and other relevant human rights instruments,

*Recalling* the Charter of the Nürnberg Tribunal and the Judgment of the Tribunal, which recognized the Waffen SS organization and all its integral parts as criminal and declared it responsible for many war crimes and crimes against humanity,

*Recalling also* the relevant provisions of the Durban Declaration and Programme of Action adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance on 8 September 2001 (A/CONF.189/12 and Corr.1),

*Taking note* of the study undertaken by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (E/CN.4/2004/61),

*Alarmed*, in this regard, at the spread in many parts of the world of various extremist political parties, movements and groups, including neo-Nazis and skinheads,

1. *Reaffirms* the provision of the Durban Declaration, in which States condemned the persistence and resurgence of neo-Nazism, neo-Fascism and violent nationalist prejudice and stated that these phenomena could never be justified in any instance or in any circumstances;

2. *Expresses deep concern* over the fact of the glorification of former members of the Waffen SS organization, in particular, erecting monuments and memorials as well as holding public demonstrations of former SS members;

3. *Stresses* that the practices described above do injustice to the memory of the countless victims of the SS organization and poison the minds of young people, and that these practices are incompatible with the obligations of States Members of the United Nations under its Charter and detrimental to the goals and principles of the Organization;

4. *Also stresses* that such practices fuel contemporary forms of racism, racial discrimination, xenophobia and related intolerance and contribute to the spread and multiplication of various extremist political parties, movements and groups, including neo-Nazis and skinheads;

5. *Emphasizes* the need to take the necessary measures to put an end to the practices described above;

6. *Requests* the Special Rapporteur to reflect on this issue and to make relevant recommendations in his report to the Commission at its sixty-first session, taking into account the views of Governments as well as non-governmental organizations;

7. *Invites* Governments as well as non-governmental organizations to cooperate fully with the Special Rapporteur in the exercise of the aforementioned task;

8. *Decides* to consider this issue at its sixty-first session under the same agenda item.

*51st meeting  
16 April 2004*

[Adopted by a recorded vote of 36 votes to 13,  
with 4 abstentions. See chap. VI.]

**2004/17. Adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights**

*The Commission on Human Rights,*

*Guided* by the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights and the Vienna Declaration and Programme of Action, particularly on the question of the human rights of everyone to life, the enjoyment of the highest attainable standard of physical and mental health and other human rights affected by the illicit movement and dumping of toxic and dangerous products, including the rights to water, food, adequate housing and work,

*Recalling* its earlier resolutions on the subject, in particular, resolution 2003/20 of 22 April 2003,

*Taking into consideration* the Johannesburg Declaration on Sustainable Development (A/CONF. 199/20 and Corr.1, chap. I, resolution 1, annex) and Plan of Implementation (ibid. resolution 2, annex), adopted by the World Summit on Sustainable Development held in Johannesburg, South Africa, in September 2002,

*Welcoming* the entry into force of the Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade as a key instrument providing States with a major tool to reduce the risks associated with pesticide use,

*Affirming* that the illicit movement and dumping of toxic and dangerous products and wastes constitute a serious threat to human rights, including the rights to life, the enjoyment of the highest attainable standard of physical and mental health and other human rights affected by the illicit movement and dumping of toxic and dangerous products, including the rights to water, food, adequate housing and work, particularly of individual developing countries that do not have the technologies to process them,

*Noting* that the Stockholm Convention on Persistent Organic Pollutants has the potential to address serious issues of concern, especially for developing countries,

*Reaffirming* that the international community must treat all human rights in a fair and equal manner, on the same footing and with the same emphasis,

*Reiterating* that all human rights are universal, indivisible, interdependent and interrelated,

*Reaffirming* General Assembly resolution 50/174 of 22 December 1995 on strengthening of United Nations action in the field of human rights through the promotion of international cooperation and the importance of non-selectivity, impartiality and objectivity,

*Mindful* of the call by the World Conference on Human Rights on all States to adopt and vigorously implement existing conventions relating to the dumping of toxic and dangerous products and wastes and to cooperate in the prevention of illicit dumping,

*Aware* of the increasing rate of illicit movement and dumping by transnational corporations and other enterprises from industrialized countries of hazardous and other wastes in developing countries that do not have the national capacity to deal with them in an environmentally sound manner,

*Aware also* that many developing countries do not have the national capacities and technologies to process such wastes in order to eradicate or diminish their adverse effects on human rights, including the right to life, the enjoyment of the highest attainable standard of physical and mental health, and other human rights affected by the illicit movement and dumping of toxic and dangerous products, including the rights to water, food, adequate housing and work,

1. *Takes note* of the report of the Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights (E/CN.4/2004/46 and Corr.1, and Add.1, and Add.1/Corr.1, and Add.2 and 3);
2. *Appreciates* the efforts made by the Special Rapporteur in carrying out her mandate in the face of very limited financial resources;
3. *Categorically condemns* the illicit dumping of toxic and dangerous products and wastes in developing countries;
4. *Reaffirms* that illicit traffic in and dumping of toxic and dangerous products and wastes constitute a serious threat to human rights, including the right to life, the enjoyment of the highest attainable standard of physical and mental health and other human rights affected by the illicit movement and dumping of toxic and dangerous products, including the rights to water, food, adequate housing and work;
5. *Urges* all Governments to take appropriate legislative and other measures, in line with their international obligations, to prevent the illegal international trafficking in toxic and hazardous products and wastes, the transfer of toxic and hazardous products and wastes through fraudulent waste-recycling programmes, and the transfer of polluting industries, industrial activities and technologies, which generate hazardous wastes, from developed to developing countries;
6. *Invites* the United Nations Environment Programme, the secretariats for the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Pesticides in International Trade, the Commission on Sustainable Development, the International Register of Potentially Toxic Chemicals, the Food and Agriculture Organization of the United Nations, the International Labour Organization, the World Health Organization and regional organizations to continue to intensify their coordination and international cooperation and technical assistance on environmentally sound management of toxic chemicals and hazardous wastes, including the question of their transboundary movement;
7. *Requests* the Governments of developed countries, together with international financial institutions, to provide financial assistance to African countries for the implementation of the Programme of Action adopted at the First Continental Conference for Africa on the Environmentally Sound Management of Unwanted Stocks of Hazardous Wastes and Their Prevention, held in Rabat, from 8 to 12 January 2001;

8. *Expresses its appreciation* to the relevant United Nations bodies, in particular the United Nations Environment Programme and the secretariat for the Basel Convention, for the support extended to the Special Rapporteur and urges them and the international community to continue to give him/her the necessary support to enable him/her to discharge his/her mandate;

9. *Urges* the international community and the relevant United Nations bodies, in particular the United Nations Environment Programme and the secretariat for the Basel Convention, to continue to give appropriate support to developing countries, upon their request, in their efforts to implement the provisions of existing international and regional instruments controlling the transboundary movement and dumping of toxic and dangerous products and wastes in order to protect and promote human rights, including the right to life, the enjoyment of the highest attainable standard of physical and mental health and other human rights affected by the illicit movement and dumping of toxic and dangerous products, including the rights to water, food, adequate housing and work;

10. *Urges* all Governments to ban the export of toxic and dangerous products, substances, chemicals, pesticides and persistent organic pollutants that are banned or severely restricted in their own countries;

11. *Calls upon* countries that have not done so to consider ratifying the Rotterdam Convention;

12. *Urges* States to strengthen the role of national environmental protection agencies and non-governmental organizations, local communities and associations, trade unions, workers and victims, and provide them with the legal and financial means to take necessary action;

13. *Urges* human rights bodies to be more systematic in addressing violations of rights associated with the practices of multinational companies, toxic waste and other environmental problems;

14. *Decides* to extend the mandate of the Special Rapporteur for a further three years;

15. *Urges* the Special Rapporteur to continue to undertake, in consultation with the relevant United Nations bodies, organizations and the secretariats of relevant international conventions, a global, multidisciplinary and comprehensive study of existing problems and new trends of, and solutions to, illicit traffic in and dumping of toxic and dangerous products and wastes, in particular in developing countries, with a view to making concrete recommendations and proposals on adequate measures to control, reduce and eradicate these phenomena;

16. *Invites* the Special Rapporteur, in accordance with his/her mandate, to include in his/her report to the Commission at its sixty-first session comprehensive information on:

(a) Persons killed, maimed or otherwise injured in developing countries through the illicit movement and dumping of toxic and dangerous products and wastes;



(b) The question of the impunity of the perpetrators of these heinous crimes, including racially motivated discriminatory practices, and to recommend measures to bring them to an end;

(c) The question of rehabilitation of and assistance to victims;

(d) The scope of national legislation in relation to transboundary movement and dumping of toxic and dangerous products and wastes;

(e) The question of fraudulent waste-recycling programmes, the transfer of polluting industries, industrial activities and technologies from the developed to developing countries and their new trends, including e-waste and dismantling of ships, ambiguities in international instruments that allow illegal movement and dumping of toxic and dangerous products and wastes, and any gaps in the effectiveness of the international regulatory mechanisms;

17. *Encourages* the Special Rapporteur, in accordance with his/her mandate and with the support and assistance of the Office of the United Nations High Commissioner for Human Rights, to continue to provide Governments with an appropriate opportunity to respond to allegations transmitted to her/him and reflected in her report, and to have their observations reflected in her report to the Commission;

18. *Reiterates its call* to the Secretary-General to continue to make all necessary resources available for the Special Rapporteur to carry out his/her mandate successfully and, in particular:

(a) To provide him/her with adequate financial and human resources, including administrative support;

(b) To provide him/her with the necessary specialized expertise to enable him/her to carry out his/her mandate fully;

(c) To facilitate his/her consultations with specialized institutions and agencies, in particular with the United Nations Environment Programme and the World Health Organization, with a view to improving the provision by such institutions and agencies of technical assistance to Governments which request it and appropriate assistance to victims;

19. *Decides* to continue consideration of this question at its sixty-first session, under the same agenda item;

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

[For the text, see chap. I, draft decision 7.]

*51st meeting  
16 April 2004*

[Adopted by a recorded vote of 38 votes to 13,  
with 2 abstentions. See chap. X.]

**2004/18. Effects of structural adjustment policies and foreign debt on the full enjoyment of all human rights, particularly economic, social and cultural rights**

*The Commission on Human Rights,*

*Recalling* its previous resolutions on this matter, in particular resolution 2003/21 of 22 April 2003,

*Recalling also* that the purpose of the Universal Declaration of Human Rights is the full promotion and protection of human rights and fundamental freedoms, that everyone is entitled to a social and international order in which the rights and freedoms set forth in the Universal Declaration can be fully realized and that in the United Nations Millennium Declaration all States resolved to respect fully and uphold the Universal Declaration of Human Rights,

*Stressing* 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,

*Emphasizing* that the World Conference on Human Rights agreed to call upon the international community to make all efforts to help alleviate the external debt burden of developing countries in order to supplement the efforts of the Governments of such countries to attain the full realization of economic, social and cultural rights of their people,

*Stressing* the determination expressed in the Millennium Declaration to deal comprehensively and effectively with the debt problems of low- and middle-income developing countries, through various national and international measures designed to make their debt sustainable in the long term,

*Noting* that the total debt stock of the developing countries rose from 1,421 billion United States dollars in 1990 to 2,384 billion dollars in 2002,

*Noting also* that, in 2002, developing countries as a whole made net outward transfers of financial resources for the sixth consecutive year,

*Acknowledging* that there is greater acceptance that the increasing debt burden faced by the most indebted developing countries, in particular the least developed countries, is unsustainable and constitutes one of the principal obstacles to achieving progress in people-centred sustainable development and poverty eradication and that for many developing countries, as well as countries with economies in transition, excessive debt servicing has severely constrained their capacity to promote social development and provide basic services to realize economic, social and cultural rights,

*Expressing its concern* that, despite repeated rescheduling of debt, developing countries continue to pay out more each year than the actual amount they receive in official development assistance,

1. *Takes note* of the report of the independent expert on the effects of structural adjustment policies and foreign debt on the full enjoyment of human rights, particularly economic, social and cultural rights (E/CN.4/2004/47 and Add.1 and 2), and stresses that

structural adjustment reform programmes have serious implications for the ability of the developing countries to abide by the Declaration on the Right to Development and to formulate national development policies that aim to improve the economic, social and cultural rights of their citizens;

2. *Recognizes* that the structural adjustment reform programmes limit public expenditure, imposing fixed expenditure ceilings, and give inadequate attention to the provision of social services, and that only a few countries manage to achieve sustainable higher growth under these programmes;

3. *Expresses its concern* at the fact that the options for macroeconomic policy of developing countries are constrained by demands for adjustment and that many countries, particularly in sub-Saharan Africa, still carry very high external debt burdens relative to their gross national product;

4. *Also expresses its concern* that the majority of countries that reached the intermediate phase under the Heavily Indebted Poor Countries Initiative have yet to reach the final stage and that even for countries meeting all the criteria, the Initiative may not result in a sustainable debt burden;

5. *Recognizes* that for the heavily indebted poor countries to achieve debt sustainability, long-term growth and poverty reduction goals, the debt relief under the Initiative will not be sufficient and that additional resource transfers in the form of grants and concessional loans, as well as removal of trade barriers and better prices for their exports, would be required to ensure sustainability and permanent exit from debt overhang;

6. *Regrets* that up till now there has been little headway made in redressing the unfairness of the current system of debt resolution, which continues to place the interests of the lenders above those of indebted countries and the poor within them, and therefore calls for an intensification of efforts to devise effective and equitable mechanisms;

7. *Acknowledges* that a lot of progress remains to be achieved towards a lasting solution to the debt problems of developing countries, in particular the least developed countries, and that in several low- and middle-income countries unsustainable levels of external debt continue to create a considerable barrier to economic and social development and increase the risk that the Millennium Development Goals regarding development and poverty reduction will not be attained;

8. *Recognizes* that debt relief can play a key role in liberating resources that should be directed towards activities consistent with attaining sustainable growth and development, including poverty reduction and the achievement of the development goals set out in the Millennium Declaration, and therefore that debt relief measures, where appropriate, should be pursued vigorously and expeditiously, ensuring that they do not replace alternative sources of financing and that they are accompanied by an increase in official development assistance;

9. *Recalls once again*, the call on industrialized countries, as expressed in the Millennium Declaration, to implement the enhanced programme of debt relief for the heavily indebted poor countries without further delay and to agree to cancel all official bilateral debts of those countries in return for their making demonstrable commitments to poverty reduction;

10. *Calls upon* the international community, including the United Nations system, and the Bretton Wood institutions, as well as the private sector, to take appropriate measures and actions for the implementation of the commitments, agreements and decisions of the major United Nations conferences and summits, including the World Conference on Human Rights and the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, in particular those relating to the question of the external debt problem of developing countries, and in this regard stresses the need:

(a) To implement speedily, effectively, fully and with continued flexibility with respect to the eligibility criteria, the enhanced Heavily Indebted Poor Countries Initiative, which should be fully financed through additional resources, taking into consideration, as appropriate, measures to address any fundamental changes in the economic circumstances of those developing countries that have an unsustainable debt burden caused by natural catastrophes, severe terms-of-trade shocks or conflict, taking into account initiatives which have been undertaken to reduce outstanding indebtedness;

(b) To encourage exploring innovative mechanisms to address comprehensively the debt problems of developing countries, in particular of the least developed countries and including middle-income countries and countries with economies in transition;

11. *Recalls* the pledge, contained in the Political Declaration contained in the annex to resolution S-24/2, adopted on 1 July 2000 by the General Assembly at its twenty-fourth special session, to find effective, equitable, development-oriented and durable solutions to the external debt and debt-servicing burdens of developing countries;

12. *Also recalls* the conclusion of the statement on poverty and the International Covenant on Economic, Social and Cultural Rights, adopted by the Committee on Economic, Social and Cultural Rights on 4 May 2001, that some of the structural obstacles confronting developing States' anti-poverty strategies lie beyond their control in the contemporary international order and that it is imperative that measures be taken urgently to remove these global structural obstacles, such as unsustainable foreign debt, the widening gap between rich and poor, and the absence of an equitable multilateral trade, investment and financial system; otherwise, the national anti-poverty strategies of some States have limited chance of sustainable success;

13. *Stresses* the need for the economic programmes arising from foreign debt to be country-driven, with the participation of people's legislative bodies and human rights institutions, and for their macroeconomic and financial policy issues to be integrated, on an equal footing and in a consistent way, in the realization of the broader social development goals, taking into account the national context, priorities and needs of the debtor countries to allocate resources in a way that ensures balanced development conducive to the overall realization of human rights;

14. *Also stresses* that the economic programmes arising from foreign debt relief and cancellation must not reproduce past structural adjustment policies that have not worked, such as dogmatic demands for privatization and reduced public services;

15. *Calls upon* States, the International Monetary Fund and the World Bank to continue to cooperate closely to ensure that additional resources made available through the Heavily Indebted Poor Countries Initiative, the Global Fund to Fight AIDS, Tuberculosis and Malaria and other new initiatives are absorbed in the recipient countries without affecting the ongoing programmes;
16. *Affirms* that the exercise of the basic rights of the people of debtor countries to food, housing, clothing, employment, education, health services and a healthy environment cannot be subordinated to the implementation of structural adjustment policies, growth programmes and economic reforms arising from the debt;
17. *Requests* the independent expert to explore further, in his analytical annual report to the Commission, the interlinkages with trade and other issues, including HIV/AIDS, when examining the impact of structural adjustment and foreign debt and also to contribute, as appropriate, to the process entrusted with the follow-up to the International Conference on Financing for Development, with a view to bringing to its attention the issue of the effects of structural adjustment and foreign debt on the enjoyment of human rights, particularly economic, social and cultural rights;
18. *Also requests* the independent expert, in the discharge of his mandate, to draft general guidelines to be followed by States and by private and public, national and international financial institutions in the decision-making and execution of debt repayments and structural reform programmes, including those arising from foreign debt relief, to ensure that compliance with the commitments derived from foreign debt will not undermine the obligations for the realization of fundamental economic, social and cultural rights, as provided for in the international human rights instruments, and to present a preliminary draft on this matter to the Commission at its sixty-first session and a final draft at the sixty-second session of the Commission;
19. *Requests* the Secretary-General to provide the independent expert with all necessary assistance, in particular the staff and resources required to carry out his functions;
20. *Urges* Governments, international organizations, international financial institutions, non-governmental organizations and the private sector to cooperate fully with the independent expert in the discharge of his mandate;
21. *Urges* States, international financial institutions and the private sector to take urgent measures to alleviate the debt problem of those developing countries particularly affected by HIV/AIDS, so that more financial resources can be released and used for health care, research and treatment of the population in the affected countries;
22. *Reiterates its view* that, in order to find a durable solution to the debt problem and for the consideration of any new debt resolution mechanism, there is a need for a broad political dialogue between creditor and debtor countries and the multilateral financial institutions, within the United Nations system, based on the principle of shared interests and responsibilities;

23. *Reiterates its request* to the United Nations High Commissioner for Human Rights to pay particular attention to the problem of the debt burden of developing countries, in particular of the least developed countries, and especially the social impact of the measures arising from foreign debt;

24. *Decides* to continue the consideration of this matter at its sixty-first session under the same agenda item.

*51st meeting*

*16 April 2004*

[Adopted by a recorded vote of 29 votes to 14,  
with 10 abstentions. See chap. X.]

## **2004/19. The right to food**

*The Commission on Human Rights,*

*Recalling* the Universal Declaration of Human Rights, which provides that everyone has the right to a standard of living adequate for her/his health and well-being, including food,

*Recalling also* the provisions of the International Covenant on Economic, Social and Cultural Rights in which the fundamental right of every person to be free from hunger is recognized,

*Recalling further* the Universal Declaration on the Eradication of Hunger and Malnutrition as well as the United Nations Millennium Declaration,

*Bearing in mind* the Rome Declaration on World Food Security and the Plan of Action of the World Food Summit, held in Rome from 13 to 17 November 1996, and bearing in mind also the Declaration of the World Food Summit: five years later - International Alliance against Hunger, held in Rome from 10 to 13 June 2002,

*Recalling* all its previous resolutions in this regard, in particular resolution 2003/25 of 22 April 2003,

*Recognizing* that the problem of hunger and food insecurity has global dimensions and that they are likely to persist and even to increase dramatically in some regions unless urgent, determined and concerted action is taken, given the anticipated increase in the world's population and the strain on natural resources,

*Reaffirming* that a peaceful, stable and enabling political, social and economic environment, both at a national and an international level, is the essential foundation which will enable States to give adequate priority to food security and poverty eradication,

*Reiterating*, as did the Rome Declaration as well as the Declaration of the World Food Summit: five years later, that food should not be used as an instrument of political or economic pressure, and reaffirming in this regard the importance of international cooperation and solidarity, as well as the necessity of refraining from unilateral measures not in accordance with international law and the Charter of the United Nations which endanger food security,

*Convinced* that each State must adopt a strategy consistent with its resources and capacities to achieve its individual goals in implementing the recommendations contained in the Rome Declaration and Plan of Action of the World Summit and, at the same time, cooperate regionally and internationally in order to organize collective solutions to global issues of food security in a world of increasingly interlinked institutions, societies and economies, where coordinated efforts and shared responsibilities are essential,

*Stressing* the importance of reversing the continuing decline of official development assistance devoted to agriculture and rural development, both in real terms and as a share of total official development assistance,

*Reaffirming* that all human rights are universal, indivisible and interdependent and interrelated,

1. *Reaffirms* that hunger constitutes an outrage and a violation of human dignity and, therefore, requires the adoption of urgent measures at the national, regional and international levels for its elimination;

2. *Also reaffirms* the right of everyone to have access to safe and nutritious food, consistent with the right to adequate food and the fundamental right of everyone to be free from hunger so as to be able fully to develop and maintain their physical and mental capacities;

3. *Considers* it intolerable that there are around 840 million undernourished people in the world and that every seven seconds a child under the age of 10 dies, directly or indirectly, of hunger somewhere in the world when, according to the Food and Agriculture Organization of the United Nations, the world produces more than enough food to feed its entire population;

4. *Stresses* the need to make efforts to mobilize and optimize the allocation and utilization of technical and financial resources from all sources, including external debt relief for developing countries, to reinforce national actions to implement sustainable food security policies;

5. *Recognizes* that the promises made at the World Food Summit in 1996 to halve the number of undernourished persons are not being fulfilled, and invites once again all international financial and developmental institutions, as well as the relevant United Nations agencies and funds, to give priority and provide necessary funding to realize the aim to halve by the year 2015 the proportion of people who suffer from hunger, as well as the right to food;

6. *Encourages* all States to take steps with a view to achieving progressively the full realization of the right to food, including steps to promote the conditions for everyone to be free from hunger and as soon as possible enjoy fully the right to food, as well as to elaborate and adopt national plans to combat hunger;

7. *Requests* all States and private actors, as well as international organizations within their respective mandates, to take fully into account the need to promote the effective realization of the right to food for all, including in the ongoing negotiations in different fields;

8. *Takes note with interest* of the report of the Special Rapporteur on the right to food (E/CN.4/2004/10 and Add.1 and 2) and commends the Special Rapporteur for his valuable work in the promotion of the right to food in all parts of the world;

9. *Expresses its appreciation* to the Special Rapporteur for his effective contribution to the follow-up process of the World Food Summit: five years later;

10. *Encourages* all States to engage actively in the ongoing negotiations of the intergovernmental working group on the elaboration of a set of voluntary guidelines on the progressive realization of the right to adequate food and also encourages the Special Rapporteur to continue mainstreaming a gender perspective in the fulfilment of his mandate;

11. *Requests* the United Nations High Commissioner for Human Rights to provide all necessary human and financial resources for the effective fulfilment of the mandate of the Special Rapporteur;

12. *Welcomes* the work already done by the Committee on Economic, Social and Cultural Rights in promoting the right to adequate food, in particular its general comment No. 12 (1999) on the right to adequate food (art. 11 of the International Covenant on Economic, Social and Cultural Rights), in which the Committee affirmed, inter alia, that the right to adequate food is indivisibly linked to the inherent dignity of the human person and is indispensable for the fulfilment of other human rights enshrined in the International Bill of Human Rights and is also inseparable from social justice, requiring the adoption of appropriate economic, environmental and social policies, at both the national and international levels, oriented to the eradication of poverty and the fulfilment of all human rights for all;

13. *Takes note* of general comment No. 15 (2002) on the right to water (arts. 11 and 12 of the Covenant) adopted by the Committee on Economic, Social and Cultural Rights, in which the Committee notes, inter alia, the importance of ensuring sustainable water resources for human consumption and agriculture in the realization of the right to adequate food;

14. *Requests* the Special Rapporteur to submit a report to the General Assembly at its fifty-ninth session and to report to the Commission at its sixty-first session on the implementation of the present resolution;

15. *Invites* Governments, relevant United Nations agencies, funds and programmes, treaty bodies, civil society actors, including non-governmental organizations, as well as the private sector, to cooperate fully with the Special Rapporteur in the fulfilment of his mandate, inter alia through the submission of comments and suggestions on ways and means of realizing the right to food;

16. *Decides* to continue its consideration of this matter at its sixty-first session, under the same agenda item.

*51st meeting  
16 April 2004*

[Adopted by a recorded vote of 51 votes to 1,  
with 1 abstention. See chap. X.]



**2004/20. Promotion of the enjoyment of the cultural rights of everyone and respect for different cultural identities**

*The Commission on Human Rights,*

*Recalling* the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights, as well as other pertinent human rights instruments,

*Recalling also* its resolution 2003/26 of 22 April 2003,

*Noting* that numerous declarations within the United Nations system promote respect for cultural diversity, as well as for international cultural cooperation, in particular the Declaration of the Principles of International Cultural Cooperation and the United Nations Educational, Scientific and Cultural Organization Universal Declaration on Cultural Diversity, adopted by its General Conference in 1966 and 2001 respectively,

*Emphasizing* the responsibilities of all States, in conformity with the Charter of the United Nations, to develop and encourage respect for human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion,

*Stressing* the importance of the promotion of the cultural rights of everyone and of respect for different cultural identities,

*Convinced* that international cooperation in promoting and encouraging respect for human rights and fundamental freedoms for all should be based on a profound understanding of the variety of problems existing in different societies, on full respect for their economic, social and cultural realities and on the full realization and recognition of the universality of all human rights and the principles of freedom, justice, equality and non-discrimination,

*Reaffirming* the interdependence and the mutually reinforcing nature of democracy, development and respect for human rights and fundamental freedoms,

*Reaffirming also* that cultural diversity is a cherished asset for the advancement and welfare of humanity at large and should be valued, enjoyed, genuinely accepted and embraced as a permanent feature which enriches our societies,

*Recalling* the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, adopted on 14 November 1970 by the General Conference of the United Nations Educational, Scientific and Cultural Organization, and the Convention on Stolen or Illegally Exported Cultural Objects, adopted on 24 June 1995 by the International Institute for the Unification of Private Law,

*Aware* of the importance attached by the countries of origin to the return of cultural property which is of fundamental spiritual and cultural value to them, so that they may constitute collections representative of their cultural heritage,

*Expressing its concern* about the illicit traffic of cultural property and its damage to the cultural heritage of nations,

*Expressing its determination* to prevent and mitigate cultural homogenization in the context of globalization, through increased intercultural exchange guided by the promotion and protection of cultural diversity,

1. *Reaffirms* that cultural rights are an integral part of human rights, which are universal, indivisible and interdependent;
2. *Reiterates* that everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits;
3. *Also reiterates* that everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he/she is the author;
4. *Affirms* that each culture has a dignity and value which must be respected and preserved and that every people has the right and the duty to develop its culture;
5. *Recognizes* that States have the primary responsibility for the promotion of the full enjoyment of cultural rights by everyone and for the enhancement of respect for different cultural identities;
6. *Stresses* that cultural cooperation shall contribute to the establishment of stable, long-term relations between peoples, which should be subjected as little as possible to the strains which may arise in international life;
7. *Recognizes* that the promotion and protection of the full enjoyment of cultural rights by everyone and the respect for different cultural identities are vital elements for the protection of cultural diversity in the context of the ongoing process of globalization;
8. *Reaffirms* that all peoples have the right of self-determination, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development;
9. *Underlines* the importance of cultural cooperation for all peoples and all nations, which should share with one another their knowledge and skills, and that international cooperation, while promoting the enrichment of all cultures through its beneficent action, should respect the distinctive character of each;
10. *Emphasizes* that cultural cooperation is especially concerned with the moral and intellectual education of young people in a spirit of friendship, international understanding and peace and should foster awareness among States of the need to stimulate talent and promote the training of the rising generations in the most varied sectors;
11. *Recognizes* that the promotion and protection of cultural diversity imply a commitment to human rights and fundamental freedoms guaranteed by international law and advances the application and the enjoyment of cultural rights by everyone;
12. *Also recognizes* that broad dissemination of ideas and knowledge, based on the freest exchange and discussion, is essential to creative activity, the pursuit of truth and the development of the personality of everyone and the identity of all peoples;

13. *Further recognizes* that the promotion of the cultural rights of everyone, of respect for the distinct cultural identities of peoples and of protection of the cultural diversity of humanity advances the implementation and enjoyment of all human rights by all;

14. *Stresses* that, in the face of current imbalances in flows and exchanges of cultural goods and services at the global level, it is necessary to reinforce international cooperation and solidarity aimed at enabling all countries, especially developing countries and countries in transition, to establish cultural industries that are viable and competitive at national and international levels;

15. *Underlines* that market forces alone cannot guarantee the preservation and promotion of cultural diversity, which is the key to sustainable human development, and from this perspective recognizes that the pre-eminence of public policy, in partnership with the private sector and civil society, must be reaffirmed;

16. *Calls upon* States and intergovernmental and non-governmental organizations to take appropriate measures and action for the implementation of the present resolution;

17. *Expresses its appreciation* to States and intergovernmental organizations that responded to the consultations held pursuant to its resolutions 2002/26 of 22 April 2002 and 2003/26;

18. *Recognizes* the need to seek the views of a larger number of States and intergovernmental and non-governmental organizations on the possibility of establishing a thematic procedure the basis of whose mandate would be the comprehensive implementation of the present resolution;

19. *Underlines* that the objective of the proposal for the establishment of a thematic procedure on the promotion of the enjoyment of the cultural rights of everyone and respect for different cultural identities is not to develop a new monitoring mechanism, but the appointment of an independent expert who could elaborate voluntary guidelines and concrete proposals and recommendations on the implementation of the present resolution, taking into account the work already done in this field by other bodies, organs and organizations of the United Nations system;

20. *Requests* the United Nations High Commissioner for Human Rights to consult States and intergovernmental and non-governmental organizations on the possibility of establishing a thematic procedure the basis of whose mandate would be the comprehensive implementation of the present resolution, and to report on the results of those consultations to the Commission at its sixty-first session;

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

*51st meeting  
16 April 2004*

[Adopted by a recorded vote of 38 votes to 1,  
with 14 abstentions. See chap. X.]

**2004/21. Adequate housing as a component of the right to an adequate standard of living**

*The Commission on Human Rights,*

*Recalling* its resolution 2003/27 of 22 April 2003, as well as its resolution 2003/22 of 22 April 2003 on women's equal ownership of, access to and control over land and the equal rights to own property and to adequate housing,

*Recalling also* the human rights related to housing enshrined in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child,

*Noting* the work of the United Nations treaty bodies, in particular of the Committee on Economic, Social and Cultural Rights, in the promotion of the rights related to adequate housing,

*Recognizing* that adequate shelter is a vital element for achieving socially, economically and environmentally sustainable development, as stated in the Plan of Implementation of the World Summit on Sustainable Development held in Johannesburg, South Africa, in September 2002 (A/CONF.199/20 and Corr.1, chap. I, resolution 2, annex), and in the Istanbul Declaration on Human Settlements, adopted in June 1996 by the second United Nations Conference on Human Settlements (Habitat II) (A/CONF.165/14, chap. I, resolution 1, annex D), and recalling the resolve of the heads of State and Government expressed in the United Nations Millennium Declaration to have achieved, by 2020, a significant improvement in the lives of at least 100 million slum-dwellers,

*Recognizing also* that adequate housing is a key element for fostering family integration, contributing to social equity and strengthening of the feeling of belonging, security and human solidarity, as stated in the outcome document of the twenty-seventh special session of the General Assembly on children, entitled "A world fit for children", annexed to its resolution S-27/2 of 10 May 2002, and welcoming the commitment stated in the document to attach high priority to overcoming the housing shortage and other infrastructure needs, particularly for children in marginalized peri-urban and remote rural areas,

*Concerned* that any deterioration in the general housing situation disproportionately affects the poor, as well as women and children, and members of groups requiring special protection,

*Noting* that persons with disabilities have particular needs in regard to, inter alia, the full and equal realization of adequate housing as a component of the right to an adequate standard of living, and welcoming in this respect the work of the Ad Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities as a contribution to promoting and raising the visibility of the rights and dignity of persons with disabilities,

1. *Reaffirms* the principles and commitments with regard to adequate housing enshrined in the relevant provisions of declarations and programmes adopted by major United Nations conferences and summits and special sessions of the General Assembly and their follow-up meetings, inter alia, the Istanbul Declaration on Human Settlements and the Habitat Agenda (A/CONF.165/14), as well as in the Declaration on Cities and Other Human Settlements in the New Millennium adopted at the twenty-fifth special session of the General Assembly and annexed to its resolution S-25/2 of 9 June 2001;

2. *Recognizes* that good governance, within each country and at the international level, and democracy and respect for the rule of law and human rights are essential in order to achieve the progressive realization of the right to an adequate standard of living, including adequate housing, and reiterates in this regard the importance of, inter alia, infrastructure and services, particularly those related to water, sanitation, health, transportation and energy, as well as security of tenure and the principle of non-discrimination in the context of housing;

3. *Calls upon* all States:

(a) To give full effect to housing rights, including through domestic development policies at the appropriate level of government and with international assistance and cooperation, giving particular attention to the individuals, most often women and children, and communities living in extreme poverty, and to security of tenure;

(b) To ensure the observance of all their legally binding national standards in the area of housing in accordance with their obligations under international human rights law;

(c) To protect all persons from forced evictions that are contrary to the law, taking human rights into consideration, and to provide legal protection and redress for such forced evictions;

(d) Without discrimination of any kind as to race, colour, sex, language, religion, disability, political or other opinion, national or social origin, property, birth or other status:

(i) To counter social exclusion and marginalization of people who suffer from discrimination on multiple grounds, in particular by ensuring non-discriminatory access to adequate housing for indigenous people and persons belonging to minorities;

(ii) To promote participation in decision-making processes and inclusion of relevant stakeholders in the planning stage of urban development, in particular at the local level, when developing an adequate standard of living and housing;

(iii) To promote residential integration of all members of society at the planning stage of urban development schemes and other human settlements, as well as while renewing neglected areas of public housing, so as to counter social exclusion and marginalization;

- (iv) To pay appropriate attention to the rights and needs of persons with disabilities in the context of adequate housing, including the removal of barriers and obstacles, and to consider taking these issues into account in fulfilling their reporting obligations under international human rights instruments;
- (v) To enable women to obtain affordable housing and access to land by, among other things, removing all obstacles to access, with special emphasis on meeting the needs of women, especially those living in poverty and female heads of household;

(e) To cooperate with the Special Rapporteur, and to submit to the Special Rapporteur information on different national experiences, notably on best practices, in areas related to his mandate;

4. *Takes note* of the report of the Special Rapporteur (E/CN.4/2004/48 and Add.1-3) and of relevant parts of the report of the Secretary-General on economic, social and cultural rights (E/CN.4/2004/38);

5. *Encourages* the Special Rapporteur to strengthen the integration of the rights relevant to his mandate into the Global Campaign for Secure Tenure launched by the United Nations Human Settlements Programme (UN-Habitat) and into other operational activities of the United Nations system, notably into processes and initiatives that are oriented towards poverty reduction, and to develop to this effect a dialogue with Governments, relevant United Nations bodies, in particular UN-Habitat and the Office of the United Nations High Commissioner for Refugees, specialized agencies, international organizations, non-governmental organizations and international financial institutions;

6. *Requests* the Special Rapporteur, in the fulfilment of his mandate:

(a) To give particular emphasis to practical solutions with regard to the implementation of the rights relevant to his mandate, on the basis of pertinent information, notably on best practices, including on domestic legal enforcement of these rights, from Governments, relevant United Nations agencies and non-governmental organizations;

(b) To facilitate the provision of technical assistance;

(c) To pay specific attention to the rights and needs of persons with disabilities in the context of housing, and encourages him to contribute to the work of the Ad Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities by bringing to its attention the obstacles encountered by persons with disabilities in the context of housing;

7. *Also requests* the Special Rapporteur, within the limits of his mandate:

(a) To continue to review the interrelatedness of adequate housing as a component of the right to an adequate standard of living with other human rights;

- (b) To continue to apply a gender perspective in his work;
- (c) To submit reports to the Commission at its sixty-first and sixty-second sessions;

8. *Requests* the United Nations High Commissioner for Human Rights to support cooperation between the Special Rapporteur and other special procedures and members and chairpersons of working groups of the Commission and United Nations bodies, including human rights treaty bodies, that are relevant to the mandate of the Special Rapporteur;

9. *Welcomes* the joint work of the Office of the United Nations High Commissioner for Human Rights and UN-Habitat in developing a joint United Nations Housing Rights Programme and invites States to provide support for its effective implementation, and takes note of the report of the Expert Group Meeting on Housing Rights Monitoring organized jointly under the Programme by UN-Habitat and the Office of the High Commissioner in Geneva from 26 to 28 November 2003;

10. *Takes note* of the recommendation contained in the report of the Special Rapporteur (para. 92 (a)) to convene an expert seminar in order to develop guidelines on forced evictions;

11. *Requests* the Office of the High Commissioner and UN-Habitat to strengthen their cooperation and to continue developing the joint United Nations Housing Rights Programme by increasing collaboration and cooperation with relevant treaty bodies, in particular the Committee on Economic, Social and Cultural Rights, relevant United Nations specialized agencies, and international organizations and non-governmental organizations, as well as by including in their work a compilation of indicative ideas and practices that can be consulted by States in order to assist them in promoting the full and progressive realization of adequate housing as a component of the right to an adequate standard of living;

12. *Invites* UN-Habitat and the Office of the High Commissioner to cooperate further with the Special Rapporteur;

13. *Requests* the Secretary-General to provide the Special Rapporteur with the assistance necessary for the execution of his mandate;

14. *Notes* the invitation by the Commission, in its resolution 2003/18 of 22 April 2003, to all special rapporteurs whose mandates deal with the realization of economic, social and cultural rights to share their views individually on an optional protocol to the International Covenant on Economic, Social and Cultural Rights;

15. *Decides* to continue consideration of this subject at its sixty-second session under the same agenda item.

*51st meeting  
16 April 2004*

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

## **2004/22. Human rights and unilateral coercive measures**

*The Commission on Human Rights,*

*Recalling* the purposes and the principles of the Charter of the United Nations,

*Recalling* its resolution 2003/17 of 22 April 2003 and taking note of General Assembly resolution 58/171 of 22 December 2003,

*Stressing* that unilateral coercive measures and legislation are contrary to international law, international humanitarian law, the Charter of the United Nations and the norms and principles governing peaceful relations among States,

*Recognizing and reiterating* the universal, indivisible, interdependent and interrelated character of all human rights and, in this regard, reaffirming the right to development as a universal and inalienable right and an integral part of all human rights,

*Expressing its concern* about the negative impact of unilateral coercive measures in the field of human rights, development, international relations, trade, investment and cooperation,

*Recalling* that the World Conference on Human Rights called upon States to refrain from any unilateral measure not in accordance with international law and the Charter of the United Nations that creates obstacles to trade relations among States and impedes the full realization of all human rights, and also severely threatens the freedom of trade,

*Regretting* that, despite the recommendations adopted on this issue by the General Assembly, the United Nations conferences held in the 1990s and their five-year reviews, and contrary to norms of international law and the Charter of the United Nations, unilateral coercive measures continue to be promulgated, implemented and enforced with all their negative implications for the social-humanitarian activities and economic and social development of developing countries, including their extraterritorial effects, thereby creating additional obstacles to the full enjoyment of all human rights by peoples and individuals under the jurisdiction of other States,

*Reaffirming* that unilateral coercive measures are a major obstacle to the implementation of the Declaration on the Right to Development,

*Recalling* article 1, paragraph 2, common to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights which provides, inter alia, that in no case may a people be deprived of its own means of subsistence,

1. *Urges* all States to refrain from adopting or implementing unilateral measures not in accordance with international law, international humanitarian law, the Charter of the United Nations and the norms and principles governing peaceful relations among States, in particular those of a coercive nature with extraterritorial effects, which create obstacles to trade relations among States, thus impeding the full realization of the rights set forth in the Universal Declaration of Human Rights and other international human rights instruments, in particular the right of individuals and peoples to development;



2. *Strongly objects* to the extraterritorial nature of those measures which, in addition, threaten the sovereignty of States and, in this context, calls upon all Member States neither to recognize these measures nor apply them, as well as to take effective administrative or legislative measures, as appropriate, to counteract the extraterritorial application or effects of unilateral coercive measures;

3. *Condemns* the continued unilateral application and enforcement by certain Powers of such measures as tools of political or economic pressure against any country, particularly against developing countries, with a view to preventing these countries from exercising their right to decide of their own free will, their own political, economic and social systems;

4. *Reiterates its call* upon Member States that have initiated such measures to abide by the principles of international law, the Charter of the United Nations, the declarations of the United Nations and world conferences and relevant resolutions and to commit themselves to their obligations and responsibilities arising from the international human rights instruments to which they are parties by putting an immediate end to such measures;

5. *Reaffirms*, in this context, the right of all peoples to self-determination, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development;

6. *Recalls* that, according to the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, contained in the annex to General Assembly resolution 2625 (XXV) of 24 October 1970, and according to the relevant principles and provisions contained in the Charter of Economic Rights and Duties of States proclaimed by the General Assembly in its resolution 3281 (XXIX) of 12 December 1974, in particular article 32, no State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind;

7. *Reaffirms* that essential goods such as food and medicines should not be used as tools for political coercion and that under no circumstances should people be deprived of their own means of subsistence and development;

8. *Underlines* that unilateral coercive measures are one of the major obstacles to the implementation of the Declaration on the Right to Development and, in this regard, calls upon all States to avoid the unilateral imposition of economic coercive measures and the extraterritorial application of domestic laws which run counter to the principles of free trade and hamper the development of developing countries, as recognized by the Intergovernmental Group of Experts on the Right to Development in its report on its second session (E/CN.4/1998/29);

9. *Rejects* all attempts to introduce unilateral coercive measures, as well as the increasing trend in this direction, including through the enactment of laws with extraterritorial application which are not in conformity with international law;

10. *Recognizes* that the Declaration of Principles adopted at the first phase of the World Summit on the Information Society, held in Geneva in December 2003, strongly urged States to avoid and refrain from any unilateral measure in building the Information Society;

11. *Requests once again* the open-ended working group established to monitor and review progress made in the promotion and implementation of the right to development, which will meet after the sixtieth session of the Commission on Human Rights, to give due consideration to the question of human rights and the negative impact of unilateral coercive measures;

12. *Invites once again* all special rapporteurs and existing thematic mechanisms of the Commission in the field of economic, social and cultural rights to pay due attention, within the scope of their respective mandates, to the negative impact and consequences of unilateral coercive measures;

13. *Decides* to give due consideration to the negative impact of unilateral coercive measures in its task concerning the implementation of the right to development;

14. *Requests:*

(a) The United Nations High Commissioner for Human Rights, in discharging her functions in relation to the promotion, realization and protection of the right to development, to pay due attention and give urgent consideration to the present resolution;

(b) The Secretary-General to bring the present resolution to the attention of all Member States and to seek their views and information on the implications and negative effects of unilateral coercive measures on their populations, and to submit a report thereon to the Commission on Human Rights at its sixty-first session;

15. *Decides* to examine this question, on a priority basis, at its sixty-first session under the same agenda item.

*51st meeting  
16 April 2004*

[Adopted by a recorded vote of 36 votes to 14,  
with 3 abstentions. See chap. X.]

### **2004/23. Human rights and extreme poverty**

*The Commission on Human Rights,*

*Recalling* that, in accordance with the Universal Declaration of Human Rights, the International Covenants on Human Rights recognize that the ideal of free human beings enjoying freedom from fear and want can be achieved only if conditions are created whereby everyone may enjoy his or her economic, social and cultural rights, as well as his or her civil and political rights,

*Recalling in particular* that article 25 of the Universal Declaration of Human Rights stipulates that everyone has the right to a standard of living adequate for the health and well-being of himself and of his or her family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his/her control,

*Recalling also* that the eradication of widespread poverty, including its most persistent forms, and the full enjoyment of economic, social and cultural rights and civil and political rights remain interrelated goals,

*Reaffirming* that the promotion of all human rights, including the right to development, and the elimination of extreme poverty can contribute substantially to the promotion and consolidation of democracy,

*Deeply concerned* that extreme poverty persists in all countries of the world, regardless of their economic, social and cultural situation, and that its extent and manifestations, such as hunger, trafficking in human beings, disease, lack of adequate shelter, illiteracy and hopelessness, are particularly severe in developing countries, though acknowledging the significant progress made in several parts of the world in combating extreme poverty,

*Bearing in mind* the relevant provisions of the Vienna Declaration and Programme of Action (A/CONF.157/23), adopted in June 1993 by the World Conference on Human Rights,

*Recalling in particular* that the World Conference reaffirmed that least developed countries committed to the process of democratization and economic reforms, many of which are in Africa, should be supported by the international community in order to succeed in their transition to democracy and economic development,

*Bearing in mind* the commitments reaffirmed in the United Nations Millennium Declaration, particularly to spare no effort to fight against extreme poverty, including the commitment to halve by 2015 the proportion of the world's people whose income is less than one United States dollar a day and the proportion of people who suffer from hunger,

*Welcoming* the new impetus given at the World Summit on Sustainable Development, held in Johannesburg, South Africa, from 26 August to 4 September 2002, to global action against extreme poverty and to advancing and strengthening the interdependent and mutually reinforcing pillars of sustainable development - economic development, social development and environmental protection - at the local, regional and global levels,

*Recalling* General Assembly resolution 50/107 of 20 December 1995, in which the Assembly proclaimed the first United Nations Decade for the Eradication of Poverty (1997-2006), and taking note of the report of the Secretary-General on the implementation of the Decade (A/58/179),

*Bearing in mind* the resolutions of the General Assembly on human rights and extreme poverty, and the importance they attach to giving men and women living in extreme poverty the wherewithal to organize and participate in all aspects of political, economic and social life,

*Stressing* that, in the Copenhagen Declaration on Social Development and the Programme of Action of the World Summit for Social Development held in March 1995 (A/CONF.166/9), Governments committed themselves to endeavouring to ensure that all men and women, especially those living in poverty, could exercise the rights, utilize the resources and share the responsibilities that would enable them to lead satisfying lives and to contribute to the

well-being of their families, their communities and humankind and committed themselves to the goal of eradicating poverty throughout the world through national actions and international cooperation, as an ethical, social, political and economic imperative of humankind,

*Expressing its gratitude* to the independent expert on the question of human rights and extreme poverty for the important work accomplished during her mandate and recognizing the necessity of continuing the ongoing study,

*Welcoming* the observation by the United Nations High Commissioner for Human Rights in his report (E/CN.4/2004/12 and Add.1-3) that the struggle against poverty must remain at the forefront of the human rights agenda,

*Recalling* the report of the Secretary-General on women's real enjoyment of their human rights, in particular those relating to the elimination of poverty, economic development and economic resources (E/CN.4/1998/22-E/CN.6/1998/11),

*Recalling also* its resolution 2003/22 of 22 April 2003 on women's equal ownership of, access to and control over land and the equal rights to own property and to adequate housing, which recognizes that restrictions on women's equal access to credit and loans and factors preventing them from owning and inheriting land may contribute to the feminization of poverty,

*Recalling with interest* the statement on poverty and the International Covenant on Economic, Social and Cultural Rights adopted by the Committee on Economic, Social and Cultural Rights in May 2001, aimed at encouraging the integration of human rights into poverty eradication policies by outlining how human rights generally, and the Covenant in particular, can empower the poor and enhance anti-poverty strategies,

*Stressing* the necessity of better understanding the causes and consequences of extreme poverty,

*Noting* that the United Nations Educational, Scientific and Cultural Organization has chosen the eradication of poverty as a cross-cutting theme of its strategy for 2002-2007,

1. *Reaffirms* that:

(a) Extreme poverty and exclusion from society constitute a violation of human dignity and that urgent national and international action is therefore required to eliminate them;

(b) The right to life encompasses existence in human dignity with the minimum necessities of life;

(c) The existence of widespread absolute poverty inhibits the full and effective enjoyment of human rights and makes democracy and popular participation fragile;

(d) Concerted efforts to strengthen and consolidate national democratic institutions and governance are required in order to address the most pressing social needs of people living in poverty and to promote respect for human rights and fundamental freedoms;

(e) For peace and stability to prevail, national action and international action and cooperation are required for the promotion of a better life for all in larger freedom, a critical element of which is the eradication of poverty;

(f) Political commitment, social justice and equal access to social services are conditions sine qua non for the eradication of poverty, and welcomes in this connection the fact that States and international organizations have never been so aware of the urgency of winning the battle against extreme poverty;

(g) It is essential for States to foster participation by the poorest people in the decision-making process in the societies in which they live and in the realization of human rights, and for people living in poverty and vulnerable groups to be empowered to help plan, implement and evaluate policies that affect them, thus enabling them to become genuine partners in development;

(h) Special attention must be given to the plight of women, particularly older women and women alone at home, and children, who often bear the greatest burden of extreme poverty;

2. *Recalls:*

(a) The Copenhagen Declaration on Social Development and the Programme of Action of the World Summit for Social Development;

(b) That, as stated in the Plan of Implementation of the World Summit on Sustainable Development, held in Johannesburg, South Africa, in September 2002 (A/CONF.199/20 and Corr.1, chap. I, resolution 2, annex) good governance within each country and at the international level is essential for sustainable development; and that at the domestic level, sound environmental, social and economic policies, democratic institutions responsive to the needs of the people, the rule of law, anti-corruption measures, gender equality and an enabling environment for investment are the basis for sustainable development;

(c) That to ensure the protection of the rights of all individuals, non-discrimination towards the poorest and the full exercise of all human rights and fundamental freedoms, a better understanding is needed of what is endured by people living in poverty, including women and children, and that thought must be given to the subject, drawing on the experience and ideas communicated by the poorest themselves and by those committed to working alongside them;

3. *Recognizes* the efforts of developing countries, in particular the commitment and determination of the African leaders, to seriously address the challenges of poverty, underdevelopment, marginalization, social exclusion, economic disparities, instability and insecurity, through initiatives such as the New Partnership for Africa's Development and other innovative mechanisms such as the World Solidarity Fund for the Eradication of Poverty, and calls upon developed countries, the United Nations and its specialized agencies, as well as the international financial institutions, to provide, through their operational programmes, new and additional financial resources, as appropriate, to support these initiatives;

4. *Welcomes* the increasing number of events associated with the celebration, on 17 October of each year, of the International Day for the Eradication of Poverty and the opportunity which these events provide to people and populations living in extreme poverty to make their voices heard;

5. *Expresses its appreciation:*

(a) That an integrated approach is being followed by the United Nations system in addressing the question of extreme poverty, particularly through the adoption and the implementation of the United Nations action strategy for halving extreme poverty by 2015;

(b) That the international financial institutions have developed new policies strengthening the human and social dimension of their action, and encourages them to continue to do so;

(c) For the initiatives taken in many countries by national education authorities to raise awareness among all children and young people of the existence of extreme poverty and the urgent need for united action to enable the poorest people to regain their rights;

6. *Takes note* of the report of the independent expert on extreme poverty (E/CN.4/2004/43 and Add.1) and the recommendations contained therein;

7. *Calls upon:*

(a) The Office of the United Nations High Commissioner for Human Rights to give high priority to the question of the relationship between extreme poverty and human rights and invites it to pursue further work in this area, notably with regard to the draft guidelines on the integration of human rights into poverty reduction strategies;

(b) The General Assembly, specialized agencies, United Nations bodies and intergovernmental organizations to take into account the contradiction between the existence of situations of extreme poverty and exclusion from society, which must be overcome, and the duty to guarantee full enjoyment of human rights;

(c) States and intergovernmental and non-governmental organizations to continue to take into account, in the activities to be undertaken within the framework of the United Nations Decade for the Eradication of Poverty, the links between human rights and extreme poverty, as well as efforts to empower people living in poverty to participate in decision-making processes on policies that affect them, and notes in this context the global Microcredit Summit Campaign;

(d) The United Nations to strengthen poverty eradication as a priority throughout the United Nations system;

8. *Urges* States and encourages the private sector and international financial and development institutions, such as the World Bank and regional development banks, to promote participation of individuals and groups of individuals who are victims of racism, racial discrimination, xenophobia and related intolerance in economic, cultural and social decision-making at all stages, particularly in the development and implementation of poverty-alleviation strategies, development projects, and trade and market assistance programmes;

9. *Invites* the treaty bodies monitoring the application of human rights instruments, especially the Committee on Economic, Social and Cultural Rights, the Committee on the Rights of the Child, the Committee on the Elimination of Discrimination against Women and the Committee on the Elimination of Racial Discrimination, to take into account, when considering the reports of States parties, the question of extreme poverty and human rights;

10. *Decides* to extend for a period of two years the mandate of the independent expert on extreme poverty in accordance with resolution 1998/25 of 17 April 1998, within the framework of which the independent expert will, inter alia, pay particular attention to:

(a) The relationship between the enjoyment of human rights and extreme poverty;

(b) Identifying, including in cooperation with international financial organizations, the most efficient measures taken at the national and international levels to promote the full enjoyment of human rights of persons living in extreme poverty;

(c) The contribution that people living in extreme poverty can make to the definition of measures to promote the full enjoyment of their human rights;

(d) Developing cooperation with other United Nations bodies dealing with human rights which are also active in the area of the fight against extreme poverty;

(e) The assessment of the first United Nations Decade for the Eradication of Poverty, the internationally agreed goals contained in the Millennium Declaration, the Monterrey Consensus (A/CONF. 198/11, chap. I, resolution 1, annex) adopted by the International Conference on Financing for Development in March 2002, and the Plan of Implementation of the World Summit on Sustainable Development;

(f) The impact of discrimination on extreme poverty, bearing in mind the Durban Declaration and Programme of Action adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance;

(g) The situation and empowerment of women in extreme poverty, applying a gender perspective in his/her work;

11. *Requests* the independent expert to report to the Commission at its sixty-first session;

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

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

[For the text, see chap. I, draft decision 9.]

*51st meeting  
16 April 2004*

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

## **2004/24. Globalization and its impact on the full enjoyment of all human rights**

*The Commission on Human Rights,*

*Guided* by the purposes and principles of the Charter of the United Nations, and expressing in particular the need to achieve international cooperation in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction,

*Reaffirming* its resolutions 1999/59 of 28 April 1999, 2001/32 of 23 April 2001, 2002/28 of 22 April 2002 and 2003/23 of 22 April 2003 and General Assembly resolutions 55/102 of 4 December 2000, 56/165 of 19 December 2001, 57/205 of 18 December 2002 and 58/193 of 22 December 2003,

*Affirming* that, while globalization offers great opportunities, at present its benefits are very unevenly shared and costs are unevenly distributed, and that developing countries face special difficulties in meeting this challenge,

*Underlining* that the deep fault line between the rich and the poor that divides human society and the ever-increasing gap between the developed and the developing countries pose a major threat to global prosperity, security and stability,

*Reaffirming* the Declaration on the Right to Development, adopted by the General Assembly in its resolution 41/128 of 4 December 1986,

*Recognizing* that globalization should be guided by the fundamental principles that underpin the corpus of human rights, such as equality, participation, accountability, non-discrimination, at both the national and international levels, respect for diversity, tolerance and international cooperation and solidarity,

*Affirming* in this regard that multilateral institutions have a unique role to play in meeting the challenges and opportunities presented by globalization and also affirming the need for these institutions to recognize, respect and protect all human rights,

*Expressing concern* about the setback at the Fifth Ministerial Conference of the World Trade Organization held in Cancún, Mexico, in September 2003 and stressing the importance of redoubling efforts in working towards a successful and development-oriented conclusion of the negotiations of the Fourth Ministerial Conference, held in Doha in November 2001, as set out in the Ministerial Declaration adopted by the Fourth Ministerial Conference (Doha Ministerial Declaration) (see A/C.2/56/7, annex),

*Recalling* the Monterrey Consensus (A/CONF.198/11, chap. I, resolution 1, annex) adopted by the International Conference on Financing for Development, held in Monterrey, Mexico, in March 2002 and the Johannesburg Declaration on Sustainable Development (A/CONF.199/20 and Corr.1, chap. I, resolution 1, annex) adopted by the World Summit on Sustainable Development in September 2002, and taking note of the Declaration of Principles and the Plan of Action adopted at the first phase of the World Summit on the Information Society in December 2003,



*Taking note* of the recent report entitled “A Fair Globalization: Creating Opportunities for All” of the World Commission on the Social Dimension of Globalization established by the International Labour Organization in February 2002 and emphasizing the need to operationalize the recommendations contained in the report aimed at full enjoyment of human rights,

*Taking note with appreciation* of the positive outcome of the high-level seminar on the right to development entitled “Global partnership for development” organized by the Office of the United Nations High Commissioner for Human Rights in Geneva on 9 and 10 February 2004 within the framework of the open-ended working group established to monitor and review progress made in the promotion and implementation of the right to development,

*Welcoming* the recommendation made by the Working Group on the Right to Development at its fifth session to establish, within its framework, a high-level task force with the objective of assisting the Working Group to fulfil its mandate as contained in paragraph 10 (a) of Commission resolution 1998/72 of 22 April 1998,

*Underlining* the focus on globalization in the future work of the Sub-Commission on the Promotion and Protection of Human Rights, as reflected in the report of the Chairperson of the Sub-Commission at its fifty-fourth session (E/CN.4/2003/94), and requesting the Sub-Commission to intensify further its work in this area,

*Deeply concerned* at the inadequacy of measures to narrow the widening gap between the developed and the developing countries, which adversely affects the full enjoyment of human rights, particularly in the developing countries,

*Underlining* the shared responsibility to assist countries and peoples excluded from or disadvantaged by globalization,

1. *Recognizes* that, while globalization, by its impact on, inter alia, the role of the State, may affect human rights, the promotion and protection of all human rights is first and foremost the responsibility of the State;

2. *Reaffirms* that, in addition to States’ separate responsibilities to their individual societies, they have a collective responsibility to uphold the principles of human dignity, equality and equity at the global level as an essential element in the construction and shaping of an ethical foundation for globalization;

3. *Also reaffirms* the commitment to create an enabling environment at both the national and international levels that is conducive to development and to the elimination of poverty through, inter alia, good governance within each country and at the international level, transparency and accountability in the financial, monetary and trading systems, including in the private sector and transnational corporations, and the commitment to an open, equitable, rule-based, predictable and non-discriminatory multilateral trading and financial system to ensure that there is greater complementarity between the basic tenets of international trade law and international human rights law;

4. *Further reaffirms* that the right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to and enjoy economic, social, cultural and political development in which all human rights and fundamental freedoms can be fully realized;

5. *Recognizes* that implementation of the Millennium Declaration and attainment of international development goals as identified at United Nations and world conferences, and of the Millennium Development Goals will contribute to the progressive realization of the right to development;

6. *Takes note with appreciation* of the analytical study of the United Nations High Commissioner for Human Rights on the fundamental principle of non-discrimination in the context of globalization (E/CN.4/2004/40), as requested in paragraph 7 of Commission resolution 2002/28, and in this regard requests the High Commissioner to bring the report to the attention of the World Trade Organization and other relevant international organizations with a view to operationalizing its conclusions and recommendations;

7. *Underlines* that, in the absence of a framework based on the fundamental principles that underpin the corpus of human rights, such as equality, participation, accountability, non-discrimination, respect for diversity, tolerance and international cooperation and solidarity, globalization will continue on its asymmetrical course;

8. *Requests*, therefore, the High Commissioner, taking fully into account the present resolution and in cooperation with the United Nations Conference on Trade and Development, the World Trade Organization and other relevant international financial and economic institutions, to study and clarify the fundamental principle of participation and its application at the global level, with a view to recommending measures for its integration and effective implementation in the debate on the process of globalization, and to submit a comprehensive analytical study on the subject to the Commission at its sixty-first session;

9. *Underlines once again* the need for the treaty bodies, special rapporteurs/representatives, independent experts and working groups of the Commission, within their mandates and where appropriate, to take into consideration the content of the present resolution and the report of the High Commissioner entitled “Globalization and its impact on the full enjoyment of human rights” (E/CN.4/2002/54);

10. *Decides* to consider this issue again at its sixty-first session.

*51st meeting  
16 April 2004*

[Adopted by a recorded vote of 38 votes to 15.  
See chap. X.]

#### **2004/25. The right to education**

*The Commission on Human Rights,*

*Recalling* its previous resolutions on the right to education, inter alia resolution 2003/19 of 22 April 2003,

*Recalling also* that everyone shall enjoy the human right to education, which is enshrined, inter alia, in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child,

*Recalling further* the Convention against Discrimination in Education adopted on 14 December 1960 by the United Nations Educational, Scientific and Cultural Organization, which prohibits any discrimination which has the purpose or effect of nullifying or impairing equality of treatment in education,

*Welcoming* the Dakar Framework for Action adopted at the World Education Forum, held in Dakar in April 2000, and the goals agreed upon at its adoption,

*Noting* the United Nations Millennium Declaration, in which it is resolved that children everywhere, boys and girls alike, will be able to complete a full course of primary schooling and that girls and boys will have equal access to all levels of education by 2015, and emphasizing the importance of realizing the right to education in attaining the Millennium Development Goals,

*Affirming* that the realization of the right to education, especially for girls, contributes to the eradication of poverty,

*Welcoming* the attention given to education in the Durban Declaration and Programme of Action adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and noting with interest that the intergovernmental working group established to make recommendations with a view to the effective implementation of the Durban Declaration and Programme of Action devoted part of its second session to a discussion on the issue of education (see E/CN.4/2004/20, chap. III, sect. A),

*Noting* the outcome document of the twenty-seventh special session of the General Assembly on children, entitled “A world fit for children” - annexed to its resolution S-27/2 of 10 May 2002 - and its emphasis on education as a human right and the provision of quality education as a key factor in reducing poverty and child labour and promoting democracy, peace, tolerance and development,

*Deeply concerned* that some 120 million children, two thirds of whom are girls, have no access to education,

*Welcoming* the launching of the United Nations Literacy Decade by the General Assembly on 1 January 2003,

*Affirming* that good governance and the rule of law will assist all States to promote and protect human rights, including the right to education,

*Bearing in mind* the need for adequate financial resources so that everyone can realize their right to education, and the importance in this regard of national resource mobilization, as well as international cooperation,

1. *Takes note* of the report of the Special Rapporteur on the right to education (E/CN.4/2004/45 and Add.1 and 2) and the report of the Secretary-General on economic, social and cultural rights (E/CN.4/2004/38);
2. *Notes with interest* the work carried out by the Committee on Economic, Social and Cultural Rights and the Committee on the Rights of the Child in the promotion of the right to education and their general comments, notably general comments No. 11 (1999) on plans of action for primary education (art. 14 of the International Covenant on Economic, Social and Cultural Rights) and No. 13 (1999) on the right to education (art. 13 of the Covenant), adopted by the Committee on Economic, Social and Cultural Rights, and general comment No. 1 (2001) on the aims of education (art. 29, para. 1, of the Convention on the Rights of the Child), adopted by the Committee on the Rights of the Child;
3. *Recalls* the holding by the Committee on Economic and Social Rights in May 2002, in cooperation with the United Nations Educational, Scientific and Cultural Organization, of a follow-up meeting to the general discussion of the Committee on the right to education held in November 1998, as well as to the World Education Forum, held in Dakar in April 2000;
4. *Commends* the collaboration between the United Nations Educational, Scientific and Cultural Organization and the Office of the United Nations High Commissioner for Human Rights;
5. *Welcomes* the first meeting of the Joint Expert Group of the United Nations Educational, Scientific and Cultural Organization and the Committee on Economic, Social and Cultural Rights on the Monitoring of the Right to Education, held in May 2003, and encourages continued collaboration between these two bodies;
6. *Welcomes* the report of the United Nations Children's Fund entitled *The State of the World's Children 2004: Girls, Education and Development*;
7. *Urges* all States:
  - (a) To give full effect to the right to education and to guarantee that this right is recognized and exercised without discrimination of any kind;
  - (b) To take all appropriate measures to eliminate obstacles limiting effective access to education, notably by girls, including pregnant girls, children living in rural areas, children belonging to minority groups, indigenous children, migrant children, refugee children, internally displaced children, children affected by armed conflicts, children with disabilities, children affected by infectious diseases, including HIV/AIDS, sexually exploited children, children deprived of their liberty, children living in the street, working children and orphaned children:

Taking all necessary legislative measures to prohibit explicitly discrimination in education on the basis of race, colour, descent, national, ethnic or social origin, sex, language, religion, political or other opinion, property, disability, birth or other status which has the purpose or effect of nullifying or impairing equality of treatment in education;

(c) To improve all aspects of the quality of education aimed at ensuring excellence of all so that recognized and measurable learning outcomes are achieved by all, especially in literacy, numeracy and essential life skills, and, in this regard, to emphasize the development of quality indicators and monitoring instruments, to promote a sound school environment, school health, preventive education against HIV/AIDS and drug abuse, and science and technology education, and to carry out surveys and build up a knowledge base in order to provide advice on the use of information and communication technologies in education;

(d) To promote the renewal and expansion of basic formal education of good quality, which includes both early childhood care and education and primary education, using inclusive and innovative approaches to increase access and attendance for all, for example by providing a minimum monthly income to the families of poor children attending school on a regular basis or free meals for children attending school;

(e) To mainstream human rights education in educational activities, in order to strengthen respect for human rights and fundamental freedoms;

(f) To enhance the status, morale and professionalism of teachers;

(g) To recognize and promote lifelong learning for all, both in formal and in informal settings;

(h) To ensure progressively and on the basis of equal opportunity that primary education is compulsory, accessible and available free to all;

(i) To adopt all necessary measures to close the gap between the school-leaving age and the minimum age for employment, including by raising the minimum age for employment and/or raising the school-leaving age when necessary, and to ensure access to free basic education and, wherever possible and appropriate, vocational training for all children liberated from the worst forms of child labour;

(j) To adopt effective measures to encourage regular attendance at school and reduce school dropout rates;

(k) To support domestic literacy programmes, including vocational education components and non-formal education, in order to reach marginalized children, youth and adults, especially girls and women, to ensure that they enjoy the right to education and acquire the life skills necessary to overcome poverty and exclusion;

(l) To support the implementation of plans and programmes of action to ensure quality education and improved enrolment and retention rates for boys and girls and the elimination of gender discrimination and gender stereotypes in educational curricula and materials, as well as in the process of education;

(m) To take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse in schools,

and in this context to take measures to eliminate corporal punishment in schools, and to incorporate in their legislation appropriate sanctions for violations and the provision of redress and rehabilitation for victims;

(n) To consider undertaking or supporting studies on best practices for elaborating and implementing strategies for improving the quality of education and meeting the learning needs of all;

(o) To give appropriate priority to the collection of quantitative and qualitative data relating to gender disparities in education;

(p) To submit information on best practices for the elimination of discrimination in access to education, as well as for the promotion of quality education, to the Special Rapporteur;

(q) To ensure that no child is prevented from receiving free primary education on account of his or her disability;

(r) To contribute to efforts to mobilize resources by the international community to assist all States to achieve the goal of education for all children by 2015;

8. *Decides* to extend the mandate of the Special Rapporteur on the right to education for a period of three years;

9. *Invites* the Special Rapporteur, within his or her mandate:

(a) To gather, request, receive and exchange information from all relevant sources, including Governments, intergovernmental organizations and non-governmental organizations, on the realization of the right to education, and to make recommendations on appropriate measures to promote and protect the realization of the right to education;

(b) To intensify efforts aimed at identifying ways and means to overcome obstacles and difficulties in the realization of the right to education;

(c) To pursue the collaboration with the Committee on Economic, Social and Cultural Rights and the Committee on the Rights of the Child and the cooperation with the United Nations Children's Fund, the United Nations Educational, Scientific and Cultural Organization, the International Labour Organization and the Office of the United Nations High Commissioner for Refugees, and the dialogue with the World Bank;

(d) To cooperate with other special rapporteurs, representatives, experts and members and chairpersons of working groups of the Commission, and United Nations bodies, including human rights treaty bodies;

(e) To review the interdependence and interrelatedness of the right to education with other human rights;

(f) To apply a gender perspective in his or her work;

10. *Reaffirms* the importance of developing further the regular dialogue between the United Nations Children’s Fund, the United Nations Educational, Scientific and Cultural Organization, other partners that pursue the goals of the Dakar Framework for Action and the Special Rapporteur, with a view to integrating further the right to education into the operational activities of the United Nations system, invites them to pursue that dialogue and reiterates its invitation to the United Nations Children’s Fund and the United Nations Educational, Scientific and Cultural Organization to submit to the Commission information pertaining to their activities in promoting primary education, with specific reference to women and children, particularly girls;

11. *Requests* all States to continue cooperating with the Special Rapporteur with a view to facilitating his or her tasks in the discharge of his or her mandate and to respond favourably to his or her requests for information and visits;

12. *Requests* the Special Rapporteur to report to the Commission at its sixty-first session;

13. *Requests* the Secretary-General to provide the Special Rapporteur with all the assistance necessary for the execution of his or her mandate;

14. *Decides* to consider the right to education at its sixty-first session under the same agenda item;

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

[For the text, see chap. I, draft decision 10.]

*52nd meeting  
16 April 2004*

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

**2004/26. Access to medication in the context of pandemics  
such as HIV/AIDS, tuberculosis and malaria**

*The Commission on Human Rights,*

*Reaffirming* the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights,

*Reaffirming also* that the right of everyone to the enjoyment of the highest attainable standard of physical and mental health is a human right,

*Recalling* its resolutions 1999/49 of 27 April 1999, 2001/33 of 23 April 2001, 2001/51 of 24 April 2001, 2002/32 of 22 April 2002 and 2003/29 of 22 April 2003,

*Bearing in mind* World Health Assembly resolutions WHA55.12 entitled “Contribution of WHO to the follow-up of the United Nations General Assembly special session on HIV/AIDS”, and WHA55.14 entitled “Ensuring accessibility of essential medicines”, both

adopted on 18 May 2002, and World Health Assembly resolutions WHA56.27 entitled “Intellectual property rights, innovation and public health” and WHA56.30 entitled “Global health-sector strategy for HIV/AIDS”, both adopted on 28 May 2003, as well as the *Code of Practice on HIV/AIDS and the World of Work*, adopted by the Governing Body of the International Labour Office in May 2001,

*Taking note* of the establishment of the Commission on Intellectual Property Rights, Innovation and Public Health by the World Health Organization,

*Acknowledging* that prevention and comprehensive care and support, including treatment and access to medication for those infected and affected by pandemics such as HIV/AIDS, tuberculosis and malaria are inseparable elements of an effective response and must be integrated into a comprehensive approach to respond to such pandemics,

*Recalling* general comment No. 14 (2000) on the right to the highest attainable standard of health (art. 12 of the International Covenant on Economic, Social and Cultural Rights), adopted by the Committee on Economic, Social and Cultural Rights at its twenty-second session,

*Recalling also* general comment No. 3 (2003) on HIV/AIDS and the rights of the child, adopted by the Committee on the Rights of the Child at its thirty-second session,

*Noting with great concern* that, according to the Joint United Nations Programme on HIV/AIDS (UNAIDS), the HIV/AIDS pandemic claimed an estimated 3 million lives in 2003,

*Alarmed* that, according to the same source, about 40 million people were living with HIV by the end of 2003 and that an estimated 5 million people were newly infected with HIV in 2003,

*Also alarmed* that, according to information provided jointly by UNAIDS, the United Nations Children’s Fund and the United States Agency for International Development in July 2002, 25 million children under the age of 15 are projected to lose one or both parents owing to HIV/AIDS by 2010, 20 million of whom will reside in Africa,

*Taking note* of General Assembly resolution 58/237, entitled “2001-2010: Decade to Roll Back Malaria in Developing Countries, particularly in Africa”, adopted on 23 December 2003,

*Alarmed* that, according to the global Roll Back Malaria partnership, malaria annually causes more than one million deaths, around 90 per cent of which are in Africa, that malaria is the leading cause of death in young children and that it causes at least 300 million cases of acute illness each year,

*Alarmed also* that, according to the World Health Organization report of 2004 entitled *Global Tuberculosis Control: Surveillance, Planning, Financing*, tuberculosis kills about 2 million people each year, more than 8 million people around the world become sick with tuberculosis each year and it is projected that between 2002 and 2020, 36 million people will die of tuberculosis if control is not further strengthened,

*Acknowledging* the significance of HIV/AIDS in the increase in tuberculosis and other opportunistic infections,



*Alarmed* that, according to the World Health Organization, one third of the world's population still lacks access to essential medicines and that in the poorest parts of Africa and Asia, over half of the population lacks access to even the most basic essential drugs,

*Welcoming* the initiatives of the Secretary-General and relevant United Nations agencies, developed and developing countries, and the private sector to make drugs related to HIV/AIDS, tuberculosis and malaria more accessible to developing countries, and noting that much more can be done in this regard,

*Recalling* the Declaration on the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) and Public Health adopted at the Fourth World Trade Organization Ministerial Conference in Doha in November 2001,

*Welcoming* the decision on the implementation of paragraph 6 of the Doha Declaration on the TRIPS Agreement and public health, adopted by the General Council of the World Trade Organization on 30 August 2003,

*Recognizing* the existing efforts and the desirability of further promoting the transfer of technology and capacity-building in the pharmaceutical sector to countries with insufficient or no manufacturing capacities in the pharmaceutical sector, in accordance with applicable international law, including international agreements acceded to,

*Stressing* the importance of fully implementing the Declaration of Commitment on HIV/AIDS, "Global Crisis - Global Action", adopted by the General Assembly in its resolution S-26/2 of 27 June 2001 at its special session on HIV/AIDS, and taking note of the report of the Secretary-General on progress towards implementation of the Declaration of Commitment on HIV/AIDS (A/58/184),

*Expressing its support* for the work of the Global Fund to Fight AIDS, Tuberculosis and Malaria and of other international bodies combating such pandemics, and encouraging the Global Fund to develop further effective and appropriate processes for the disbursement of funds,

*Welcoming* the goal by the World Health Organization and UNAIDS which aims to support developing countries in securing access to antiretroviral treatment for 3 million people living with HIV/AIDS by 2005, and noting the importance of mobilizing financial contributions from States and other donors,

*Taking note* of the World Health Organization's initiatives to make safe, effective and affordable medicines and diagnostics of good quality more easily accessible to developing countries and countries with economies in transition,

*Recognizing* that the spread of HIV/AIDS can have a uniquely devastating impact on all sectors and levels of society and stressing that the HIV/AIDS pandemic, if unchecked, may pose a risk to stability and security, as stated in Security Council resolution 1308 (2000) of 17 July 2000,

*Emphasizing*, in view of the increasing challenges presented by pandemics such as HIV/AIDS, tuberculosis and malaria, the need for intensified efforts to ensure universal respect for and observance of human rights and fundamental freedoms for all, including by reducing vulnerability to pandemics such as HIV/AIDS, tuberculosis and malaria and by preventing related discrimination and stigma,

1. *Recognizes* that access to medication in the context of pandemics such as HIV/AIDS, tuberculosis and malaria is one fundamental element for achieving progressively the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;

2. *Calls upon* States to consider taking into account the guidelines elaborated at the Second International Consultation on HIV/AIDS and Human Rights held in Geneva from 23 to 25 September 1996 (E/CN.4/1997/37, annex I), as well as the revision of guideline 6 at the Third International Consultation, held on 25 and 26 July 2002;

3. *Also calls upon* States to develop and implement national strategies, in accordance with applicable international law, including international agreements acceded to, in order progressively to realize access for all to prevention-related goods, services and information as well as access to comprehensive treatment, care and support for all individuals infected and affected by pandemics such as HIV/AIDS, tuberculosis and malaria;

4. *Further calls upon* States to establish or strengthen national health and social infrastructures and health-care systems, with the assistance of the international community as necessary, for the effective delivery of prevention, treatment, care and support to respond to pandemics such as HIV/AIDS, tuberculosis and malaria;

5. *Affirms* the importance of public health interests in both pharmaceutical and health policies;

6. *Calls upon* States to pursue policies, in accordance with applicable international law, including international agreements acceded to, which would promote:

(a) The availability, in sufficient quantities, of pharmaceutical products and medical technologies used to treat pandemics such as HIV/AIDS, tuberculosis and malaria or the most common opportunistic infections that accompany them;

(b) The accessibility and affordability for all without discrimination, including the most vulnerable or socially disadvantaged groups of the population, of pharmaceutical products or medical technologies used to treat pandemics such as HIV/AIDS, tuberculosis, malaria or the most common opportunistic infections that accompany them;

(c) The assurance that pharmaceutical products or medical technologies used to treat pandemics such as HIV/AIDS, tuberculosis, malaria or the most common opportunistic infections that accompany them, irrespective of their sources and countries of origin, are scientifically and medically appropriate and of good quality;

7. *Calls upon* States, at the national level, on a non-discriminatory basis, in accordance with applicable international law, including international agreements acceded to:

(a) To refrain from taking measures which would deny or limit equal access for all persons to preventive, curative or palliative pharmaceutical products or medical technologies used to treat pandemics such as HIV/AIDS, tuberculosis, malaria or the most common opportunistic infections that accompany them;

(b) To adopt and implement legislation or other measures, in accordance with applicable international law, including international agreements acceded to, to safeguard access to such preventive, curative or palliative pharmaceutical products or medical technologies from any limitations by third parties;

(c) To adopt all appropriate positive measures, to the maximum of the resources allocated for this purpose, to promote effective access to such preventive, curative or palliative pharmaceutical products or medical technologies;

8. *Also calls upon* States, in furtherance of the Declaration of Commitment on HIV/AIDS, to address factors affecting the provision of drugs related to the treatment of pandemics such as HIV/AIDS and the most common opportunistic infections that accompany them, as well as to develop integrated strategies to strengthen health-care systems, including voluntary counselling and testing, laboratory capacities and the training of health-care providers and technicians, in order to provide treatment and monitor the use of medications, diagnostics and related technologies;

9. *Further calls upon* States to take all appropriate measures, nationally and through cooperation, to promote research and development of new and more effective preventive, curative or palliative pharmaceutical products and diagnostic tools, in accordance with applicable international law, including international agreements acceded to;

10. *Calls upon* States, at the international level, to take steps, individually and/or through international cooperation, in accordance with applicable international law, including international agreements acceded to, such as:

(a) To facilitate, wherever possible, access in other countries to essential preventive, curative or palliative pharmaceutical products or medical technologies used to treat pandemics such as HIV/AIDS, tuberculosis and malaria or the most common opportunistic infections that accompany them, as well as to extend the necessary cooperation, wherever possible, especially in times of emergency;

(b) To ensure that their actions as members of international organizations take due account of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and that the application of international agreements is supportive of public health policies that promote broad access to safe, effective and affordable preventive, curative or palliative pharmaceutical products and medical technologies;

11. *Urges* States to consider, whenever necessary, adapting national legislation in order to use to the full the flexibilities contained in the TRIPS Agreement;

12. *Welcomes* the financial contributions made to date to the Global Fund to Fight AIDS, Tuberculosis and Malaria, urges that further contributions be made by States and other donors, and also calls upon all States to encourage the private sector to contribute to the Fund as a matter of urgency;

13. *Calls upon* all States and other donors to cooperate in supporting the “3 by 5” Initiative launched jointly by the World Health Organization and UNAIDS with the aim of providing antiretroviral therapy to 3 million people in the developing world by 2005;

14. *Calls upon* UNAIDS to mobilize further resources to combat the HIV/AIDS pandemic and upon all Governments to take measures to ensure that the necessary resources are made available to UNAIDS, in line with the Declaration of Commitment on HIV/AIDS;

15. *Calls upon* States to ensure that those at risk of contracting malaria, in particular pregnant women and children under five years of age, benefit from the most suitable combination of personal and community protective measures, such as insecticide-treated bed nets and other interventions that are accessible and affordable, to prevent infection and suffering;

16. *Also calls upon* States to provide the necessary support for the World Health Organization “Roll Back Malaria” and “Stop TB” partnerships in ongoing measures to combat malaria and tuberculosis;

17. *Calls upon* the international community, the developed countries in particular, to continue to assist the developing countries in the fight against pandemics such as HIV/AIDS, tuberculosis and malaria through financial and technical support, as well as through the training of personnel;

18. *Invites* the Committee on Economic, Social and Cultural Rights also to give attention to the issue of access to medication in the context of pandemics such as HIV/AIDS, tuberculosis and malaria and invites States to include appropriate information thereon in the reports they submit to the Committee;

19. *Takes note with interest* of the report of the Secretary-General on access to medication in the context of pandemics such as HIV/AIDS, tuberculosis and malaria (E/CN.4/2004/39);

20. *Requests* the Secretary-General to solicit comments from Governments, United Nations organs, programmes and specialized agencies and international and non-governmental organizations on the steps they have taken to promote and implement, where applicable, the present resolution, as well as to report thereon to the Commission at its sixty-first session;

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

*52nd meeting  
16 April 2004*

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

**2004/27. The right of everyone to the enjoyment of the highest attainable standard of physical and mental health**

*The Commission on Human Rights,*

*Reaffirming* the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child,

*Reaffirming also* that the right of everyone to the enjoyment of the highest attainable standard of physical and mental health is a human right, as reflected, inter alia, in article 25, paragraph 1, of the Universal Declaration of Human Rights, article 12 of the International Covenant on Economic, Social and Cultural Rights and article 24 of the Convention on the Rights of the Child, as well as, with respect to non-discrimination, in article 5 (e) (iv) of the International Convention on the Elimination of All Forms of Racial Discrimination and in article 12, paragraph 1, of the Convention on the Elimination of All Forms of Discrimination against Women, and that such a right derives from the inherent dignity of the human person,

*Recalling* that, according to the Constitution of the World Health Organization, health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity,

*Recalling also* the relevant provisions of declarations and programmes of action adopted by the major United Nations conferences, summits and special sessions and their follow-up meetings,

*Recalling further* all its previous resolutions concerning the realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,

*Recalling* general comment No. 14 (2000) on the right to the highest attainable standard of health (art. 12 of the International Covenant on Economic, Social and Cultural Rights), adopted by the Committee on Economic, Social and Cultural Rights at its twenty-second session,

*Recalling also* general comment No. 15 (2002) on the right to water (arts. 11 and 12 of the Covenant), adopted by the Committee at its twenty-ninth session,

*Recalling further* general comment No. 3 (2003) on HIV/AIDS and the rights of the child, adopted by the Committee on the Rights of the Child at its thirty-second session,

*Recalling* general recommendation No. 24 (1999) on women and health (art. 12 of the Convention on the Elimination of All Forms of Discrimination against Women), adopted by the Committee on the Elimination of Discrimination against Women at its twentieth session,

*Recalling also* that the International Labour Organization Convention concerning Occupational Safety and Health and the Working Environment, 1981 (No. 155) emphasizes the importance of promoting coherent national policy in the matter of occupational safety and health of workers with the aim of preventing accidents and injury to health occurring in the course of work,

*Noting* resolution 47/1 of 14 March 2003 on women, the girl child and HIV/AIDS, adopted by the Commission on the Status of Women,

*Welcoming* the adoption of the World Health Organization Framework Convention on Tobacco Control by the fifty-sixth World Health Assembly in May 2003,

*Recognizing* the important contribution of regional and subregional intergovernmental initiatives regarding HIV/AIDS, including those aimed at strengthening horizontal technical cooperation and encouraging best practices,

*Aware* that, for millions of people throughout the world, the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health still remains a distant goal and that, in many cases, especially for those living in poverty, this goal is becoming increasingly remote,

*Noting with concern* the lack of progress towards the targets of the General Assembly special session on HIV/AIDS highlighted in the report of the Secretary-General (A/58/184), which suggests that without stronger action those targets will not be met,

*Recognizing* a need for States, in cooperation with international organizations and civil society, including non-governmental organizations and the private sector, to create favourable conditions at the national, regional and international levels to ensure the full and effective realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,

*Noting* the need for States to realize progressively the right to the enjoyment of the highest attainable standard of physical and mental health and noting the important contribution that international assistance and cooperation can make in this regard,

*Recognizing* the indispensable role that health professionals play in the promotion and protection of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,

*Welcoming* the initiatives of the Secretary-General and relevant United Nations bodies and programmes, such as the World Health Organization and the Joint United Nations Programme on HIV/AIDS (UNAIDS), as well as public-private partnership initiatives, such as the Global Fund to Fight AIDS, Tuberculosis and Malaria, which contribute to improvements in addressing health issues worldwide, including in developing countries, while noting that further progress should be achieved in this regard, including in the mobilization of resources,

*Mindful* of the need to promote and protect the progressive realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,

*Concerned* about the interrelationships between poverty and the realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, in particular that ill-health can be both a cause and a consequence of poverty,

*Mindful* that States should take into account the right of everyone to the enjoyment of the highest attainable standard of physical and mental health in their relevant national and international policy-making processes,

*Recalling* the development goals of the United Nations Millennium Declaration, in particular the four health-related development goals,

*Considering* that sexual and reproductive health are integral elements of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,

*Stressing* that gender equality and the empowerment of women and girls are fundamental elements in the reduction of their vulnerability to HIV/AIDS and that the advancement of women and girls is key to reversing the pandemic, and noting the importance of increasing investments in, and accelerating research on, the development of effective HIV prevention methods, including female-controlled methods and microbicides,

*Recalling* the Declaration on the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) and Public Health adopted at the Fourth World Trade Organization Ministerial Conference, held in Doha in November 2001, and welcoming the decision of the World Trade Organization General Council of 30 August 2003 on the implementation of paragraph 6 of the Declaration,

*Stressing* the importance of monitoring and analysing the pharmaceutical and public health implications of relevant international agreements, including trade agreements, so that States can effectively assess and subsequently develop pharmaceutical and health policies and regulatory measures that address their concerns and priorities, and are able to maximize the positive and mitigate the negative impact of those agreements, while respecting all international obligations applicable to them,

1. *Urges* States to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of their available resources, with a view to achieving progressively the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, by all appropriate means, including in particular the adoption of legislative measures;

2. *Calls upon* the international community to continue to assist the developing countries in promoting the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, including through financial and technical support as well as training of personnel, while recognizing that the primary responsibility for promoting and protecting all human rights rests with States;

3. *Calls upon* States to guarantee that the right of everyone to the enjoyment of the highest attainable standard of physical and mental health will be exercised without discrimination of any kind;

4. *Invites* States to consider signing and ratifying the World Health Organization Framework Convention on Tobacco Control;

5. *Reaffirms* that the achievement of the highest attainable standard of physical and mental health is a most important worldwide social goal, the realization of which requires action by many other social and economic sectors in addition to the health sector;

6. *Recommends* that States establish effective mechanisms to ensure that they take due account of the realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health in the formulation of their relevant national and international policies;
7. *Urges* all international organizations with mandates bearing upon the right of everyone to the enjoyment of the highest attainable standard of physical and mental health to take into account their members' national and international obligations related to the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;
8. *Calls upon* States to pay special attention to the situation of vulnerable groups, including by the adoption of positive measures, in order to safeguard the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;
9. *Also calls upon* States to place a gender perspective at the centre of all policies and programmes affecting women's health;
10. *Further calls upon* States to protect and promote sexual and reproductive health as integral elements of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;
11. *Considers* it to be of the utmost importance to enhance all States' efforts for the effective prevention of violence that causes physical and mental injury, particularly with a view to reducing its possible negative impact on the realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;
12. *Affirms* that access to a sufficient amount of safe and clean water for personal and domestic use is fundamental to the realization of the right of everyone to the enjoyment of the highest attainable standard of health;
13. *Also affirms* that good governance, sound economic policies and solid democratic institutions responsive to the needs of the people are also key to the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;
14. *Takes note* of the report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (E/CN.4/2004/49 and Add. 1 and 2);
15. *Invites* the Special Rapporteur, within his existing mandate, to continue to explore how efforts to realize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health can reinforce poverty reduction strategies;
16. *Also invites* the Special Rapporteur, within his existing mandate, to continue his analysis of the human rights dimensions of the issues of neglected diseases and diseases particularly affecting developing countries, and also the national and international dimensions of those issues;



17. *Requests* the United Nations High Commissioner for Human Rights to continue providing all the necessary resources for the effective fulfilment of the Special Rapporteur's mandate from within existing resources;

18. *Calls upon* Governments to cooperate fully with the Special Rapporteur in the implementation of his mandate, to provide all information requested and to respond promptly to his communications;

19. *Requests* the Special Rapporteur to submit annually a report to the Commission and an interim report to the General Assembly on the activities performed under his mandate;

20. *Decides* to continue consideration of this matter at its sixty-first session under the same agenda item.

*52nd meeting*

*16 April 2004*

[Adopted by a recorded vote of 52 votes to 1. See chap. X.]

### **2004/28. Prohibition of forced evictions**

*The Commission on Human Rights,*

*Recalling* its resolution 1993/77 of 10 March 1993 and the analytical report on forced evictions submitted by the Secretary-General to the Commission at its fiftieth session (E/CN.4/1994/20),

*Recalling also* Sub-Commission on the Promotion and Protection of Human Rights resolutions 1991/12 of 26 August 1991, 1992/14 of 27 August 1992, 1993/41 of 26 August 1993, 1994/39 of 26 August 1994, 1995/29 of 24 August 1995, 1996/27 of 29 August 1996, 1997/6 of 22 August 1997 and 1998/9 of 20 August 1998,

*Reaffirming* that every woman, man and child has the right to a secure place to live in peace and dignity, which includes the right not to be evicted unlawfully, arbitrarily or on a discriminatory basis from their home, land or community,

*Recognizing* that the often violent practice of forced eviction involves the coerced and involuntary removal of persons, families and groups from their homes, lands and communities, whether or not deemed legal under prevailing systems of law, resulting in greater homelessness and inadequate housing and living conditions,

*Emphasizing* that ultimate legal and political responsibility for preventing forced evictions rests with Governments,

*Recalling*, however, that general comment No. 2 (1990) on international technical assistance measures (art. 22 of the International Covenant on Economic, Social and Cultural Rights), adopted by the Committee on Economic, Social and Cultural Rights at its fourth session, states, inter alia, that international agencies should scrupulously avoid involvement in projects which involve, among other things, large-scale evictions or displacement of persons without the provision of all appropriate protection and compensation, and general comment No. 4 (1991) on

the right to adequate housing (art. 11, para. 1, of the Covenant) in which the Committee considered that instances of forced eviction were, *prima facie*, incompatible with the requirements of the Covenant and could only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law,

*Noting with interest* the recent case law of the European Court of Human Rights, the Inter-American Commission on Human Rights and the African Commission on Human and Peoples' Rights regarding the prohibition of forced eviction,

*Recalling* the adoption of general comment No. 7 (1997) on the right to adequate housing (art. 11, para. 1, of the Covenant): forced evictions by the Committee on Economic, Social and Cultural Rights, in which the Committee recognized, *inter alia*, that women, children, youth, older persons, indigenous people, ethnic and other minorities, and other marginalized or vulnerable groups all suffer disproportionately from the practice of forced eviction, and that women in all groups are disproportionately affected, given the extent of statutory and other forms of discrimination which often apply in relation to the property rights of women, including homeownership and rights of access to property of accommodation, and given the particular vulnerability of women to acts of gender-based violence and sexual abuse when they are rendered homeless,

*Noting* the provisions on forced evictions contained in the Habitat Agenda, adopted by the second United Nations Conference on Human Settlements (Habitat II) (A/CONF.165/14) convened in June 1996,

1. *Reaffirms* that the practice of forced eviction that is contrary to laws that are in conformity with international human rights standards constitutes a gross violation of a broad range of human rights, in particular the right to adequate housing;
2. *Strongly urges* Governments to undertake immediately measures, at all levels, aimed at eliminating the practice of forced eviction by, *inter alia*, repealing existing plans involving forced evictions as well as any legislation allowing for forced evictions, and by adopting and implementing legislation ensuring the right to security of tenure for all residents;
3. *Also strongly urges* Governments to protect all persons who are currently threatened with forced eviction and to adopt all necessary measures giving full protection against forced eviction, based upon effective participation, consultation and negotiation with affected persons or groups;
4. *Recommends* that all Governments provide immediate restitution, compensation and/or appropriate and sufficient alternative accommodation or land to persons and communities that have been forcibly evicted, following mutually satisfactory negotiations with the affected persons or groups and consistent with their wishes, rights and needs, and recognizing the obligation to ensure such provision in the event of any forced eviction;
5. *Also recommends* that all Governments ensure that any eviction that is otherwise deemed lawful is carried out in a manner that does not violate any of the human rights of those evicted;

6. *Reminds* all international financial, trade, development and other related institutions and agencies, including member or donor States that have voting rights within such bodies, to take fully into account the views contained in the present resolution and the obligations under international human rights and humanitarian law on the practice of forced eviction;

7. *Requests* the United Nations High Commissioner for Human Rights to give due attention to the practice of forced eviction in discharging her responsibilities and to undertake measures, whenever possible, to persuade Governments to comply with relevant international standards, to prevent planned forced evictions from taking place and to ensure the provision of restitution or just and fair compensation, as the case may warrant, when forced evictions have already occurred;

8. *Welcomes* the report of the expert seminar on the practice of forced evictions convened in Geneva from 11 to 13 June 1997 and the Comprehensive Human Rights Guidelines on Development-Based Displacement adopted by the expert seminar (E/CN.4/Sub.2/1997/7, annex);

9. *Invites* all States to study the Comprehensive Human Rights Guidelines, with a view to considering further appropriate action;

10. *Decides* to consider the issue of forced evictions at its sixty-first session under the same agenda item.

*52nd meeting*

*16 April 2004*

[Adopted by a recorded vote of 45 votes to 1,  
with 7 abstentions. See chap. X.]

**2004/29. Question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which the developing countries face in their efforts to achieve these human rights**

*The Commission on Human Rights,*

*Guided* by the principles relating to economic, social and cultural rights enshrined in the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights,

*Recalling* that in the Vienna Declaration and Programme of Action adopted in June 1993 by the World Conference on Human Rights (A/CONF.157/23), the World Conference encouraged the Commission to continue the examination of optional protocols to the International Covenant on Economic, Social and Cultural Rights,

*Recalling also* previous resolutions of the Commission on Human Rights and of the Sub-Commission for the Promotion and Protection of Human Rights on the realization of economic, social and cultural rights,

*Taking note with interest* of the ongoing new efforts towards the realization of economic, social and cultural rights, and considering that, to ensure the realization of economic, social and cultural rights and the removal of obstacles thereto at all levels, additional efforts should be examined,

1. *Takes note with interest* of the report of the Secretary-General on the implementation of its resolution 2003/18 of 22 April 2003 (E/CN.4/2004/38) and of all other relevant reports of the United Nations High Commissioner for Human Rights on economic, social and cultural rights and the activities of intergovernmental and non-governmental organizations in that regard;

2. *Recalls* the entry into force of the Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography, of the International Labour Organization Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (No. 182) and of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, and calls upon all States to consider signing and ratifying these instruments and upon the States parties to implement them fully;

3. *Notes with interest:*

(a) The work carried out by the Committee on Economic, Social and Cultural Rights to assist States parties in fulfilling their obligations, including through:

- (i) The development and adoption of general comments, in order to assist in clarifying the content and scope of the articles of the International Covenant on Economic, Social and Cultural Rights and, in this regard, takes note of the adoption of general comment No. 15 (2002) on the right to water (arts. 11 and 12 of the Covenant);
- (ii) The discussions held by the Committee at its thirtieth session, held in May 2003, on a draft general comment on article 3 of the Covenant (the equal right of men and women to the enjoyment of all economic, social and cultural rights), as a follow-up to the day of general discussion at its twenty-eighth session in May 2002;
- (iii) The convening of days of general discussion, such as the one on article 6 of the Covenant (the right to work), held during the thirty-first session of the Committee, in November 2003;

(b) The work of the Committee on the Rights of the Child in the promotion of the economic, social and cultural rights of children;

(c) Efforts of the High Commissioner within the United Nations Development Group to promote economic, social and cultural rights;

(d) The elaboration of training programmes in the Office of the United Nations High Commissioner to develop in-house expertise in incorporating economic, social and cultural rights in technical cooperation projects, and encourages the Office to enhance the incorporation of economic, social and cultural rights in its technical cooperation programmes;

4. *Welcomes* the activities carried out by the Office of the High Commissioner on the promotion of economic, social and cultural rights, which have included awareness-raising on the importance of economic, social and cultural rights, contributing to the implementation of internationally agreed development goals, including those contained in the United Nations Millennium Declaration, and several inter-agency activities exploring the legal content and justiciability of these rights;

5. *Also welcomes*:

(a) Ongoing efforts by the Economic and Social Council and the General Assembly towards a coordinated follow-up to relevant United Nations conferences and summits;

(b) Regional initiatives to promote the further realization of economic, social and cultural rights;

(c) The inclusion of the issue of the realization of economic, social and cultural rights in the Durban Declaration and Programme of Action adopted on 8 September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/CONF.189/12 and Corr.1), in which States underscored, inter alia, the need to design, promote and implement at the national, regional and international levels strategies, programmes and policies, and adequate legislation, which may include special and positive measures, for furthering equal social development and the realization of the civil and political, economic, social and cultural rights of all victims of racism, racial discrimination, xenophobia and related intolerance;

(d) The inclusion of the issue of the realization of economic, social and cultural rights in the document entitled "A world fit for children", adopted by the General Assembly in the annex to its resolution S-27/2 of 10 May 2002 - during its twenty-seventh special session on children - in which participating States agreed to implement the Plan of Action and to that end to consider establishing or strengthening measures such as national legislation, policies and action plans to fulfil and protect rights and to secure the well-being of children, and national bodies or other institutions for the promotion and protection of the rights of the child;

6. *Further welcomes* the activities and efforts of non-governmental organizations in raising awareness, and their important contributions to the question of the realization and enjoyment of economic, social and cultural rights;

7. *Takes note* of the joint statement issued on 17 March 2003 by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living,

the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on the right to food, on the occasion of the Third World Water Forum, held in Kyoto, Japan, in March 2003;

8. *Reaffirms:*

(a) That, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can be achieved only if conditions are created whereby everyone may enjoy his or her economic, social and cultural rights, as well as his or her civil and political rights;

(b) The inextricable link between full respect for the rights contained in the International Covenant on Economic, Social and Cultural Rights and the process of development, the central purpose of which is the realization of the potentialities of the human person with the effective participation of all members of society in relevant decision-making processes as agents and beneficiaries of development, as well as with a fair distribution of its benefits;

(c) That all persons in all countries are entitled to the realization of their economic, social and cultural rights, which are indispensable to their dignity and the free development of their personality;

(d) The universality, indivisibility, interdependence and interrelatedness of all human rights and fundamental freedoms and that promoting and protecting one category of rights should therefore never exempt or excuse States from the promotion and protection of other rights;

(e) The importance of international cooperation in assisting Governments to fulfil their obligation to protect and promote all human rights, including economic, social and cultural rights, while emphasizing that the first responsibility for promoting and protecting human rights lies with States;

(f) That the realization of all human rights and fundamental freedoms, and particularly economic, social and cultural rights, is a dynamic process and that, as is evident in today's world, a great deal remains to be accomplished;

9. *Calls upon* all States:

(a) To give full effect to economic, social and cultural rights;

(b) To consider signing and ratifying, and the States parties to implement, the International Covenant on Economic, Social and Cultural Rights;

(c) To guarantee that economic, social and cultural rights will be exercised without discrimination of any kind;

(d) To secure progressively, through national development policies and with international assistance and cooperation, full realization of economic, social and cultural rights, giving particular attention to the individuals, most often women and children, especially girls, and communities living in extreme poverty and therefore most vulnerable and disadvantaged;

(e) To consider in this context, as appropriate, the draft guidelines on the integration of human rights into poverty reduction strategies and the desirability of drawing up national action plans identifying steps to improve the situation of human rights in general with specific benchmarks designed to give effect to minimum essential levels of enjoyment of economic, social and cultural rights;

(f) To help alleviate the unsustainable external debt burden of countries that meet the criteria of the Heavily Indebted Poor Countries Initiative, which should further strengthen the efforts of the Governments of these countries to realize economic, social and cultural rights, inter alia through the development and implementation of programmes, as well as the prevention of the spread of the HIV/AIDS pandemic in Africa and the reconstruction of countries affected by natural disasters;

(g) To promote the effective and wide participation of representatives of civil society in decision-making processes related to the promotion and protection of economic, social and cultural rights, including through efforts to identify and strengthen good governance practices - transparent, responsible and participatory government which is responsive to the needs and aspirations of all sections of society;

10. *Calls upon* the States parties to the International Covenant on Economic, Social and Cultural Rights:

(a) To withdraw reservations incompatible with the object and purpose of the Covenant and to consider reviewing other reservations with a view to withdrawing them;

(b) To promote a concerted national effort to ensure the participation of representatives of all sectors of civil society in the process of preparation of their periodic reports to the Committee on Economic, Social and Cultural Rights and in the implementation of the recommendations of the Committee;

(c) To submit their reports to the Committee in a regular and timely manner;

(d) To ensure that the Covenant is taken into account in all of their relevant national and international policy-making processes;

11. *Recalls* that international cooperation in solving international problems of an economic, social and cultural character and in promoting and encouraging respect for human rights and fundamental freedoms for all is one of the purposes of the United Nations, and affirms that wider international cooperation would contribute to lasting progress in implementing economic, social and cultural rights;

12. *Decides*:

(a) To encourage the Committee on Economic, Social and Cultural Rights to continue its efforts towards the promotion, protection and full realization of the rights enshrined in the International Covenant on Economic, Social and Cultural Rights, at the national and international levels, notably by:

- (i) Enhancing its cooperation with United Nations specialized agencies, programmes, special mechanisms and the other human rights treaty bodies and other bodies working on issues that bear upon the Covenant;
- (ii) Drafting further general comments to assist and promote the further implementation by States parties of the Covenant, and making the experience gained through the examination of States parties' reports available for the benefit of all States parties;

(b) To encourage all United Nations specialized agencies and programmes, relevant special mechanisms of the Commission and other United Nations bodies, including human rights treaty bodies whose activities bear upon economic, social and cultural rights, to enhance their cooperation and, as appropriate, increase coordination with the Committee in a manner that respects their distinctive mandates and promotes their policies, programmes and projects;

(c) To encourage the Office of the High Commissioner to continue its cooperation with other United Nations agencies as part of the integration of economic, social and cultural rights within the United Nations system;

(d) To encourage the High Commissioner to strengthen the research and analytical capacities of her Office in the field of economic, social and cultural rights and to share her expertise, inter alia through the holding of expert meetings;

(e) To encourage the High Commissioner to continue to ensure better support for the Committee, in particular under the Programme of Action to strengthen the implementation of the International Covenant on Economic, Social and Cultural Rights (E/1997/22-E/C.12/1996/6, annex VII) adopted by the Committee at its fifteenth session;

(f) To encourage the High Commissioner to continue to provide or to facilitate practical support aimed at building capacities for the full realization of economic, social and cultural rights;

(g) To support the efforts by the High Commissioner to implement the proposed Programme of Action designed to enhance the ability of the Committee to assist interested Governments in their reporting obligations and its capacity to process and follow up the examination of States parties' reports and, accordingly, to request States parties to the Covenant to make voluntary financial contributions to ensure the adequate implementation of that Programme of Action;

13. Welcomes the report of the open-ended Working Group of the Commission with a view to considering options regarding the elaboration of an optional protocol to the International Covenant on Economic, Social and Cultural Rights, pursuant to Commission resolution 2002/24 of 22 April 2002 (E/CN.4/2004/44);



14. *Decides:*

(a) To renew the mandate of the Working Group for a period of two years to consider options regarding the elaboration of an optional protocol to the International Covenant on Economic, Social and Cultural Rights;

(b) To authorize the Working Group to meet for 10 working days prior to the sixty-first as well as the sixty-second sessions of the Commission;

(c) To invite a representative of the Committee on Economic, Social and Cultural Rights to attend these meetings as a resource person;

(d) To request the Chairperson-Rapporteur of the Working Group to identify experts who could be invited to future sessions of the Working Group, including:

(i) Representatives of those treaty bodies with individual complaints procedures, in particular a representative of the Committee on the Elimination of Discrimination against Women;

(ii) Representatives of regional human rights mechanisms;

(iii) Representatives of the International Labour Organization and the United Nations Educational, Scientific and Cultural Organization in relation to complaints mechanisms within the mandates of these organizations;

(iv) Special rapporteurs of the Commission;

(e) To request the Secretary-General to submit to the Working Group, at its second session, a report containing a comparative summary of existing communications and inquiry procedures and practices under international human rights instruments and under the United Nations system;

15. *Requests* the Working Group to report to the Commission at its sixty-first session;

16. *Requests* the Secretary-General to submit to the Commission at its sixty-first session a report on the implementation of the present resolution;

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

[For the text, see chap. I, draft decision 12.]

*55th meeting  
19 April 2004*

[Adopted by a recorded vote of 48 votes to none,  
with 5 abstentions. See chap. X.]

**2004/30. Enhancing the role of regional, subregional and other organizations and arrangements in promoting and consolidating democracy**

*The Commission on Human Rights,*

*Recalling* General Assembly resolution 55/96 of 4 December 2000, entitled “Promoting and consolidating democracy”, as well as all its own relevant resolutions, in particular resolutions 1999/57 of 27 April 1999, entitled “Promotion of the right to democracy”, 2000/47 of 25 April 2000, entitled “Promoting and consolidating democracy”, 2001/41 of 23 April 2001, entitled “Continuing dialogue on measures to promote and consolidate democracy”, 2002/46 of 23 April 2002, entitled “Further measures to promote and consolidate democracy”, and 2003/36 of 23 April 2003, entitled “Interdependence between democracy and human rights”,

1. *Declares* that the essential elements of democracy include respect for human rights and fundamental freedoms, inter alia freedom of association and of peaceful assembly, freedom of expression and opinion, and the right to take part in the conduct of public affairs, directly or through freely chosen representatives, and to vote and to be elected at genuine periodic free elections by universal and equal suffrage and by secret ballot guaranteeing the free expression of the will of the people, as well as a pluralistic system of political parties and organizations, respect for the rule of law, the separation of powers, the independence of the judiciary, transparency and accountability in public administration, and free, independent and pluralistic media;

2. *Reaffirms* that the promotion and protection of all human rights is a basic prerequisite for the existence of a democratic society, and recognizes the importance of the continuous development and strengthening of the United Nations human rights system for the consolidation of democracy;

3. *Recognizes* the importance of all actions, at regional and subregional level, that aim at facilitating the establishment, development and consolidation of democratic institutions based on democratic values and principles and capable of responding to the specific needs of the countries in each region;

4. *Acknowledges* the importance of better awareness of democratic values and principles in all regions and for all people;

5. *Also acknowledges* that democracy contributes to the realization of all human rights and that there is a close link between democracy and good governance, on the one hand, and economic development and poverty alleviation, on the other;

6. *Further acknowledges* that democracy contributes substantially to preventing violent conflicts, to accelerating reconciliation and reconstruction in post-conflict peace-building and, in peacetime, to resolving disputes that may impede economic and social progress;

7. *Recognizes* the need for Member States to pay further special attention and contribute to democratic institution-building by including relevant objectives to this effect in the mandates of peacemaking, peacekeeping and post-conflict peace-building operations and by providing adequate resources;

8. *Invites* intergovernmental regional, subregional and other organizations and arrangements, as well as relevant non-governmental organizations, to engage actively in work at the local, national, subregional and regional levels to constantly promote and consolidate democracy and to initiate exchanges with the United Nations system on their experiences, inter alia, through:

(a) Identifying and disseminating best practices and experiences at regional, subregional and cross-regional levels in promoting and protecting democratic processes;

(b) Establishing and supporting regional, subregional and national civic education programmes that provide access to information on democratic governance and stimulate dialogue on the functioning of democracy;

(c) Encouraging the study, in schools and universities, of democracy, human rights, good governance, as well as the functioning of public administration, political institutions and civil society organizations;

(d) Elaborating and widely distributing reports, assessments, training materials, handbooks, case studies and documentation on alternative types of democratic constitutions, electoral systems and administration, so as to assist populations in making more informed choices;

(e) Encouraging the use of democratic consultative mechanisms in disputes as an opportunity for parties involved to advance their interests within institutional frameworks;

9. *Invites* States members of intergovernmental regional organizations and arrangements to include or reinforce provisions of the constitutive acts of these organizations and arrangements that aim at promoting democratic values and principles and at protecting and consolidating democracy in their respective societies;

10. *Welcomes* the adoption by various regional, subregional and other organizations and arrangements of institutional rules designed to prevent situations that threaten democratic institutions, or to implement measures for the collective defence of democracy in the event of a serious disturbance or disruption of the democratic system;

11. *Invites* intergovernmental regional organizations and arrangements to institutionalize dialogue among themselves on joint actions to promote and consolidate democracy and democratic practices in all areas;

12. *Encourages* Member States and intergovernmental, regional and cross-regional organizations and arrangements, as well as relevant non-governmental organizations, to initiate networks and partnerships with a view to assisting Governments and civil society in their respective regions in disseminating knowledge and information about the role of democratic institutions and mechanisms in facing the political, economic, social and cultural challenges in their respective societies;

13. *Urges* the continuation and expansion of activities carried out by the United Nations system, intergovernmental organizations and Member States to promote and consolidate democracy within the framework of international cooperation;

14. *Invites* the United Nations system to identify, develop and coordinate effective policies of assistance in the field of democracy and, in this context, to support programmes of technical assistance to States, upon their request, aiming at:

(a) Developing a competent, independent and impartial judiciary and accountable government institutions;

(b) Strengthening political party systems, free and independent media, and civil society organizations;

(c) Fostering a democratic culture;

15. *Calls upon* the Office of the United Nations High Commissioner for Human Rights to stimulate the dialogue and interaction within the United Nations system and between the United Nations system and interested intergovernmental regional, subregional and other organizations and arrangements on the ways and means of promoting democratic values and principles, based on the present resolution and other relevant resolutions of the General Assembly and of the Commission, and, to this end, to invite, inter alia, the Electoral Assistance Division, the Department of Political Affairs the Department of Economic and Social Affairs, the United Nations Development Programme, the International Labour Organization, the United Nations Educational, Scientific and Cultural Organization and regional organizations to inform the Commission, at its next session, of actions undertaken to promote and consolidate democracy;

16. *Requests* the High Commissioner to continue to work for the promotion and consolidation of democracy in coordination, inter alia, with the bodies referred to in paragraph 15 above by:

(a) Strengthening its programmes for assistance to countries seeking technical advice;

(b) Continuing dialogue and cooperation with Member States with a view to identifying challenges to democratic governance at country level;

(c) Considering the designation of a focal point in the Office of the High Commissioner to that effect;

17. *Urges* the Office of the High Commissioner to report on its work in pursuance of the present resolution to the Commission at its sixty-first session.

*55th meeting  
19 April 2004*

[Adopted by a recorded vote of 45 votes to none,  
with 8 abstentions. See chap. XI.]

**2004/31. Strengthening of popular participation, equity, social justice and non-discrimination as essential foundations of democracy**

*The Commission on Human Rights,*

*Recalling* its previous resolutions on this issue,

*Recalling also* General Assembly resolution 55/96 of 4 December 2000 and recalling its own resolution 2000/47 of 25 April 2000 on promoting and consolidating democracy,

*Reaffirming* its commitment to the purposes and principles enshrined in the Charter of the United Nations,

*Reaffirming also* the commitment of all States to fulfil their obligations to promote universal respect for, and observance and protection of, all human rights and fundamental freedoms for all in accordance with the Charter of the United Nations, other instruments relating to human rights, and international law,

*Stressing* that all peoples have the right to self-determination, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development,

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

*Recalling* that all human rights are universal, indivisible, interdependent and interrelated and that the international community must treat all human rights globally in a fair and equal manner, on the same footing and with the same emphasis,

*Reaffirming* the commitment made by Member States to strive for the full protection and promotion in all our States of civil, political, economic, social and cultural rights for all,

*Considering* the major changes taking place on the international scene and the aspirations of all peoples for a democratic, participatory and fair international order based on the principles enshrined in the Charter of the United Nations, including promoting and encouraging respect for human rights and fundamental freedoms for all and respect for the principle of equal rights and self-determination of peoples, peace, democracy, justice, equality, rule of law, pluralism, development, better standards of living and solidarity,

*Welcoming* the commitment of all Member States, expressed in the United Nations Millennium Declaration, to work collectively for more inclusive political processes allowing genuine participation by all citizens in all countries,

*Welcoming also* the pledge of the international community at the World Conference on Human Rights, held at Vienna in June 1993, to support the strengthening and promotion of democracy, development and respect for human rights and fundamental freedoms throughout the world,

*Taking note* of the commitment of States, expressed in the Declaration of Principles adopted by the World Summit on the Information Society in December 2003, to ensure that everyone can benefit from the opportunities offered by information and communication technologies, so that all citizens in every country can participate actively in, and benefit fully from, the information society,

*Recognizing* that the equal participation of all individuals and peoples in the formation of just, equitable, democratic and inclusive societies can contribute to a world free from racism, racial discrimination, xenophobia and related intolerance,

*Emphasizing* the importance of the equitable participation of all, without any discrimination, in domestic as well as global decision-making,

*Considering* that in the current context of globalization, whereby decisions affecting people's lives are often taken outside the national context, the application of the principles of democracy to the international and regional levels has taken on added importance,

*Recognizing* that development can only be sustainable on a long-term basis if development policies are responsive to people's needs and ensure people's participation both in their design and implementation, while stressing the fact that meeting the basic human needs essential for survival is a sine qua non condition for an effective democracy,

*Emphasizing* that the persistence of extreme poverty inhibits the full and effective enjoyment of human rights and the participation of all citizens in the democratic processes in every society, and that the full participation of everyone in democratic societies fosters and enhances the struggle against poverty,

*Reaffirming* the need to create an environment - at the national and global levels alike - which is conducive to development and to the elimination of poverty,

*Recalling* that accountable and transparent governance at the national and international levels is critical for the creation of an environment that facilitates the development of democratic, prosperous and peaceful societies,

*Reaffirming* that democracy goes hand in hand with an effective, honest and transparent government, freely chosen and accountable for its management of public affairs,

*Recognizing and respecting* the rich and diverse nature of the community of the world's democracies, which arise out of all of the world's social, cultural and religious beliefs and traditions,

*Bearing in mind* that each society and every context has its own indigenous and relevant democratic institutional traditions, and that while no single institution can claim democratic perfection, the combination of domestic democratic structures with universal democratic norms is a formidable tool in strengthening both the roots and the reach of democracy and in advancing a universal understanding of democracy,

*Recognizing* that while all democracies share common features, differences between democratic societies should be neither feared nor repressed, but cherished as a precious asset of humanity,

*Aware* of the importance of fostering a diversity of social contributions in strengthening people's participation, equity, social justice and non-discrimination, including the enhancement of non-governmental organizations, people's organizations, voluntary social organizations, trade unions, the private sector and other actors of civil society,

*Aware also* of the importance of ensuring the implementation of the rights to freedom of opinion and expression as well as to freedom of assembly and association, in accordance with articles 19, 20, 21 and 22 of the International Covenant on Civil and Political Rights,

*Recalling* the commitment undertaken by all States within the framework of the United Nations and other international organizations to work for the promotion of democracy and the rule of law,

1. *Declares* that popular participation, equity, social justice and non-discrimination are essential foundations of democracy;
2. *Reaffirms* that democracy is based on the freely expressed will of the people to determine their own political, economic, social and cultural systems and their full participation in all aspects of their lives and that in that context the promotion and protection of human rights and fundamental freedoms at the national and international levels should be universal and conducted without conditions attached;
3. *Also reaffirms* that while all democracies share common features, there is no one model of democracy; therefore we must not seek to export any particular model of democracy;
4. *Affirms* that the consolidation of democracy requires the promotion and protection of all human rights for everyone, both civil and political rights and economic, social and cultural rights, including the right to development as a universal and inalienable right and an integral part of fundamental human rights, as established in the Declaration on the Right to Development;
5. *Also affirms* that the right to development is a crucial area of public affairs in every country and requires free, active and meaningful popular participation;
6. *Reaffirms* that democracy, development and respect for human rights are interdependent and mutually reinforcing;
7. *Stresses* that the consolidation of democracy requires that sustained economic growth and sustainable development of countries and communities foster the promotion and consolidation of democracies;
8. *Declares* that full popular participation is only feasible if societies have democratic political and electoral systems which guarantee to all their citizens the possibility both to take part in the government of their country, directly or through freely chosen representatives, and to have equal access to public service, without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status;

9. *Reaffirms* that the will of the people shall be the basis of the authority of government and that this shall be expressed in periodic and genuine elections, which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures;

10. *Also reaffirms* that free and fair elections, popular participation and control, collective deliberation and political equality are essential to democracy and must be realized through a framework of accessible, representative and accountable institutions subject to periodic change or renewal;

11. *Recognizes* that improving access of every person to, and education in, the use of information and communication technologies could enhance popular participation in public affairs and the accountability of Governments;

12. *Also recognizes* that inequitable political, economic, cultural and social conditions can breed and foster racism, racial discrimination, xenophobia and related intolerance, which in turn exacerbate inequity;

13. *Reaffirms* that genuine equality of opportunity for all, in all spheres, including that of development, is fundamental to the eradication of racism, racial discrimination, xenophobia and related intolerance;

14. *Urges* all States to foster a democracy that, inspired by the recognition of the inherent dignity and the equal and inalienable rights of all members of the human family, promotes people's welfare, rejecting all forms of discrimination and exclusion, facilitates development with equity and justice, and encourages the most comprehensive and full participation of their citizens in the decision-making process and in the debate over diverse issues affecting society;

15. *Requests* all States and the international community further to endeavour to promote effective measures to eradicate poverty and promote just, equitable and inclusive societies;

16. *Invites* all mechanisms of the Commission and the human rights treaty bodies to continue taking into account, in the discharge of their respective mandates, the question of strengthening popular participation, equity, social justice and non-discrimination as the foundations of democracy;

17. *Decides* to continue its consideration of this issue at its sixty-first session, under the same agenda item.

*55th meeting  
19 April 2004*

[Adopted by a recorded vote of 28 votes to 14,  
with 11 abstentions. See chap. XI.]



## 2004/32. Integrity of the judicial system

*The Commission on Human Rights,*

*Guided by articles 5, 7, 8, 10 and 11 of the Universal Declaration of Human Rights and articles 2, 4, 6, 7, 10, 14, 15 and 26 of the International Covenant on Civil and Political Rights, and bearing in mind the Vienna Declaration and Programme of Action,*

*Recalling other important documents on the issue of the integrity of the judicial system endorsed by various forums of the United Nations, in particular the Basic Principles on the Independence of the Judiciary, the Basic Principles on the Role of Lawyers, the Guidelines on the Role of Prosecutors, the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, the Standard Minimum Rules for the Treatment of Prisoners, the Basic Principles for the Treatment of Prisoners, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and the safeguards guaranteeing protection of the rights of those facing the death penalty,*

*Recalling also its resolutions 2002/37 of 22 April 2002 and 2003/39 of 23 April 2003 on the subject,*

*Taking note of resolution 2003/8 of 13 August 2003 of the Sub-Commission on the Promotion and Protection of Human Rights,*

*Convinced that the integrity of the judicial system is an essential prerequisite for the protection of human rights and for ensuring that there is no discrimination in the administration of justice,*

*Stressing that the integrity of the judicial system should be observed at all times,*

1. *Takes note of the report of the Special Rapporteur on the independence of judges and lawyers (E/CN.4/2004/60 and Add.1) as well as the report submitted by Mr. Emmanuel Decaux to the Sub-Commission on the issue of the administration of justice through military tribunals (E/CN.4/Sub.2/2003/4);*

2. *Reiterates that, as declared in article 14 of the International Covenant on Civil and Political Rights, every person is entitled, in full equality, to a fair and public hearing by a competent, independent and impartial tribunal duly established by law, in the determination of his/her rights and obligations and of any criminal charge against him/her, and that he/she is entitled to the presumption of innocence until proved guilty according to law;*

3. *Underlines that any court trying a person charged with a criminal offence should be competent, independent and impartial;*

4. *Urges States to guarantee that all persons brought to trial before courts or tribunals under their authority have the right to be tried in their presence, to defend themselves in person or through legal assistance of their own choosing and to have all the guarantees necessary for the defence;*

5. *Calls upon* States to ensure that the principles of equality before the courts and before the law are respected within their judicial systems, inter alia by providing to those being tried the possibility to examine, or to have examined, the witnesses against them and to obtain the attendance and examination of witnesses on their behalf under the same conditions as witnesses against them;
6. *Reaffirms* that every convicted person should have the right to have his/her conviction and sentence reviewed by a tribunal of competent jurisdiction according to law;
7. *Calls upon* States that have military courts or special criminal tribunals for trying criminal offenders to ensure that such courts, where required by applicable law, are an integral part of the general judicial system and that such courts apply due process procedures that are internationally recognized as guarantees of a fair trial, including the right to appeal a conviction and a sentence;
8. *Stresses* the importance of developing cooperation between the national judicial systems, inter alia with a view to strengthening the protection of persons deprived of their liberty;
9. *Requests* Mr. Decaux to take account of the present resolution in his continuing work;
10. *Requests* the Special Rapporteur on the independence of judges and lawyers to take full account of the present resolution in the discharge of his mandate and in his report to the Commission at its sixty-first session.

*55th meeting  
19 April 2004*

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

### **2004/33. Independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers**

*The Commission on Human Rights,*

*Guided* by articles 7, 8, 10 and 11 of the Universal Declaration of Human Rights and articles 2, 14 and 26 of the International Covenant on Civil and Political Rights, and bearing in mind the Vienna Declaration and Programme of Action (A/CONF.157/23), in particular Part I, paragraph 27, and Part II, paragraphs 88, 90 and 95, thereof,

*Convinced* that an independent and impartial judiciary and an independent legal profession are essential prerequisites for the protection of human rights and for ensuring that there is no discrimination in the administration of justice,

*Recalling* its resolution 1994/41 of 4 March 1994, in which it requested the Chairman of the Commission to appoint, for a period of three years, a special rapporteur on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers, and its resolution 2003/43 of 23 April 2003, in which it decided to extend the mandate of the Special Rapporteur for a further period of three years,

*Recalling also* its resolution 1995/36 of 3 March 1995, in which it endorsed the decision of the Special Rapporteur to use, beginning in 1995, the short title “Special Rapporteur on the independence of judges and lawyers”,

*Recalling further* General Assembly resolution 40/32 of 29 November 1985, as well as Assembly resolution 40/146 of 13 December 1985, in which the Assembly endorsed the Basic Principles on the Independence of the Judiciary, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

*Recalling* General Assembly resolution 45/166 of 18 December 1990, in which the Assembly welcomed the Basic Principles on the Role of Lawyers and the Guidelines on the Role of Prosecutors, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and invited Governments to respect them and to take them into account within the framework of their national legislation and practice,

*Noting* the Bangalore Principles of Judicial Conduct (E/CN.4/2003/65, annex) adopted at the Round Table Meeting of Chief Justices held in The Hague on 25 and 26 November 2002 and bringing those principles to the attention of Member States, relevant United Nations organs and intergovernmental and non-governmental organizations for their consideration,

*Recalling* the recommendations adopted by the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders regarding, among other things, the invitation addressed to Member States to ensure the independence and impartiality of the judiciary and the proper functioning of prosecutorial and legal services in the field of penal justice and police affairs, taking into account the Basic Principles on the Independence of the Judiciary,

*Recalling also* the Statement of Principles on the Independence of the Judiciary adopted in Beijing in August 1995 by the Sixth Conference of Chief Justices of Asia and the Pacific, and the Cairo Declaration, adopted in November 1995 by the Third Conference of Francophone Ministers of Justice,

*Acknowledging* the importance for the Special Rapporteur of being able to cooperate closely, in the framework of his mandate, with the Office of the United Nations High Commissioner for Human Rights in the field of advisory services and technical cooperation, which could contribute to guaranteeing the independence of judges and lawyers,

*Recognizing* the importance of the role of non-governmental organizations, bar associations and professional associations of judges in the defence of the principles of the independence of lawyers and judges,

*Noting with concern* the increasingly frequent attacks on their independence suffered by judges, lawyers and court officers, and aware of the close link between the weakening of safeguards for judges, lawyers and court officers and the frequency and gravity of violations of human rights,

1. *Takes note* of the report of the Special Rapporteur on the independence of judges and lawyers on the activities relating to his mandate (E/CN.4/2004/60 and Add.1);
2. *Notes* the Special Rapporteur's concern that the situation of the independence of judges and lawyers, which is the bedrock of the rule of law, remains delicate in many parts of the world;
3. *Also notes* the cooperative working methods that the Special Rapporteur has adopted to draw up his report and implement his mandate, as described in Commission resolution 1994/41;
4. *Welcomes* the numerous exchanges the Special Rapporteur has had with several intergovernmental and international organizations and United Nations bodies, and encourages him to continue along this path;
5. *Notes with appreciation* the determination of the Special Rapporteur to achieve as wide dissemination as possible of information about existing standards relating to the independence and impartiality of the judiciary and the independence of the legal profession in conjunction with the publications and promotional activities of the Office of the High Commissioner;
6. *Invites* the High Commissioner to continue to provide technical assistance to train judges and lawyers;
7. *Calls upon* all Governments to respect and uphold the independence of judges and lawyers and, to that end, to take effective legislative, law enforcement and other appropriate measures that will enable them to carry out their professional duties without harassment or intimidation of any kind;
8. *Welcomes* the publication of *Human Rights in the Administration of Justice: A Manual on Human Rights for Judges, Prosecutors and Lawyers* in the context of the United Nations Decade for Human Rights Education;
9. *Urges* all Governments to assist the Special Rapporteur in the discharge of his mandate and to transmit to him all the information requested;
10. *Encourages* Governments that face difficulties in guaranteeing the independence of judges and lawyers, or that are determined to take measures to implement these principles further, to consult and to consider the services of the Special Rapporteur, for instance by inviting him to their country if the Government concerned deems it necessary;
11. *Requests* the Special Rapporteur to submit a report on the activities relating to his mandate to the Commission at its sixty-first session and decides to consider the question at that session, under the same agenda item;

12. *Requests* the Secretary-General, within the limits of the United Nations regular budget, to provide the Special Rapporteur with any assistance needed for the discharge of his mandate.

*55th meeting  
19 April 2004*

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

**2004/34. The right to restitution, compensation and rehabilitation for victims of grave violations of human rights and fundamental freedoms**

*The Commission on Human Rights,*

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

*Reaffirming* that, pursuant to internationally proclaimed human rights principles, victims of grave violations of human rights should receive, in appropriate cases, restitution, compensation and rehabilitation,

*Reiterating* the importance of addressing the question of restitution, compensation and rehabilitation for victims of grave violations of human rights and fundamental freedoms in a systematic and thorough way at the national and international levels,

*Recalling* its resolutions 1996/35 of 19 April 1996, 1998/43 of 17 April 1998, 1999/33 of 26 April 1999, 2000/41 of 20 April 2000, 2002/44 of 23 April 2002 and 2003/34 of 23 April 2003, as well as its decision 2001/105 of 23 April 2001,

*Recalling also* the report of the independent expert appointed by the Commission, Mr. Cherif Bassiouni (E/CN.4/2000/62) and, in particular, the draft of the “Basic principles and guidelines on the right to a remedy and reparation for victims of violations of international human rights and humanitarian law”, annexed to his report, and the note by the Secretariat (E/CN.4/2002/70),

*Welcoming with satisfaction* the positive experience of countries that have established policies and adopted legislation on restitution, compensation and rehabilitation for victims of grave violations of human rights,

1. *Calls upon* the international community to give due attention to the right to a remedy and, in particular, in appropriate cases, to receive restitution, compensation and rehabilitation, for victims of grave violations of international human rights law and humanitarian international law;

2. *Takes note* of the report of the Chairperson-Rapporteur of the second consultative meeting on basic principles and guidelines on the right to a remedy and reparation for victims of violations of international human rights and humanitarian law (E/CN.4/2004/57, annex), held in Geneva on 20, 21 and 23 October 2003;

3. *Requests* the Chairperson-Rapporteur of the consultative meetings, in consultation with the independent experts, Mr. Theo van Boven and Mr. Cherif Bassiouni, to prepare a revised version of the “Basic principles and guidelines on the right to a remedy and reparation for victims of violations of international human rights and humanitarian law”, taking into account the opinions and commentaries of States and of intergovernmental and non-governmental organizations and the results of the previous consultative meetings (see E/CN.4/2003/63 and E/CN.4/2004/57);

4. *Requests* the United Nations High Commissioner for Human Rights to hold, with the cooperation of interested Governments, a third consultative meeting for all interested Member States, intergovernmental organizations and non-governmental organizations in consultative status with the Economic and Social Council, using available resources, with a view to finalizing the “Basic principles and guidelines on the right to a remedy and reparation for victims of violations of international human rights and humanitarian law”, and if appropriate, to consider all options for the adoption of these principles and guidelines; this meeting should have, as a basis for its work, inter alia, the comments received, the revised version of the principles and guidelines to be prepared by the Chairperson-Rapporteur pursuant to paragraph 3 of the present resolution, and the reports of the Chairperson-Rapporteur of the two previous consultative meetings;

5. *Encourages* the Chairperson-Rapporteur of the consultative meetings to conduct informal consultations with all interested parties;

6. *Requests* the High Commissioner to transmit to the Commission at its sixty-first session the outcome of the consultative process, for its consideration;

7. *Decides* to continue its consideration of this question, as a matter of priority, at its sixty-first session under the sub-item entitled “Independence of the judiciary, administration of justice, impunity” of the relevant agenda item.

*55th meeting  
19 April 2004*

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

### **2004/35. Conscientious objection to military service**

*The Commission on Human Rights,*

*Bearing in mind* that it is recognized in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights that everyone has the right to life, liberty and security of person, as well as the right to freedom of thought, conscience and religion and the right not to be discriminated against,

*Recalling* all its previous resolutions on the subject, in particular resolution 1998/77 of 22 April 1998, in which the Commission recognized the right of everyone to have conscientious objection to military service as a legitimate exercise of the right to freedom of

thought, conscience and religion, as laid down in article 18 of the Universal Declaration of Human Rights and article 18 of the International Covenant on Civil and Political Rights and general comment No. 22 (1993) of the Human Rights Committee,

1. *Takes note* of the compilation and analysis of best practices in relation to the recognition of the right of everyone to have conscientious objection to military service as a legitimate exercise of the right to freedom of thought, conscience and religion, and the provision of alternative forms of service contained in the report of the Office of the United Nations High Commissioner for Human Rights (E/CN.4/2004/55);
2. *Expresses its appreciation* to those Governments and others who contributed material for the report;
3. *Calls upon* States that have not yet done so to review their current laws and practices in relation to conscientious objection to military service in the light of its resolution 1998/77, taking account of the information contained in the report;
4. *Encourages* States, as part of post-conflict peace-building, to consider granting, and effectively implementing, amnesties and restitution of rights, in law and practice, for those who have refused to undertake military service on grounds of conscientious objection;
5. *Requests* the Office of the High Commissioner to prepare an analytical report which would provide supplementary information on best practices in relation to conscientious objection to military service, drawing on all appropriate sources, and to submit this report to the Commission at its sixty-second session under the same agenda item.

*55th meeting  
19 April 2004*

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

### **2004/36. Elimination of all forms of religious intolerance**

*The Commission on Human Rights,*

*Recalling* that all States have pledged themselves, under the Charter of the United Nations, to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

*Recalling also* General Assembly resolution 36/55 of 25 November 1981, by which it proclaimed the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief,

*Recalling further* article 18 of the International Covenant on Civil and Political Rights, article 18 of the Universal Declaration of Human Rights, paragraph 4 of the United Nations Millennium Declaration and other relevant human rights provisions,

*Reaffirming* the call of the World Conference on Human Rights upon all Governments to take all appropriate measures in compliance with their international obligations and with due regard to their respective legal systems to counter intolerance and related violence based on

religion or belief, including practices of discrimination against women and the desecration of religious sites, recognizing that every individual has the right to freedom of thought, conscience, expression and religion,

*Recalling* the provisions of the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference on Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/CONF.189/12 and Corr.1), aimed at combating religious intolerance,

*Recalling also* General Assembly resolution 56/6 of 9 November 2001 on the Global Agenda for Dialogue among Civilizations in which the Assembly recognized the valuable contribution that dialogue among civilizations can make to an improved awareness and understanding of the common values shared by all humankind,

*Emphasizing* that the right to freedom of thought, conscience, religion and belief is far-reaching and profound and that it encompasses freedom of thought on all matters, personal conviction and the commitment to religion or belief, whether manifested individually or in community with others, in public or in private,

*Underlining* the importance of education in the promotion of tolerance, which involves the acceptance of, and respect for, diversity and underlining also that education, in particular at school, should contribute in a meaningful way to promoting tolerance and the elimination of discrimination based on religion or belief,

*Recalling* the importance of the International Consultative Conference on School Education in Relation to Freedom of Religion or Belief, Tolerance and Non-Discrimination held in Madrid in November 2001, and continuing to invite Governments to give consideration to the Final Document adopted at the Conference,

*Alarmed* that serious instances of intolerance and discrimination on the grounds of religion or belief, including acts of violence, intimidation and coercion motivated by religious intolerance, occur in many parts of the world and threaten the enjoyment of human rights and fundamental freedoms,

*Deeply concerned* at the overall rise in intolerance and discrimination, including acts of violence, against persons belonging to religious minorities in all parts of the world, including restrictive legislation and arbitrary application of legislation and other measures,

*Profoundly concerned* at the extreme situations of violence and discrimination that affect many women as a result of religion or belief,

*Concerned also* at the rise in religious extremism affecting religions in all parts of the world,

*Recognizing with deep concern* the overall rise in instances of intolerance directed against members of many religious communities in various parts of the world, including cases motivated by Islamophobia, anti-Semitism and Christianophobia,

*Seriously concerned* at all attacks upon religious places, sites and shrines, including any deliberate destruction of relics and monuments,



*Believing* that further intensified efforts are therefore required to promote and protect the right to freedom of thought, conscience, religion or belief and to eliminate all forms of hatred, intolerance and discrimination based on religion or belief, as also noted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance,

1. *Takes note with appreciation* of the report of the Special Rapporteur on freedom of religion or belief (E/CN.4/2004/63 and Add.1 and 2);

2. *Condemns* all forms of intolerance and of discrimination based on religion or belief;

3. *Encourages* the efforts made by the United Nations High Commissioner for Human Rights to coordinate in the field of human rights the activities of relevant United Nations organs, bodies and mechanisms dealing with all forms of intolerance and of discrimination based on religion or belief;

4. *Urges* States:

(a) To ensure that their constitutional and legislative systems provide adequate and effective guarantees of freedom of thought, conscience, religion and belief to all without distinction, inter alia by the provision of effective remedies in cases where the right to freedom of thought, conscience, religion or belief, the right to practise freely one's religion, including the right to change one's religion or belief, is violated;

(b) To ensure, in particular, that no one within their jurisdiction is deprived of the right to life or the right to liberty and security of person because of religion or belief, or is subjected to torture or arbitrary arrest or detention on that account, and to bring to justice all perpetrators of violations of these rights;

(c) In conformity with international human rights standards, to take all necessary action to combat hatred, intolerance and acts of violence, intimidation and coercion motivated by intolerance based on religion or belief, with particular regard to religious minorities, and also to devote particular attention to practices which violate the human rights of women and discriminate against women including in the exercise of their right to freedom of thought, conscience, religion or belief;

(d) To recognize the right of all persons to worship or assemble in connection with a religion or belief and to establish and maintain places for these purposes;

(e) To exert the utmost efforts, in accordance with their national legislation and in conformity with international human rights standards, to ensure that religious places, sites and shrines are fully respected and protected and to take additional measures in cases where they are vulnerable to desecration or destruction;

(f) To ensure that all public officials and civil servants, including members of law enforcement bodies, the military and educators, in the course of their official duties, respect different religions and beliefs and do not discriminate on the grounds of religion or belief, and that all necessary and appropriate education or training is provided;

(g) To promote and encourage, through education and other means, understanding, tolerance and respect in all matters relating to freedom of religion or belief;

5. *Emphasizes* that, as underlined by the Human Rights Committee, restrictions on the freedom to manifest religion or belief are permitted only if limitations are prescribed by law, are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others, and are applied in a manner that does not vitiate the right to freedom of thought, conscience and religion;

6. *Encourages* the continuing efforts of the Special Rapporteur to examine incidents and governmental actions in all parts of the world that are incompatible with the provisions of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief and to recommend remedial measures as appropriate;

7. *Stresses* the need for the Special Rapporteur to continue to apply a gender perspective, inter alia through the identification of gender-specific abuses, in the reporting process, including in information collection and in recommendations;

8. *Urges* all Governments to cooperate fully with the Special Rapporteur and to respond favourably to his request to visit their countries so as to enable him to fulfil his mandate even more effectively;

9. *Welcomes* the work of the Special Rapporteur and reiterates the need for him to be able to respond effectively to credible and reliable information that comes before him, and invites him to continue to seek the views and comments of Governments concerned in the elaboration of his report, as well as to continue to carry out his work with discretion, objectivity and independence;

10. *Decides* to extend the mandate of the Special Rapporteur for three years;

11. *Recognizes* that the exercise of tolerance and non-discrimination by all actors in society is necessary for the full realization of the aims of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, and invites Governments, religious bodies and civil society to continue to undertake dialogue at all levels to promote greater tolerance, respect and understanding;

12. *Emphasizes* the importance of a continued and strengthened dialogue among religions or beliefs, encompassed by the dialogue among civilizations, to promote greater tolerance, respect and mutual understanding;

13. *Urges* States to make all appropriate efforts to encourage those engaged in teaching to cultivate respect for all religions or beliefs, thereby promoting mutual understanding and tolerance;

14. *Welcomes and encourages* the continuing efforts of non-governmental organizations and religious bodies and groups to promote the implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, and further encourages their work in promoting freedom of religion or belief and in highlighting cases of religious intolerance, discrimination and persecution;

15. *Recommends* that the United Nations and other actors, in their efforts to promote freedom of religion or belief, ensure the widest possible dissemination of the text of the Declaration, in as many different languages as possible, by United Nations information centres, as well as by other interested bodies;

16. *Requests* that, from existing available resources and if necessary supplemented by voluntary contributions, the “*Etude sur la liberté de religion ou de conviction et la condition de la femme au regard de la religion et des traditions*” (E/CN.4/2002/73/Add.2) be translated into the other official languages of the United Nations and published as an official document;

17. *Decides* to continue its consideration of measures to implement the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief;

18. *Requests* the Secretary-General to ensure that the Special Rapporteur receives the necessary resources to enable him to discharge his mandate fully;

19. *Requests* the Special Rapporteur to submit an interim report to the General Assembly at its fifty-ninth session and to report to the Commission at its sixty-first session;

20. *Decides* to consider the question of the elimination of all forms of religious intolerance at its sixty-first session under the same agenda item;

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

[For the text, see chap. I, draft decision 14.]

*55th meeting  
19 April 2004*

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

### **2004/37. Extrajudicial, summary or arbitrary executions**

*The Commission on Human Rights,*

*Recalling* the Universal Declaration of Human Rights, which guarantees the right to life, liberty and security of person, and the relevant provisions of the International Covenant on Civil and Political Rights,

*Having regard* to the legal framework of the mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions, including the provisions contained in Commission resolution 1992/72 of 5 March 1992 and General Assembly resolution 47/136 of 18 December 1992,

*Mindful* of all relevant General Assembly resolutions and of Commission resolutions on extrajudicial, summary or arbitrary executions, in particular its resolution 2001/45 of 23 April 2001,

*Recalling* Economic and Social Council resolution 1984/50 of 25 May 1984 and the safeguards guaranteeing protection of the rights of those facing the death penalty annexed thereto, and Council resolution 1989/64 of 24 May 1989 on their implementation, as well as the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, adopted by the General Assembly in its resolution 40/34 of 29 November 1985,

*Recalling also* Economic and Social Council resolution 1989/65 of 24 May 1989, in which the Council recommended the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions,

*Acknowledging* that extrajudicial, summary or arbitrary executions are crimes under the Rome Statute of the International Criminal Court (A/CONF.183/9) and noting the 93 ratifications or accessions by States and the 139 signatures to date by States of the Rome Statute of the International Criminal Court,

*Convinced* of the need for effective action to combat and to eliminate the abhorrent practice of extrajudicial, summary or arbitrary executions, which represents a flagrant violation of the inherent right to life,

*Dismayed* that in a number of countries impunity, the negation of justice, continues to prevail and often remains the main cause of the continued occurrence of extrajudicial, summary or arbitrary executions,

1. *Strongly condemns once again* all extrajudicial, summary or arbitrary executions, in all their forms, that continue to take place throughout the world;

2. *Notes with deep concern* that impunity continues to be a major cause of the perpetuation of violations of human rights, including extrajudicial, summary or arbitrary executions;

3. *Acknowledges* the importance of relevant special procedures of the Commission, in particular the Special Rapporteur on extrajudicial, summary or arbitrary executions, in their key role as early warning mechanisms in preventing the crime of genocide and crimes against humanity, and encourages the relevant special procedures, within their mandates, to cooperate towards this end;

4. *Demands* that all States ensure that the practice of extrajudicial, summary or arbitrary executions is brought to an end and that they take effective action to combat and eliminate the phenomenon in all its forms;

5. *Reiterates* the obligation of all States to conduct exhaustive and impartial investigations into all suspected cases of extrajudicial, summary or arbitrary executions, to identify and bring to justice those responsible, while ensuring the right of every person to a fair and public hearing by a competent, independent and impartial tribunal established by law, to grant adequate compensation within a reasonable time to the victims or their families and to adopt all necessary measures, including legal and judicial measures, in order to bring an end to impunity and to prevent the recurrence of such executions, as stated in the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions;

6. *Reaffirms* the obligation of States to protect the inherent right to life of all persons under their jurisdiction and calls upon concerned States to investigate promptly and thoroughly all killings committed in the name of passion or in the name of honour, all killings committed for any discriminatory reason, including sexual orientation; racially motivated violence leading to the death of the victim; killings of members of national, ethnic, religious or linguistic minorities, of refugees, of internally displaced persons, of street children or of members of indigenous communities; killings of persons for reasons related to their activities as human rights defenders, lawyers, journalists or as demonstrators, in particular as a consequence of their exercise of the right to freedom of opinion and expression; as well as other cases where a person's right to life has been violated, all of which are being committed in various parts of the world, and to bring those responsible to justice before a competent, independent and impartial judiciary, and to ensure that such killings, including those committed by security forces, police and law enforcement agents, paramilitary groups or private forces, are neither condoned nor sanctioned by government officials or personnel;

7. *Calls upon* all States in which the death penalty has not been abolished to comply with their obligations as assumed under relevant provisions of international human rights instruments, including in particular articles 6, 7 and 14 of the International Covenant on Civil and Political Rights and articles 37 and 40 of the Convention on the Rights of the Child, bearing in mind the safeguards and guarantees set out in Economic and Social Council resolutions 1984/50 and 1989/64;

8. *Urges* all States to undertake all necessary and possible measures, in conformity with human rights law and international humanitarian law, to prevent loss of life, in particular that of children, during situations of all forms of public demonstrations, internal and communal violence, civil unrest and public emergency or armed conflicts, and to ensure that the police and security forces receive thorough training in human rights matters, in particular with regard to restrictions on the use of force and firearms in the discharge of their functions;

9. *Stresses* the importance of States taking effective measures to end impunity with regard to extrajudicial, summary or arbitrary executions, inter alia through the adoption of preventive measures, and calls upon States to ensure that such measures are included in post-conflict peace-building efforts;

10. *Encourages* States, United Nations organs and bodies, specialized agencies, funds and programmes and intergovernmental and non-governmental organizations, as appropriate within their respective mandates, to initiate, coordinate or support programmes designed to train and educate military forces, law enforcement officers and government officials, as well as members of United Nations peacekeeping or observer missions, on human rights and humanitarian law issues connected with their work, and appeals to the international community to support endeavours to that end;

11. *Appeals* to all States to ensure that all persons deprived of their liberty are treated with humanity and with respect for the inherent dignity of the human person and that conditions in places of detention conform to the Standard Minimum Rules for the Treatment of Prisoners and, where applicable, to the Geneva Conventions of 12 August 1949 and the Additional Protocols thereto of 1977 in relation to the treatment of prisoners in armed conflicts, as well as to other pertinent international instruments;

12. *Takes note* of the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (E/CN.4/2004/7 and Corr.1, Add.1, Add.2 and Corr.1 and Add.3), as well as the recommendations made in previous years, and invites States to give them due consideration;

13. *Commends* the important role the Special Rapporteur has played towards the elimination of extrajudicial, summary or arbitrary executions and encourages the Special Rapporteur to continue, within the framework of the mandate, to collect information from all concerned, to respond effectively to information that comes before her or him, to follow up on communications and country visits and to seek the views and comments of Governments and to reflect them, as appropriate, in the elaboration of her or his reports;

14. *Strongly urges* all States to cooperate with and assist the Special Rapporteur so that her or his mandate may be carried out effectively, including, where appropriate, by issuing invitations to the Special Rapporteur when she or he so requests, in keeping with the usual terms of reference for missions by special rapporteurs of the Commission, and to respond to the communications transmitted to them by the Special Rapporteur;

15. *Expresses its appreciation* to those States that have invited the Special Rapporteur to visit their countries, asks them to examine carefully the recommendations made by the Special Rapporteur, invites them to report to the Special Rapporteur on the actions taken on those recommendations and requests other States, including those mentioned in the report of the Special Rapporteur, to cooperate in a similar way;

16. *Expresses its concern* that a number of States mentioned in the report of the Special Rapporteur have not replied to specific allegations, based on credible information, and reports of extrajudicial, summary or arbitrary executions transmitted to them by the Special Rapporteur;

17. *Urges* the Special Rapporteur to continue to draw to the attention of the United Nations High Commissioner for Human Rights such situations of extrajudicial, summary or arbitrary execution as are of particularly serious concern to her or him or where early action might prevent further deterioration;

18. *Welcomes* the cooperation established between the Special Rapporteur and other United Nations mechanisms and procedures in the field of human rights and encourages the Special Rapporteur to continue efforts in this regard;

19. *Again requests* the Secretary-General to provide the Special Rapporteur with adequate human, financial and material resources in order to enable her or him to carry out the mandate effectively, including through country visits;

20. *Requests* the Secretary-General and the High Commissioner to continue to use their best endeavours in cases where the minimum standard of legal safeguards provided for in articles 6, 7, 9, 14 and 15 of the International Covenant on Civil and Political Rights appears not to be respected;

21. *Requests* the Secretary-General to continue, in close collaboration with the High Commissioner, in conformity with the mandate of the High Commissioner established by the General Assembly in its resolution 48/141 of 20 December 1993, to ensure that personnel specialized in human rights and humanitarian law issues form part of United Nations missions, where appropriate, in order to deal with serious human rights violations, such as extrajudicial, summary or arbitrary executions;

22. *Decides* to extend the mandate of the Special Rapporteur for three years;

23. *Also decides* to consider the question of extrajudicial, summary or arbitrary executions as a matter of priority at its sixty-first session under the same agenda item;

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

[For the text, see chap. I, draft decision 15.]

*55th meeting  
19 April 2004*

[Adopted by a recorded vote of 39 votes to none,  
with 12 abstentions. See chap. XI.]

### **2004/38. The incompatibility between democracy and racism**

*The Commission on Human Rights,*

*Guided* by the Universal Declaration of Human Rights, the Charter of the United Nations, the International Covenants on Human Rights and the International Convention on the Elimination of All Forms of Racial Discrimination,

*Recalling* the commitment reached in the Vienna Declaration and Programme of Action adopted in June 1993 by the World Conference on Human Rights (A/CONF.157/23) concerning the elimination of racism, racial discrimination, xenophobia and related intolerance,

*Recalling also* its resolutions 2000/40 of 20 April 2000, 2001/43 of 23 April 2001, 2002/39 of 23 April 2002 and 2003/41 of 23 April 2003,

*Recalling further* the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/CONF.189/12 and Corr.1),

*Mindful* of the responsibility of Governments to ensure such equality as is established in the relevant international and regional human rights instruments, inter alia, the Universal Declaration of Human Rights, the International Covenants on Human Rights and the International Convention on the Elimination of All Forms of Racial Discrimination,

*Reaffirming* that acts of racial violence and discrimination do not constitute legitimate expressions of opinion, but rather are offences,

*Remaining alarmed* by the rise of racism, racial discrimination, xenophobia and related intolerance in political circles, in the sphere of public opinion and in society at large,

*Recognizing* the fundamental role of education and other active policies in the promotion of tolerance and respect for others and in the construction of pluralistic and inclusive societies,

1. *Condemns* political platforms and organizations based on racism, xenophobia or doctrines of racial superiority and related discrimination, as well as legislation and practices based on racism, xenophobia and related intolerance, as incompatible with democracy and transparent and accountable governance;

2. *Reaffirms* that racism, racial discrimination, xenophobia and related intolerance condoned by governmental policies violate human rights and may endanger friendly relations among peoples, cooperation among nations, international peace and security and the harmony of persons living side by side within one and the same State;

3. *Also reaffirms* that any form of impunity condoned by public authorities for crimes motivated by racist and xenophobic attitudes plays a role in weakening the rule of law and democracy and tends to encourage the recurrence of such acts;

4. *Condemns* the persistence and resurgence of neo-Nazism, neo-fascism and violent nationalist ideologies based on racial or national prejudice, and states that these phenomena can never be justified in any instance or in any circumstances;

5. *Recognizes with deep concern* the increase in anti-Semitism, and Christianophobia and Islamophobia in various parts of the world, as well as the emergence of racial and violent movements based on racism and discriminatory ideas against Arab, Christian, Jewish and Muslim communities, as well as communities of people of African descent and communities of people of Asian descent, and other communities;

6. *Emphasizes* that the elimination of all forms of discrimination, especially gender, ethnic and racial discrimination, as well as diverse forms of intolerance, the promotion and protection of human rights of persons of indigenous origin and members of indigenous communities and migrants, and respect for ethnic, cultural and religious diversity contribute to strengthening and promoting democracy and political participation;

7. *Urges* States to reinforce their commitment to promote tolerance and human rights and to fight against racism, racial discrimination, xenophobia and related intolerance as a way to strengthen democracy, the rule of law and transparent and accountable governance, and in that regard recommends measures such as introducing or reinforcing human rights education in schools and in institutions of higher education;

8. *Also urges* States to ensure that their political and legal systems reflect the multicultural diversity within their societies through promoting diversity, to improving democratic institutions, making them more fully participatory and inclusive and avoiding marginalization and exclusion of, and discrimination against, specific sectors of society;



9. *Underlines* the key role that political leaders and political parties can and ought to play in strengthening democracy by combating racism, racial discrimination, xenophobia and related intolerance, and encourages political parties to take concrete steps to promote solidarity, tolerance and respect, inter alia by developing voluntary codes of conduct which include internal disciplinary measures for violations thereof, so their members refrain from public statements and actions that encourage or incite racism, racial discrimination, xenophobia and related intolerance;

10. *Invites* the Inter-Parliamentary Union and other relevant interparliamentary organizations to encourage debate in, and action by, the concerned parliaments on various measures, including laws and policies, to combat racism, racial discrimination, xenophobia and related intolerance;

11. *Invites* the mechanisms of the Commission and the United Nations treaty bodies to continue to pay particular attention to violations of human rights stemming from the rise of racism and xenophobia in political circles and society at large, especially as regards their incompatibility with democracy;

12. *Takes note* of the report of the United Nations High Commissioner for Human Rights on the interdependence between democracy and human rights (E/CN.4/2004/54);

13. *Takes note also* of the study on the issue of political platforms which promote or incite racial discrimination prepared by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (E/CN.4/2004/61) as requested in Commission resolution 2003/41;

14. *Recommends* the creation, where they do not exist, of monitoring, reporting, documentation and information-processing institutions and procedures in order to contribute to preventing and reducing racial, ethnic or religious tensions;

15. *Encourages* States to consider developing public information, awareness-raising and education campaigns with a transdisciplinary approach with a view to combating racial prejudice;

16. *Encourages* political leaders, civil society and the media to remain vigilant against the penetration of racist and xenophobic ideas in the political platforms of democratic parties;

17. *Invites* the Office of the United Nations High Commissioner for Human Rights, in collaboration with the Special Rapporteur, to continue appropriate efforts to analyse further the issue of incitement and promotion of racism, racial discrimination, xenophobia and related intolerance in the political debate;

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

*55th meeting  
19 April 2004*

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

## 2004/39. Arbitrary detention

*The Commission on Human Rights,*

*Reaffirming* articles 3, 9, 10 and 29, as well as other relevant provisions of the Universal Declaration of Human Rights,

*Recalling* articles 9, 10, 11 and 14 to 22 of the International Covenant on Civil and Political Rights,

*Bearing in mind* that, in accordance with its resolution 1991/42 of 5 March 1991, the task of the Working Group on Arbitrary Detention is to investigate cases of detention imposed arbitrarily or otherwise inconsistently with the relevant international standards set forth in the Universal Declaration of Human Rights or in the relevant international legal instruments accepted by the States concerned,

*Recalling* that the World Conference on Human Rights reaffirmed the importance of ensuring the universality, objectivity and non-selectivity of the consideration of human rights issues,

*Recalling* the adoption by the Working Group of its deliberation No. 5 (E/CN.4/2000/4, annex II), which relates to the situation of immigrants and asylum-seekers, and guarantees concerning persons held in custody, with a view to ensuring better prevention of arbitrary detention,

*Reaffirming* its resolution 2003/31 of 23 April 2003,

1. *Takes note of:*

(a) The report of the Working Group (E/CN.4/2004/3 and Add.1, Add.2 and Corr.1 and Add.3), including the recommendations contained therein;

(b) The work of the Working Group and underlines the positive initiatives it has taken to strengthen cooperation and dialogue with all those concerned by the cases submitted to it, and in particular with States who provide information which should be given due consideration;

(c) The importance that the Working Group attaches to coordination with other mechanisms of the Commission, with other competent United Nations bodies and with treaty bodies, as well as to the strengthening of the role of the Office of the United Nations High Commissioner for Human Rights in such coordination and encourages the Working Group to take all necessary measures to avoid duplication with those mechanisms, in particular regarding the treatment of the communications it receives and field visits;

2. *Requests* the Governments concerned to take account of the Working Group's views and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty and to inform the Working Group of the steps they have taken;

3. *Encourages* the Governments concerned:

(a) To give due consideration to the recommendations of the Working Group, which has identified several groups of individuals who are particularly vulnerable to arbitrary detention;

(b) To take appropriate measures in order to ensure that their legislation, regulations and practices remain in conformity with the relevant international standards and the relevant international legal instruments applicable to the States concerned;

(c) To respect and promote the right of anyone who is deprived of his/her liberty by arrest or detention to be entitled to bring proceedings before a court, in order that the court may decide without delay on the lawfulness of his/her detention and order his/her release if the detention is not lawful, in accordance with their international obligations;

(d) To ensure access to adequate remedies concerning extradition procedures, in accordance with their international obligations;

(e) Not to extend states of emergency beyond what is strictly required by the situation, in accordance with the provisions of article 4 of the International Covenant on Civil and Political Rights, or to limit their effect;

(f) To pay special attention, during states of emergency, to the exercise of those rights that ensure protection against arbitrary detention;

4. *Encourages* all Governments to cooperate with the Working Group, including with regard to country visits, so that it may carry out its mandate even more effectively;

5. *Requests* the Governments concerned to give the necessary attention to the “urgent appeals” addressed to them by the Working Group on a strictly humanitarian basis and without prejudging its possible final conclusions;

6. *Expresses its profound thanks* to the Governments that have extended their cooperation to the Working Group and responded to its requests for information, and invites all Governments concerned to demonstrate the same spirit of cooperation;

7. *Takes note with satisfaction* of the fact that the Working Group has been informed of the release of some of the individuals whose situation has been brought to its attention, while deploring the many cases which have not yet been resolved;

8. *Requests* the Secretary-General:

(a) To extend his assistance to Governments expressing the wish to receive it, and to the special rapporteurs and working groups, with a view to ensuring the promotion and observance of the guarantees relating to states of emergency that are laid down in the relevant international instruments;

(b) To ensure that the Working Group receives all necessary assistance, particularly with regard to the staffing and resources needed to continue to discharge its mandate, especially in respect of field missions;

9. *Requests* the Working Group to submit to the Commission, at its sixty-first session, a report on its activities and on the implementation of the present resolution and to include any suggestions and recommendations which would enable it to carry out its task in the best possible way, and to continue its consultations to that end in the framework of its terms of reference;

10. *Decides* to continue its consideration of this question at its sixty-first session under the relevant agenda item.

*55th meeting  
19 April 2004*

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

#### **2004/40. Enforced or involuntary disappearances**

*The Commission on Human Rights,*

*Recalling* its resolution 20 (XXXVI) of 29 February 1980, in which it decided to establish a working group,

*Recalling also* General Assembly resolution 47/133 of 18 December 1992, by which the Assembly adopted the Declaration on the Protection of All Persons from Enforced Disappearance as a body of principles for all States,

*Deeply concerned* in particular by the increase in enforced or involuntary disappearances in various regions of the world, including arrest, detention and abduction, when these are part of or amount to enforced disappearances, and by the growing number of reports concerning harassment, ill-treatment and intimidation of witnesses of disappearances or relatives of persons who have disappeared,

*Emphasizing* that impunity is simultaneously one of the underlying causes of enforced disappearances and one of the major obstacles to the elucidation of cases thereof and that there is a need for effective measures to combat the problem of impunity,

*Acknowledging* the fact that acts of enforced disappearance are crimes against humanity, as defined in the Rome Statute of the International Criminal Court (A/CONF.183/9),

1. *Takes note* of the report submitted by the Working Group on Enforced or Involuntary Disappearances (E/CN.4/2004/58) and notes the recommendations made by the Working Group on the development of national institutions, on preventive measures and on the fight against impunity;

2. *Recalls* its decision 2000/109 of 26 April 2000 on enhancing the effectiveness of the mechanisms of the Commission and in particular the recommendation on time limits (two terms of three years) that should apply to all special procedures;

3. *Stresses* the importance of the work of the Working Group, decides to extend its mandate for three years and encourages it in the execution of its mandate:

(a) To continue to promote communication between families of disappeared persons and the Governments concerned, particularly when ordinary channels have failed, with a view to ensuring that sufficiently documented and clearly identified individual cases are investigated and to ascertain whether such information falls under its mandate and contains the required elements;

(b) To continue to observe, in its humanitarian task, United Nations standards and practices regarding the handling of communications and the consideration of government replies;

(c) To continue to consider the question of impunity in the light of the relevant provisions of the Declaration on the Protection of All Persons from Enforced Disappearance and of the final reports submitted by the Special Rapporteur appointed by the Sub-Commission on the Promotion and Protection of Human Rights;

(d) To continue to pay particular attention to cases of children subjected to enforced disappearance and children of disappeared persons and to cooperate closely with the Governments concerned in searching for and identifying these children;

(e) To pay particular attention to cases transmitted to it that are most urgent from a humanitarian perspective and that refer to ill-treatment, serious threatening or intimidation of witnesses of enforced or involuntary disappearances or relatives of disappeared persons;

(f) To pay particular attention to cases of disappearance of persons working for the promotion and protection of human rights and fundamental freedoms, wherever they occur, and to make appropriate recommendations for preventing such disappearances and improving the protection of such persons;

(g) To continue to apply a gender perspective in its reporting process, including in information collection and the formulation of recommendations;

(h) To provide appropriate assistance in the implementation by States of the Declaration and of the existing international rules;

(i) To continue its deliberations on its working methods and to include these aspects in its report to the Commission at its sixty-first session;

4. *Deplores* the fact that some Governments have not provided for a long period of time substantive replies concerning the cases of enforced disappearances in their countries and have not given due consideration to relevant recommendations concerning this subject made in the reports of the Working Group;

5. *Urges* States:

(a) To promote and give full effect to the Declaration on the Protection of All Persons against Enforced Disappearance;

(b) To cooperate with the Working Group and help it to carry out its mandate effectively and, in that framework, give serious consideration to requests for visits to their countries;

(c) To work to eradicate the culture of impunity for the perpetrators of enforced disappearances as a crucial step in effective prevention;

6. *Urges* the Governments concerned:

(a) To intensify their cooperation with the Working Group on any action taken pursuant to recommendations addressed to them by the Working Group;

(b) To take steps to protect witnesses of enforced or involuntary disappearances, human rights defenders acting against enforced disappearances, and the lawyers and families of disappeared persons against any intimidation or ill-treatment to which they might be subjected;

(c) To continue their efforts to elucidate the fate of disappeared persons;

(d) To make provision in their legal systems for machinery for victims of enforced or involuntary disappearances or their families to seek fair and adequate reparation;

(e) To address the specific needs of the families of disappeared persons;

7. *Reminds* States:

(a) That, as proclaimed in article 2 of the Declaration on the Protection of All Persons from Enforced Disappearance, no State shall practise, permit or tolerate enforced disappearances;

(b) That all acts of enforced or involuntary disappearance are crimes punishable by appropriate penalties which should take due account of their extreme seriousness under penal law;

(c) That they should ensure that their competent authorities proceed immediately to conduct impartial inquiries in all circumstances where there is reason to believe that an enforced disappearance has occurred in territory under their jurisdiction;

(d) That, if such belief is borne out, all the perpetrators of enforced or involuntary disappearances must be prosecuted;

(e) That impunity is simultaneously one of the underlying causes of enforced disappearance and one of the major obstacles to the elucidation of cases thereof;

(f) That, as proclaimed in article 11 of the Declaration, all persons deprived of liberty must be released in a manner permitting reliable verification that they have actually been released and, further, have been released in conditions in which their physical integrity and ability fully to exercise their rights are assured;

8. *Expresses:*

(a) Its thanks to the many Governments that have cooperated with the Working Group and replied to its requests for information and to the Governments that have accepted visits of the Working Group to their countries, asks them to give all necessary attention to the Working Group's recommendations and invites them to inform the Working Group of any action they take on those recommendations;

(b) Its appreciation to the Governments that are investigating, are cooperating at the international and the bilateral levels, have developed or are developing appropriate mechanisms to investigate any cases of enforced disappearance which are brought to their attention, and encourages all the Governments concerned to expand their efforts in this area;

9. *Invites* States to take legislative, administrative, legal and other steps, including when a state of emergency has been declared, to take action at the national and regional levels and in cooperation with the United Nations, if appropriate through technical assistance, and to provide the Working Group with concrete information on the measures taken and the obstacles encountered in preventing enforced or involuntary disappearances and in giving effect to the principles set forth in the Declaration;

10. *Takes note* of the assistance provided to the Working Group by non-governmental organizations and their activities in support of the implementation of the Declaration and invites those organizations to continue their cooperation;

11. *Acknowledges with great concern* the difficulties encountered by the Working Group in the accomplishment of its mandate and requests the Secretary-General:

(a) To ensure that the Working Group receives all the assistance and resources it requires to perform its function, including supporting the principles of the Declaration, carrying out and following up on missions and holding sessions in countries that are prepared to receive it;

(b) To provide the resources needed to update the database on cases of enforced disappearance;

(c) To keep the Working Group and the Commission regularly informed of the steps taken for the wide dissemination and promotion of the Declaration;

12. *Requests* the Working Group to report on its activities to the Commission at its sixty-first session;

13. *Takes note* of the report of the intersessional open-ended working group to elaborate a draft legally binding normative instrument for the protection of all persons from enforced disappearance (E/CN.4/2004/59) and welcomes the substantial progress made during the second session of the intersessional working group and, in that context, welcomes the participation of non-governmental organizations;

14. *Requests* the intersessional working group to meet for a period of 15 working days in two formal sessions before the sixty-first session of the Commission, with one session of 10 working days and one session of five working days, the latter held from within existing resources, with a view to the prompt completion of its work, and to report to the Commission at its sixty-first session;

15. *Requests* the Chairperson-Rapporteur of the intersessional working group to undertake informal consultations with all interested parties in order to prepare the next session of the intersessional working group;

16. *Requests* the United Nations High Commissioner for Human Rights to invite the former independent expert to examine the existing international criminal and human rights framework for the protection of persons from enforced or involuntary disappearance, the former Chairman-Rapporteur of the sessional working group on the administration of justice of the Sub-Commission on the Promotion and Protection of Human Rights, who submitted to the sessional working group in 1998 a draft international convention on the protection of all persons from enforced disappearance (E/CN.4/Sub.2/1998/19, annex), and also a representative of the Working Group on Enforced or Involuntary Disappearances to participate in the activities of the intersessional working group;

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

18. *Decides* to recommend to the Economic and Social Council the following draft decision for adoption:

[For the text, see chap. I, draft decision 16.]

*55th meeting  
19 April 2004*

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

#### **2004/41. Torture and other cruel, inhuman or degrading treatment or punishment**

*The Commission on Human Rights,*

*Reaffirming* that no one should be subjected to torture or other cruel, inhuman or degrading treatment or punishment, that such actions constitute a criminal attempt to destroy a fellow human being physically and mentally, which can never be justified under any circumstances by any ideology or by any overriding interest, and convinced that a society that tolerates torture can never claim to respect human rights,

*Recalling* that freedom from torture and other cruel, inhuman or degrading treatment or punishment is a non-derogable right and must be protected under all circumstances, including in times of international and internal armed conflict or internal disturbance, and that the prohibition of torture is explicitly affirmed in all relevant international instruments, as set out in the second preambular paragraph of Commission resolution 2001/62 of 25 April 2001,



*Recalling also* the definition of torture contained in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

*Recalling* article 3 of the Convention which states that no State party shall expel, return (“*refouler*”) or extradite a person to another State where there are substantial grounds for believing that he/she would be in danger of being subjected to torture,

*Appalled* at the widespread occurrence of torture and other cruel, inhuman or degrading treatment or punishment,

*Recalling* all relevant resolutions of the General Assembly, the Economic and Social Council and its own resolutions on the subject, in particular Commission resolution 2003/32 of 23 April 2003, and taking note of Assembly resolution 58/164 of 22 December 2003,

*Commending* the persistent efforts by civil society, in particular non-governmental organizations, to combat torture and to alleviate the suffering of victims of torture,

*Emphasizing* the importance of Governments taking persistent action to prevent and combat torture and commending those Governments that have also cooperated in this regard with non-governmental organizations,

1. *Condemns* all forms of torture and other cruel, inhuman or degrading treatment or punishment, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all Governments to implement fully the prohibition of torture and other cruel, inhuman or degrading treatment or punishment;

2. *Condemns in particular* any action or attempt by States or public officials to legalize or authorize torture under any circumstances, including on grounds of national security or through judicial decisions, and calls upon Governments to eliminate practices of torture;

3. *Urges* all Governments to promote the speedy and full implementation of the Vienna Declaration and Programme of Action (A/CONF.157/23), in particular Part II, section B, paragraph 5, relating to freedom from torture, in which it is stated that States should abrogate legislation leading to impunity for those responsible for grave violations of human rights such as torture and prosecute such violations, thereby providing a firm basis for the rule of law;

4. *Stresses in particular* that all allegations of torture or other cruel, inhuman or degrading treatment or punishment should be promptly and impartially examined by the competent national authority, that those who encourage, order, tolerate or perpetrate acts of torture must be held responsible and severely punished, including the officials in charge of the place of detention where the prohibited act is found to have taken place, notes in this respect the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Principles) annexed to Commission resolution 2000/43 of 20 April 2000, and General Assembly resolution 55/89 of 4 December 2000 as a useful tool in efforts to combat torture, and reiterates its request to the Special Rapporteur, in the normal course of his work, to solicit views from Governments and non-governmental organizations;

5. *Stresses* that national legal systems should ensure that victims of torture or other cruel, inhuman or degrading treatment or punishment obtain redress, are awarded fair and adequate compensation and receive appropriate socio-medical rehabilitation, and in this regard encourages the development of rehabilitation centres for victims of torture;

6. *Reminds* Governments that corporal punishment, including of children, can amount to cruel, inhuman or degrading punishment or even to torture;

7. *Also reminds* Governments that, as described in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, intimidation and coercion, including serious and credible threats as well as death threats, to the physical integrity of the victim or of a third person, can amount to cruel, inhuman or degrading treatment or to torture;

8. *Reminds* all States that prolonged incommunicado detention may facilitate the perpetration of torture and can in itself constitute a form of cruel, inhuman or degrading treatment or even torture, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person;

9. *Stresses* that, under article 4 of the Convention, torture must be made an offence under domestic criminal law and emphasizes that acts of torture are serious violations of international law, including human rights law and humanitarian law, and that the perpetrators are liable to prosecution and punishment;

10. *Also stresses* that States must not punish personnel for not obeying orders to commit acts amounting to torture or other cruel, inhuman or degrading treatment or punishment;

11. *Urges* Governments to protect medical and other personnel for their role in documenting torture or any other form of cruel, inhuman or degrading treatment or punishment and in treating victims of such acts;

12. *Calls upon* all Governments to take appropriate effective legislative, administrative, judicial or other measures to prevent and prohibit the production, trade, export and use of equipment that is specifically designed to inflict torture or other cruel, inhuman or degrading treatment;

13. *Recalls* the Special Rapporteur's study (E/CN.4/2003/69) on the situation of trade in and production of such equipment, its origin, destination and forms, urges States and non-governmental organizations to provide the information requested by the Special Rapporteur to enable him to carry out further work with a view to finding the best ways to prohibit such trade and production and to combat its proliferation, and requests the Special Rapporteur to report thereon to the Commission;

14. *Urges* all States as a matter of priority to consider seriously becoming parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, with a view to achieving universal ratification, and welcomes the accession by one State since the fifty-ninth session of the Commission;

15. *Calls upon* all States to ensure that no reservation is incompatible with the object and purpose of the Convention and encourages States parties to consider limiting the extent of any reservations they lodge to the Convention, to formulate any reservations as precisely and narrowly as possible and to review regularly any reservations made in respect of the provisions of the Convention, with a view to withdrawing them;

16. *Invites* all States ratifying or acceding to the Convention and those States parties that have not yet done so to make the declarations provided for in articles 21 and 22 of the Convention;

17. *Urges* States parties to notify the Secretary-General of their acceptance of the amendments to articles 17 and 18 of the Convention as soon as possible;

18. *Also urges* all States parties to comply strictly with their obligations in accordance with article 19 of the Convention, including their reporting obligations, and, in particular, those States parties whose reports are long overdue to submit their reports forthwith, and invites States parties to incorporate a gender perspective and information concerning children and juveniles when submitting reports to the Committee against Torture;

19. *Emphasizes* the obligation of States parties under article 10 of the Convention to ensure education and training for personnel who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment, and calls upon the United Nations High Commissioner for Human Rights, in conformity with the mandate established in General Assembly resolution 48/141 of 20 December 1993, to provide, at the request of Governments, advisory services in this regard, as well as technical assistance in the development, production and distribution of appropriate teaching material for this purpose;

20. *Invites* donor countries, recipient countries and relevant United Nations organizations, funds and programmes, in particular the Office of the United Nations High Commissioner for Human Rights, to consider, where appropriate, including in their respective bilateral programmes and technical cooperation projects relating to the training of relevant personnel, inter alia, armed forces, security forces, border guards, prison and police personnel and health-care personnel, matters relating to the protection of human rights, including the prevention of torture, while bearing in mind a gender perspective;

21. *Calls upon* States parties to consider signing and ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, providing further measures for use in the fight against and prevention of torture, which was adopted on 18 December 2002 by the General Assembly in its resolution 57/199;

22. *Notes* that ratification by 20 States parties is required for the Optional Protocol to enter into force, and notes progress towards achieving this through the three ratifications of, and 24 signatures to, the Protocol;

23. *Welcomes* the report of the Committee against Torture on its twenty-ninth and thirtieth sessions (A/58/44);

24. *Also welcomes* the work of the Committee and its practice of formulating concluding observations after the consideration of reports and recognizes the importance of the process of individual communications relating to States that have made the declaration under article 22 of the Convention, as well as its practice of carrying out inquiries into cases where there are indications of the systematic practice of torture within the jurisdiction of States parties, and urges States parties to take into account such conclusions and recommendations, as well as views on individual communications;

25. *Takes note with appreciation* of the report of the Secretary-General on the status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (E/CN.4/2004/52) and requests the Secretary-General to continue to submit an annual report to the Commission;

26. *Underlines* the importance of the mandate of the Special Rapporteur in the elimination of torture and other cruel, inhuman or degrading treatment;

27. *Takes note with interest* of the report of the Special Rapporteur of 23 December 2003 (E/CN.4/2004/56) and the recommendations contained therein;

28. *Decides* to extend for three years the mandate of the Special Rapporteur on the question of torture;

29. *Recalls* the methods of work employed by the Special Rapporteur (E/CN.4/1997/7, annex), approved by the Commission in its resolution 2001/62 of 25 April 2001;

30. *Draws the attention* of the Special Rapporteur to those aspects related to his activities set out in paragraphs 3, 27, 28, 31, 32 and 36 of Commission resolution 2001/62, with a view to his reporting to the Commission as appropriate, and encourages the Special Rapporteur to include among his recommendations proposals for the prevention and investigation of torture, taking into account information received concerning training manuals and activities aimed at facilitating the practice of torture;

31. *Considers it desirable* that the Special Rapporteur continue to exchange views with the relevant human rights mechanisms and bodies, especially the Committee against Torture and the Office of the High Commissioner, in particular with a view to enhancing further their effectiveness and mutual cooperation, while avoiding unnecessary duplication with other special procedures, and that he pursue cooperation with other relevant United Nations programmes, notably that on crime prevention and criminal justice;

32. *Calls upon* all Governments to cooperate with and assist the Special Rapporteur in the performance of his task, to supply all necessary information requested by him and to react appropriately and expeditiously to his urgent appeals;

33. *Urges* those Governments that have not yet responded to communications transmitted to them by the Special Rapporteur to answer without further delay;

34. *Calls upon* all Governments to give serious consideration to responding favourably to the Special Rapporteur's requests to visit their countries and urges them to enter into a constructive dialogue with the Special Rapporteur with respect to the follow-up to his recommendations, so as to enable him to fulfil his mandate even more effectively;

35. *Invites* the Special Rapporteur to submit an interim report to the General Assembly at its fifty-ninth session on the overall trends and developments with regard to his mandate and a full report to the Commission at its sixty-first session, including as addenda all replies sent by Governments that are received in any of the official languages of the United Nations;

36. *Takes note* of the reports of the Secretary-General on the United Nations Voluntary Fund for Victims of Torture (A/58/284 and E/CN.4/2004/53 and Add.1) and welcomes the initiation of the independent evaluation of the functioning of the Fund as mandated by the Commission in its resolution 2003/32, and looks forward to considering the final evaluation report at its sixty-first session;

37. *Recognizes* the global need for international assistance to victims of torture, stresses the importance of the work of the Board of Trustees of the Fund, expresses its gratitude and appreciation to those that have contributed to the Fund and appeals to all Governments, organizations and individuals to contribute annually to the Fund, preferably by March before the annual meeting of the Board, if possible with a substantial increase in the contributions in order to take into consideration the ever-increasing requests for assistance, in particular the increasing need for assistance to rehabilitation services for victims of torture and to small projects of humanitarian assistance to victims of torture;

38. *Requests* the Secretary-General to continue to include the Fund, on an annual basis, among the programmes for which funds are pledged at the United Nations Pledging Conference for Development Activities and to transmit to all Governments the appeals of the Commission for contributions to the Fund;

39. *Calls upon* the Board of Trustees of the Fund to report to the Commission at its sixty-first session;

40. *Requests* the Secretary-General to ensure, within the overall budgetary framework of the United Nations, the provision of an adequate and stable level of staffing, as well as the necessary technical facilities, for the bodies and mechanisms involved in combating torture and assisting victims of torture, in order to ensure their effective performance commensurate with the strong support expressed by Member States for combating torture and assisting victims of torture;

41. *Calls upon* all Governments, the United Nations High Commissioner for Human Rights and United Nations bodies and agencies, as well as relevant intergovernmental and non-governmental organizations, to commemorate on 26 June the United Nations International Day in Support of Victims of Torture as proclaimed by the General Assembly in its resolution 52/149 of 12 December 1997;

42. *Decides* to continue to consider this matter at its sixty-first session, as a matter of priority;

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

[For the text, see chap. I, draft decision 17.]

*55th meeting  
19 April 2004*

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

## **2004/42. The right to freedom of opinion and expression**

*The Commission on Human Rights,*

*Recalling* its previous resolutions on the right to freedom of opinion and expression, inter alia, its resolution 2003/42 of 23 April 2003,

*Recognizing* that the exercise of the right to freedom of opinion and expression, including by women, is instrumental to the emergence and existence of effective democratic systems and essential to full and effective participation in a free and democratic society,

*Recognizing also* that the effective exercise of the right to freedom of opinion and expression is an important indicator of the level of protection of other human rights and freedoms, bearing in mind that all human rights are universal, indivisible, interdependent and interrelated,

*Deeply concerned* that violations of the right to freedom of opinion and expression continue to occur, including attacks directed against, and killings of, journalists and media workers, and stressing the need to ensure greater protection for all media professionals and for journalistic sources,

*Stressing* the need to ensure that invocation of national security, including counter-terrorism, is not used unjustifiably or arbitrarily to restrict the right to freedom of opinion and expression,

*Stressing also* the importance of full respect for the freedom to seek, receive and impart information, and of effective and equal access to information and availability of information and communication technologies, including for preventive education and treatment related to HIV/AIDS and other diseases,

*Welcoming* the Declaration of Principles and the Plan of Action adopted at the first phase of the World Summit on the Information Society, held in Geneva from 10 to 12 December 2003,

1. *Reaffirms* the rights contained in the International Covenant on Civil and Political Rights regarding the right of everyone to hold opinions without interference, as well as the right to freedom of expression, including the freedom to seek, receive and impart information and

ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of their choice, and the intrinsically linked rights to freedom of thought, conscience and religion, peaceful assembly and association and the right to take part in the conduct of public affairs;

2. *Takes note* of the report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (E/CN.4/2004/62 and Add.1-4) and welcomes in particular his ongoing and increasing cooperation with other mechanisms and organizations;

3. *Expresses its continuing concern* that:

(a) Violations of the rights referred to in paragraph 1 above continue to occur, often with impunity, including extrajudicial killing, arbitrary detention, torture, intimidation, persecution and harassment, threats and acts of violence and of discrimination, including gender-based violence and discrimination, abuse of legal provisions on defamation and criminal libel as well as on surveillance, search and seizure, and censorship, against persons who exercise, seek to promote or defend these rights, including journalists and other media workers and human rights defenders;

(b) These violations are facilitated and aggravated by abuse of states of emergency, without formal declaration and with too vague a definition of offences against State security in a number of cases;

(c) Threats and acts of violence, including killings, attacks and terrorist acts, particularly directed against journalists and other media workers in situations of armed conflict, still occur with impunity;

(d) High rates of illiteracy continue to exist in the world, especially among women, and reaffirms that full and equal access to education for girls and boys, women and men, is crucial for the full enjoyment of the right to freedom of opinion and expression;

4. *Calls upon* all States:

(a) To respect and ensure respect for the rights referred to in paragraph 1 above;

(b) To take all necessary measures to put an end to violations of these rights and to create conditions to prevent such violations, including by ensuring that relevant national legislation complies with their international human rights obligations and is effectively implemented;

(c) To ensure that victims of violations of these rights have an effective remedy, to investigate effectively threats and acts of violence, including terrorist acts, against journalists, including in situations of armed conflict, and to bring to justice those responsible;

(d) To ensure that persons exercising these rights are not discriminated against, particularly in employment, housing, the justice system, social services and education, with particular attention to women;

(e) To facilitate the full, equal and effective participation and free communication of women at all levels of decision-making in their societies and in national, regional and international institutions, including in mechanisms for the prevention, management and resolution of conflicts;

(f) To respect freedom of expression in the media and broadcasting, in particular the editorial independence of the media;

(g) To promote a pluralistic approach to information through encouraging a diversity of ownership of media and of sources of information, including mass media, through, inter alia, transparent licensing systems and effective regulations on undue concentration of ownership of the media in the private sector;

(h) To create and permit an enabling environment in which training and professional development of the media can be organized in order to promote and protect the right to freedom of opinion and expression and can be carried out without threat of legal, criminal or administrative sanction by the State;

(i) To refrain from the use of imprisonment or the imposition of fines for offences relating to the media, which are disproportionate to the gravity of the offence and which violate international human rights law;

(j) To adopt and implement policies and programmes to promote effectively awareness of, and disseminate information and education on, prevention and treatment of HIV/AIDS through all appropriate means, including through the media, and targeted at specific vulnerable groups;

(k) To facilitate equal participation in, access to and use of, information and communications technology such as the Internet, applying a gender perspective, and to encourage international cooperation aimed at the development of media and information and communication facilities in all countries;

(l) To review their procedures, practices and legislation, as necessary, to ensure that any limitations on the right to freedom of opinion and expression are only such as are provided by law and are necessary for the respect of the rights and reputations of others, or for the protection of national security or of public order (*ordre public*) or of public health or morals;

(m) To refrain from using counter-terrorism as a pretext to restrict the right to freedom of opinion and expression in ways which are contrary to their obligations under international law;

(n) While noting that article 19, paragraph 3, of the International Covenant on Civil and Political Rights provides that the exercise of the right to freedom of opinion and expression carries with it special duties and responsibilities, to refrain from imposing restrictions which are not consistent with paragraph 3 of that article, including on:

- (i) Discussion of government policies and political debate; reporting on human rights, government activities and corruption in government; engaging in election campaigns, peaceful demonstrations or political



activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups;

- (ii) The free flow of information and ideas, including practices such as the banning or closing of publications or other media and the abuse of administrative measures and censorship;
- (iii) Access to or use of information and communication technologies, including radio, television and the Internet;

5. *Calls* on all parties to armed conflict to respect international humanitarian law, including their obligations under the Geneva Conventions of 12 August 1949 for the protection of victims of war and the two Additional Protocols thereto of 8 June 1977, whose provisions extend protection to journalists in situations of armed conflict;

6. *Recognizes* the positive contribution that the exercise of the right to freedom of expression, particularly by the media, including through information and communications technologies such as the Internet, and full respect for the freedom to seek, receive and impart information, can make to the fight against racism, racial discrimination, xenophobia and related intolerance, but expresses regret about the promotion by certain media of false images and negative stereotypes of vulnerable individuals or groups of individuals, and about the use of information and communication technologies such as the Internet for purposes contrary to respect for human values;

7. *Invites* the Special Rapporteur, within the framework of his mandate, to continue to carry out his activities in accordance with its resolution 2002/84 of 26 April 2002 on human rights and thematic procedures and paragraph 17 (a) to (d) and (f), of its resolution 2003/42, in particular his cooperation with other mechanisms and human rights treaty bodies and organizations, including regional organizations and non-governmental organizations;

8. *Appeals* to all States to cooperate fully with and assist the Special Rapporteur in the performance of his tasks, to provide all necessary information requested by him and to consider favourably his requests for visits and for implementing his recommendations;

9. *Invites once again* the United Nations High Commissioner for Human Rights, the working groups, representatives and special rapporteurs of the Commission and human rights treaty bodies to pay attention, within the framework of their mandates, to the situation of persons whose right to freedom of opinion and expression has been violated;

10. *Welcomes* the participation of the Special Rapporteur in the first phase of the World Summit on the Information Society, and stresses the importance of the active participation of the Special Rapporteur and the High Commissioner, within the framework of their mandates, in the second phase, including preparatory meetings, of the World Summit, to be held in Tunis from 16 to 18 November 2005, to provide information and expertise on matters related to the right to freedom of opinion and expression;

11. *Again requests* the Secretary-General to provide the assistance necessary to the Special Rapporteur to fulfil his mandate effectively, in particular by placing adequate human and material resources at his disposal;

12. *Requests* the Special Rapporteur to submit to the Commission at its sixty-first session a report covering activities relating to his mandate and decides to continue its consideration of this question at that session.

*55th meeting*

*19 April 2004*

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

**2004/43. Human rights in the administration of justice,  
in particular juvenile justice**

*The Commission on Human Rights,*

*Recalling* the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights and its Optional Protocols, and in particular article 6 of the latter Covenant,

*Bearing in mind* the relevant principles embodied in the Convention on the Rights of the Child, and in particular its articles 3, 37, 39 and 40, as well as the relevant provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination against Women, as well as the numerous other international standards and norms in the field of the administration of justice,

*Welcoming* the adoption by the General Assembly of the United Nations Convention against Corruption and calling for its early entry into force,

*Taking note with appreciation* of the open debates of the Security Council on the agenda item entitled “Justice and the Rule of Law: the United Nations role”,

*Calling attention* to the relevant provisions on the administration of justice of the Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-First Century and of the Durban Declaration and Programme of Action adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and their implementation,

*Recalling* the Guidelines for Action on Children in the Criminal Justice System annexed to Economic and Social Council resolution 1997/30 of 21 July 1997, and the establishment and subsequent meetings of the coordination panel on technical advice and assistance in juvenile justice,

*Calling attention* to the Vienna Declaration on the Role of Judges in the Promotion and Protection of Human Rights and Fundamental Freedoms (A/58/618-S/2003/1145, annex), adopted at a high-level international symposium marking the tenth anniversary of the 1993 World Conference on Human Rights,

*Mindful* of the importance of ensuring respect for the rule of law and human rights in the administration of justice, in particular in post-conflict situations, as a crucial contribution to building peace and justice,

*Aware* of the need for special vigilance with regard to the specific situation of children, juveniles and women in the administration of justice, in particular while deprived of their liberty, and their vulnerability to various forms of violence, abuse, injustice and humiliation,

*Reaffirming* that the best interest of the child must be a primary consideration in all decisions concerning deprivation of liberty, and in particular that depriving children and juveniles of their liberty should be used only as a measure of last resort and for the shortest appropriate period of time, in particular before trial, and the need to ensure that, if they are arrested, detained or imprisoned, children shall be separated from adults, to the greatest extent feasible, unless it is considered in the child's best interest not to do so,

*Recalling* its previous resolutions on the subject, the most recent of which is resolution 2002/47 of 23 April 2002, and those of the General Assembly, the most recent of which is resolution 58/183 of 22 December 2003,

1. *Takes note* of the report of the Secretary-General (E/CN.4/2004/51);
2. *Reaffirms* the importance of the full and effective implementation of all United Nations standards on human rights in the administration of justice;
3. *Recommends* that the Eleventh United Nations Congress on Crime Prevention and Criminal Justice pay specific attention to the most effective ways of using and applying those standards and norms, in particular with regard to juvenile justice, including in technical assistance related to the rule of law and criminal justice reform;
4. *Reiterates its call* to all Member States to spare no effort in providing for effective legislative, judicial and other mechanisms and procedures, as well as adequate resources, to ensure the full implementation of those standards, and in this context invites the Commission on Crime Prevention and Criminal Justice at its thirteenth session to pay specific attention to the systematic use and application of the United Nations standards and norms in crime prevention and criminal justice;
5. *Appeals* to Governments to include in their national development plans the administration of justice as an integral part of the development process and to allocate adequate resources for the provision of legal aid services with a view to the promotion and protection of human rights and invites the international community to respond favourably to requests for financial and technical assistance for the enhancement and strengthening of the administration of justice;
6. *Stresses* the special need for national capacity-building in the field of the administration of justice, in particular to establish and maintain stable societies and the rule of law in post-conflict situations, through reform of the judiciary, the police and the penal system,

as well as juvenile justice reform, and in this regard invites States to make use of technical assistance offered by the relevant United Nations agencies and programmes in order to strengthen national capacities and infrastructures in the field of the administration of justice, in particular juvenile justice;

7. *Calls upon* States to implement section XII on action on juvenile justice of the Plans of Action for the implementation of the Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-First Century, adopted by the General Assembly in its resolution 56/261 of 31 January 2002;

8. *Invites* Governments to provide comprehensive and continuing training in human rights, including specialized anti-racist, multicultural, gender-sensitive and child rights training, and, where appropriate, on international humanitarian law, to all judges, lawyers, prosecutors, social workers, immigration and police officers and other professionals concerned, including personnel deployed in international field presences, and welcomes in this context the production of relevant methodological tools such as *Human Rights and Law Enforcement*, *Human Rights in the Administration of Justice* and *Human Rights and Prisons* by the Office of the United Nations High Commissioner for Human Rights in partnership with professional associations, experts and practitioners;

9. *Urges* States to pay specific attention to the negative impact of racism, racial discrimination, xenophobia and related intolerance, on the administration of justice and fair trial and to conduct nationwide campaigns, amongst other measures, to raise awareness among State organs and public officials concerning their obligations under the International Convention on the Elimination of All Forms of Racial Discrimination and other relevant instruments;

10. *Affirms* that States must ensure that any measure taken to combat terrorism, including in the administration of justice, in particular juvenile justice, complies with their obligations under international law, in particular international, refugee and humanitarian law as well as international human rights law, including the Convention on the Rights of the Child and its Optional Protocol on the involvement of children in armed conflict;

11. *Urges* States to ensure that under their legislation and practice neither capital punishment nor life imprisonment without the possibility of release shall be imposed for offences committed by persons below 18 years of age;

12. *Recognizes* that every child and juvenile in conflict with the law must be treated in a manner consistent with his or her rights, dignity and needs, in accordance with international law, including relevant international standards on human rights in the administration of justice, and calls on States parties to the Convention on the Rights of the Child to abide strictly by its principles and provisions and to improve the status of information on the situation of juvenile justice;

13. *Invites* Governments, relevant international and regional bodies, national human rights institutions and non-governmental organizations to devote increased attention to the issue of women and girls in prison, including issues relating to the children of women in prison, with a view to identifying the key issues and ways in which they are addressed and notes the proposal of the Sub-Commission on the Promotion and Protection of Human Rights, in its decision 2003/104 of 14 August 2003, to prepare a working paper on this issue;

14. *Welcomes* the important activities of the Committee on the Rights of the Child, the United Nations Children's Fund, the Office of the United Nations High Commissioner for Human Rights, the United Nations Office on Drugs and Crime and the United Nations Development Programme in the field of juvenile justice and calls upon the Secretary-General and the High Commissioner to further strengthen systemwide coordination in this area;

15. *Calls upon* the High Commissioner to reinforce advisory services and technical assistance relating to national capacity-building in the field of the administration of justice, in particular juvenile justice, and, as a matter of priority, to develop an action programme to facilitate the exchange of experience among judges as regards their role in the protection and promotion of human rights, inter alia through the compilation of key decisions of international human rights jurisprudence and the organization of periodic consultations among judges at the international, regional and subregional levels;

16. *Takes note* of the concern of the Committee on the Rights of the Child that in all regions of the world and in relation to all legal systems the provisions of the Convention on the Rights of the Child relating to the administration of juvenile justice are in many instances not reflected in national legislation or practice and welcomes the fact that the Committee provides concrete recommendations concerning the improvement of national juvenile justice systems, in particular through action by the Secretariat and other relevant United Nations entities, including the provision of advisory services and technical assistance;

17. *Welcomes* the appointment of an independent expert to lead a global study on violence against children, including violence in the context of the administration of justice;

18. *Underlines* that raising awareness of the specific situation of children and juveniles in the administration of justice and providing training thereon are crucial in strengthening the implementation of international standards in this field, and encourages the broad dissemination of the training manual on juvenile justice, *The United Nations and Juvenile Justice: A Guide to International Standards and Best Practice*;

19. *Welcomes* the focus on best practices and common tools in the field of juvenile justice at the next meeting of the coordination panel on technical advice and assistance in juvenile justice, calls upon the coordination panel further to increase cooperation among the partners involved and encourages it to intensify its efforts aiming at the elaboration of a technical cooperation manual in the area of juvenile justice, which could be of assistance in identifying needs, conducting training and coordinating assistance programmes in this field;

20. *Calls upon* special procedures of the Commission to continue to give special attention to questions relating to the effective protection of human rights in the administration of justice, including juvenile justice, and to provide, wherever appropriate, specific recommendations in this regard, including proposals for advisory services and technical assistance measures;

21. *Encourages* all relevant parts of the United Nations system, as well as relevant regional and international intergovernmental and non-governmental organizations, including professional associations, to continue to develop and coordinate their activities in promoting

human rights in the administration of justice, in particular juvenile justice, addressing as a matter of priority the needs of judges, taking into account the Vienna Declaration on the Role of Judges in the Promotion and Protection of Human Rights and Fundamental Freedoms;

22. *Requests* the Secretary-General to submit a report to the Commission at its sixty-third session on systemwide practical measures taken and planned activities to assist countries in strengthening their systems of administration of justice, in particular juvenile justice, including in post-conflict situations, with special focus on the need to strengthen the role of judges;

23. *Also requests* the Secretary-General to make available to the Commission at its sixty-third session his reports on the administration of juvenile justice as well as on the activities of the coordination panel on technical advice and assistance in juvenile justice submitted to the Commission on Crime Prevention and Criminal Justice;

24. *Decides* to consider this question at its sixty-third session under the agenda sub-item entitled "Independence of the judiciary, administration of justice, impunity".

*55th meeting  
19 April 2004*

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

#### **2004/44. Human rights and terrorism**

*The Commission on Human Rights,*

*Guided* by the Charter of the United Nations, the Universal Declaration of Human Rights, the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in Accordance with the Charter of the United Nations and the International Covenants on Human Rights,

*Recalling* the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations, as well as the Declaration on Measures to Eliminate International Terrorism, adopted by the General Assembly at its fiftieth and forty-ninth sessions, respectively,

*Recalling also* the United Nations Millennium Declaration adopted by the General Assembly on 8 September 2000 at its fifty-fifth session,

*Recalling further* the Vienna Declaration and Programme of Action adopted in June 1993 by the World Conference on Human Rights (A/CONF.157/23),

*Recalling* all previous General Assembly resolutions on the issue of terrorism, including resolutions 46/51 of 9 December 1991, 48/122 of 20 December 1993, 49/185 of 23 December 1994, 50/186 of 22 December 1995, 51/210 of 17 December 1996, 52/133 of 12 December 1997, 54/109 and 54/110 of 9 December 1999, 54/164 of 17 December 1999, 55/158 of 12 December 2000, 56/160 of 19 December 2001 and taking note of Assembly resolution 58/174 of 22 December 2003,

*Recalling also* its own resolutions 2000/30 of 20 April 2000, 2001/37 of 23 April 2001, 2002/35 of 22 April 2002 and 2003/37 of 23 April 2003,

*Noting with great concern* the growing connection between terrorist groups and other criminal organizations engaged in the illegal traffic in arms and drugs at the national and international levels, as well as the consequent commission of serious crimes, such as murder, extortion, kidnapping, assault, the taking of hostages and robbery,

*Alarmed in particular* at the possibility that the terrorist groups may exploit new technologies to facilitate acts of terrorism which may cause massive damage, including huge loss of human life,

*Mindful* that the Security Council adopted resolution 1373 (2001) of 28 September 2001, requiring States to adopt counter-terrorism measures, and resolution 1377 (2001) of 12 November 2001, by which it adopted a declaration on the global effort to combat terrorism,

*Convinced* that terrorism, in all its forms and manifestations, wherever and by whomever committed, can never be justified in any instance, including as a means to promote and protect human rights,

*Bearing in mind* that the most essential and basic human right is the right to life,

*Bearing in mind also* that terrorism in all its forms and manifestations creates an environment that destroys the ideal of free human beings enjoying freedom from fear and want, and makes it difficult for States to promote and protect human rights and fundamental freedoms,

*Bearing in mind further* that terrorism in many cases poses a severe challenge to democracy, civil society and the rule of law,

*Alarmed* by the unabated and continuing acts of terrorism in many parts of the world which have affected many civilians and which are also a threat to international peace and security,

*Reiterating* that all States have an obligation to promote and protect all human rights and fundamental freedoms and to ensure effective implementation of their obligations under international humanitarian law,

*Profoundly disturbed* by the large number of civilians killed, massacred and maimed by terrorists in indiscriminate and random acts of violence and terror, which cannot be justified under any circumstances,

*Emphasizing* the need to intensify the fight against terrorism in all its forms and manifestations at the national level and to enhance effective international cooperation in combating terrorism in conformity with international law, including relevant State obligations under international human rights and international humanitarian law, and to strengthen the role of the United Nations in this respect,

*Recognizing* the need to improve international cooperation on criminal matters and national measures so as to address impunity, which can contribute to the continued occurrence of terrorism,

*Stressing* the importance of a comprehensive approach to combat terrorism that addresses its current and mutating nature through timely information-sharing, early warning, appropriate law enforcement, strengthened policing, effective border control, prevention of terrorism financing and building capacity of States in these fields,

*Welcoming* the launch of the Global Programme against Terrorism by the United Nations Office on Drugs and Crime as a framework for its operational activities in the field of terrorism, including its technical projects on the strengthening of the legal regime against terrorism,

*Emphasizing* that States shall deny safe haven to those who finance, plan, support or commit terrorist acts, or provide safe havens,

*Reaffirming* that all measures to counter terrorism must be in strict conformity with international law, including international human rights standards and obligations,

*Seriously concerned* at the gross violations of human rights perpetrated by terrorist groups,

*Stressing* the growing consciousness of the international community of the negative effects of terrorism in all its forms and manifestations on the full enjoyment of human rights and fundamental freedoms and on the establishment of the rule of law and democratic freedoms as enshrined in the Charter of the United Nations and the International Covenants on Human Rights,

*Noting* the initiatives introduced since its previous session on the question of human rights and terrorism at the international, interregional and national levels, as shown by the commitment made by the Movement of Non-Aligned Countries to fight terrorism, as expressed by the XIII Conference of the Heads of State and Government of the Non-Aligned Movement, held in Kuala Lumpur in February 2003,

*Concerned* by the tendencies to link terrorism and violence with religion,

*Bearing in mind* the work of the Sub-Commission on the Promotion and Protection of Human Rights on the issue of terrorism and in this context noting with concern that the reports of the Special Rapporteur to conduct a comprehensive study on terrorism and human rights of the Sub-Commission have only been circulated in one language and not issued in all the official languages of the United Nations, in spite of the express request by the Sub-Commission,

1. *Reiterates its unequivocal condemnation* of all acts, methods and practices of terrorism, regardless of their motivation, in all their forms and manifestations, wherever, whenever and by whomever committed, as acts aimed at the destruction of human rights, fundamental freedoms and democracy, threatening the territorial integrity and security of States, destabilizing legitimately constituted Governments, undermining pluralistic civil society and the rule of law and having adverse consequences for the economic and social development of the State;



2. *Reaffirms* that every person has a right to protection from terrorism and strongly condemns the violations of the right to life, liberty and security;
3. *Expresses its solidarity* with the victims of terrorism and their families;
4. *Condemns* incitement of ethnic hatred, violence and terrorism;
5. *Welcomes* the views expressed by the Secretary-General in his report to the General Assembly (A/58/533), considering that terrorism by itself is a violation of human rights;
6. *Rejects* the identification of terrorism with any religion, nationality or culture;
7. *Urges* States to fulfil their obligations under the Charter of the United Nations in strict conformity with international law, including human rights standards and obligations and international humanitarian law, to prevent, combat and eliminate terrorism in all its forms and manifestations, wherever, whenever and by whomever committed, and calls upon States to strengthen, where appropriate, their legislation to combat terrorism in all its forms and manifestations;
8. *Strongly condemns* all terrorist acts on individual property, national monuments and historical relics;
9. *Urges* States to enhance cooperation at the regional and international levels in the fight against terrorism in all its forms and manifestations, in accordance with relevant international obligations under human rights instruments and international humanitarian law, with the aim of eliminating terrorism in all its forms and manifestations, and to strengthen cooperation further with a view to bringing terrorists to justice;
10. *Calls upon* States to take appropriate measures in conformity with the relevant provisions of national and international law, including international human rights standards, before granting refugee status, with the purpose of ensuring that the asylum-seeker has not planned, facilitated or participated in the commission of terrorist acts, and to ensure, in conformity with international law, that refugee status is not abused by the perpetrators, organizers or facilitators of terrorist acts and that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists;
11. *Urges* States and the Office of the United Nations High Commissioner for Refugees to review, with full respect for legal safeguards, the validity of a refugee status decision in an individual case if credible and relevant evidence comes to light which indicates that the person in question has planned, facilitated or participated in the commission of terrorist acts;
12. *Invites* the Office of the United Nations High Commissioner for Human Rights to respond to requests from interested Governments for assistance and advice on ensuring full compliance with international human rights standards and obligations when undertaking measures to combat terrorism;
13. *Urges* all relevant human rights mechanisms and procedures, as appropriate, to address the consequences of the acts, methods and practices of terrorist groups in their forthcoming reports to the Commission;

14. *Requests* the Office of the High Commissioner to circulate, in all official languages, the reports of the Special Rapporteur on terrorism and human rights of the Sub-Commission and looks forward to her final report, and in this context reiterates the request made in its resolution 2003/37 to the Secretary-General to give the Special Rapporteur all the necessary assistance in order to hold consultations with the competent services and bodies of the United Nations system, in particular those located in New York and Vienna, for the finalization of her report;

15. *Requests* the Office of the High Commissioner, in the course of the examination of the question and in the conduct of any study on terrorism that may be mandated, and in its activities relating to the issue of terrorism, to adopt a comprehensive approach, in particular, by giving full and equal attention to the issues raised in the present resolution with relation to the grave impact of terrorism on the enjoyment of human rights of individuals;

16. *Decides* to remain seized of the matter at its sixty-first session.

*55th meeting*

*19 April 2004*

[Adopted by a recorded vote of 31 votes to 14,  
with 8 abstentions. See chap. XI.]

#### **2004/45. Trafficking in women and girls**

*The Commission on Human Rights,*

*Recalling* the United Nations Millennium Declaration, particularly the resolve expressed by heads of State and Government to intensify efforts to fight transnational organized crime in all its dimensions, including trafficking in human beings,

*Recalling also* all previous resolutions on the problem of the traffic in women and girls adopted by the General Assembly and the Commission, including their reaffirmation of the principles set forth in relevant human rights instruments and declarations, as well as the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others,

*Welcoming* the entry into force on 29 September 2003 and 25 December 2003, respectively, of the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the Convention,

*Reaffirming* the provisions pertaining to trafficking in persons, especially women and children, contained in the outcome documents of relevant international conferences and summits,

*Stressing once again* the urgent need to eliminate all forms of sexual violence and trafficking, including for prostitution, which both violate and impair or nullify the enjoyment of the human rights and fundamental freedoms of victims of trafficking and are incompatible with the dignity and worth of the human person, through the adoption of effective measures nationally, regionally and internationally,

*Recognizing* that victims of trafficking are particularly exposed to racism, racial discrimination, xenophobia and related intolerance,

*Noting with concern* that women and girls are often subject to multiple forms of discrimination on the grounds of their gender as well as their origin, particularly when they are victims of trafficking,

*Recognizing* the importance of bilateral, subregional and regional cooperation mechanisms and initiatives to address the problem of trafficking in persons, especially women and children, and taking note of relevant efforts in this regard (most recently, the second Regional Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime, held at Bali, Indonesia, from 28 to 30 April 2003, and the eighth Regional Conference on Migration, held at Cancún, Mexico, on 29 and 30 May 2003 as part of the Puebla Process, as well as the Organization for Security and Cooperation in Europe Action Plan to Combat Trafficking in Human Beings, endorsed at the Eleventh Meeting of the Organization for Security and Cooperation in Europe Ministerial Council held at Maastricht, The Netherlands, on 1 and 2 December 2003).

*Recognizing also* that global efforts, including international cooperation and technical assistance programmes, to prevent and combat trafficking in persons, especially women and children, demand strong political commitment by and the active cooperation of all Governments of countries of origin, transit and destination,

*Stressing* the need for a global approach to prevent and combat trafficking in persons, especially women and children, and the importance, in this regard, of systematic data collection and comprehensive studies, including on the modus operandi of trafficking syndicates,

*Acknowledging* the work done by intergovernmental and non-governmental organizations in compiling information on the scale and complexity of the problem of trafficking, organizing prevention campaigns, providing shelter for trafficked women and children and in effecting their voluntary repatriation to their countries of origin,

*Recognizing* the need to address the impact of globalization on the problem of trafficking in persons, especially women and children, in particular girls,

*Seriously concerned* at the increasing number of women and girl children from developing countries and from some countries with economies in transition who are being trafficked to developed countries, as well as within and between regions and States, and concerned that men and boys are also victims of trafficking,

*Gravely concerned* at the increasing activities of transnational criminal organizations and others that profit from international trafficking in persons, especially women and children, without regard to dangerous and inhumane conditions and in flagrant violation of domestic laws and international standards,

*Convinced* of the need to protect and assist all victims of trafficking, with full respect for their human rights,

*Convinced* that no person willingly consents to the suffering and exploitation that trafficking of persons entails,

*Deeply concerned* about the use of new information technologies, including the Internet, for purposes of exploitation of the prostitution of others and for child pornography, paedophilia and any other forms of sexual exploitation of children, as well as for trafficking in women as brides and sex tourism,

*Acknowledging* the fact that the majority of victims of trafficking in persons are women and girls and, for that reason, measures to prevent and to combat this form of violence need to be child- and gender-sensitive,

1. *Takes note with appreciation* of the report of the Special Rapporteur on the human rights of migrants (E/CN.4/2004/76 and Add.1-4), which focuses mainly on an analysis of the situation of women migrant domestic workers but devotes a section to trafficking, especially of women;

2. *Calls upon* on all Governments to strive to ensure that trafficked persons are protected from further exploitation and harm and have access to adequate physical and psychological care, and services, including those related to HIV/AIDS;

3. *Encourages* Governments to intensify collaboration with non-governmental organizations to develop and implement programmes, effective counselling, training and reintegration into society of victims of trafficking and programmes that provide shelter and helplines to victims including, where appropriate, in cooperation with international organizations and relevant United Nations agencies;

4. *Invites* Governments to take steps to include in their domestic legal systems, inter alia, measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered;

5. *Invites* Governments as well as donors, the Office of the United Nations High Commissioner for Human Rights and international, regional and non-governmental organizations to consider the need for comprehensive anti-trafficking strategies, greater allocation of resources and better coordination of programmes and activities in tackling the problem of trafficking in persons, especially women and children;

6. *Invites* Governments to consider preventing, within the legal framework and in accordance with national policies, victims of trafficking from being prosecuted for their illegal entry or residence, bearing in mind that they are victims of exploitation;

7. *Invites* human rights treaty bodies, the special rapporteurs and subsidiary bodies of the Commission, the Office of the High Commissioner, other United Nations bodies and international organizations, to continue to address, within their mandates, the problem of trafficking in persons, especially women and children, and to share their knowledge and best practices as widely as possible, and encourages Governments to outline measures taken to combat trafficking in their periodic reports to the relevant United Nations human rights treaty bodies;

8. *Urges* Governments to take appropriate measures to address the root factors, including external factors, that encourage trafficking in persons, especially women and children, in particular girls, for prostitution and other forms of commercialized sex, forced marriages and forced labour, including by strengthening existing legislation with a view to providing better protection for victims of trafficking and to punishing perpetrators, through both criminal and civil measures;

9. *Also urges* Governments to adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, and that leads to trafficking;

10. *Calls upon* Governments to criminalize trafficking in persons, especially women and children, in all its forms and to condemn and penalize traffickers and intermediaries, while ensuring protection and assistance to the victims of trafficking with full respect for their human rights;

11. *Encourages* Governments to take steps to promote respect for victims of trafficking and ensure respect for their human rights and fundamental freedoms by taking steps to ensure that all legislation related to combating trafficking is gender-sensitive and provides protection for the human rights of women and girls and against violations committed against women and girls;

12. *Calls upon* Governments to ensure that the treatment of victims of trafficking in persons, especially women and children, as well as all measures taken against trafficking in persons, in particular those that affect the victims of such trafficking, are consistent with internationally recognized principles of non-discrimination, including the prohibition of racial discrimination and the availability of appropriate legal redress;

13. *Encourages* Governments to conclude bilateral, subregional, regional and international agreements to address the problem of trafficking in persons, especially women and children, in particular girls;

14. *Urges* Governments to consider signing and ratifying the United Nations Convention against Transnational Organized Crime and the protocols supplementing the Convention, in particular the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children;

15. *Also urges* Governments to consider, as a matter of priority, signing and ratifying the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child and to consider signing and ratifying the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (No. 182) of the International Labour Organization;

16. *Invites* Governments to encourage Internet service providers to adopt or strengthen self-regulatory measures to promote the responsible use of the Internet with a view to eliminating the trafficking in persons, especially women and children, in particular girls;

17. *Urges* Governments to consider establishing mechanisms, where appropriate, in cooperation with the international community to combat the use of the Internet to facilitate trafficking in persons and crimes related to sexual exploitation and to strengthen international cooperation to investigate and prosecute trafficking facilitated by the use of the Internet;

18. *Encourages* the business sector, in particular the tourism industry and Internet providers, to develop codes of conduct with a view to preventing trafficking in persons and protecting the victims of such traffic, especially those in prostitution, against gender-based and racial discrimination and promoting their rights, dignity and security;

19. *Encourages* Governments, in cooperation with intergovernmental organizations and non-governmental organizations, to study, by applying a gender perspective, the vulnerable situation of potential victims of trafficking, especially women and girls, and to undertake information campaigns targeted at potential victims of trafficking, especially women and girls, aimed at clarifying opportunities, limitations and rights in the event of migration so as to enable them to make informed decisions to prevent them from being victims of trafficking;

20. *Calls upon* concerned Governments to allocate resources, as appropriate, to provide comprehensive programmes designed to heal and rehabilitate into society victims of trafficking, including through job training, legal assistance and health care, and by taking measures to cooperate with non-governmental organizations to provide for the social, medical and psychological care of the victims;

21. *Also calls upon* Governments to establish comprehensive policies, programmes and other measures, which may include the development of national plans of action to prevent and combat trafficking in persons, especially women and children, and should include mechanisms for the collection of qualitative and quantitative data to prevent the trafficking of persons, especially women and children, and to protect victims of trafficking from revictimization;

22. *Invites* Governments to consider contributing to the various funds established at the international and regional levels to counter trafficking in persons, especially women and girls;

23. *Urges* Governments to provide or strengthen training for law enforcement, immigration and other relevant officials in the prevention of trafficking in persons, which should focus on methods used in preventing such trafficking, prosecuting the traffickers and protecting the rights of victims, including protecting the victims from traffickers; the training should also take into account the need to consider human rights and child- and gender-sensitive issues and it should encourage cooperation with non-governmental organizations, other relevant organizations and other elements of civil society;

24. *Invites* the United Nations High Commissioner for Human Rights, in cooperation with participating organizations of the Intergovernmental Organization Contact Group on Human Trafficking and Migrant Smuggling, to brief delegations and other interested parties on the Office of the High Commissioner's Trafficking Programme and the activities of the Contact Group during the sixty-second session of the Commission;

25. *Decides* to continue its consideration of this question at its sixty-second session under the appropriate agenda item.

55th meeting  
19 April 2004

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

## **2004/46. Elimination of violence against women**

*The Commission on Human Rights,*

*Reaffirming* that discrimination on the basis of sex is contrary to the Charter of the United Nations, the Universal Declaration of Human Rights, the Convention on the Elimination of All Forms of Discrimination against Women and other international human rights instruments, and that its elimination is an integral part of efforts towards the elimination of violence against women,

*Reaffirming* the Vienna Declaration and Programme of Action adopted in June 1993 by the World Conference on Human Rights (A/CONF.157/23) and the Declaration on the Elimination of Violence against Women adopted by the General Assembly in its resolution 48/104 of 20 December 1993,

*Recalling* the Beijing Declaration and Platform for Action adopted in September 1995 by the Fourth World Conference on Women (A/CONF.177/20/Rev.1, chap. I), follow-up action by the Commission on the Status of Women on violence against women, and the outcome of the twenty-third special session of the General Assembly, entitled "Women 2000: gender equality, development and peace for the twenty-first century",

*Recalling also* all its previous resolutions on the elimination of violence against women, in particular its resolution 1994/45 of 4 March 1994, in which it decided to appoint a special rapporteur on violence against women, its causes and consequences, and all General Assembly resolutions relevant to elimination of violence against women, and in particular welcoming Assembly resolutions 58/185 of 22 December 2003 entitled "In-depth study on all forms of violence against women" and 58/147 also of 22 December 2003 entitled "Elimination of domestic violence against women",

*Recalling further* Security Council resolution 1325 (2000) of 31 October 2000 on women, peace and security, and acknowledging the relevance of the study of the Secretary-General entitled *Women, Peace and Security* submitted pursuant to Security Council resolution 1325 (2000), the study by the United Nations Development Fund for Women entitled *Women, War and Peace: The Independent Experts' Assessment of the Impact of Armed Conflict*

*on Women and Women's Role in Peace-Building*, and the important work done on this issue, most recently by the forty-eighth session of the Commission on the Status of Women on women's equal participation in conflict prevention, management and conflict resolution and in post-conflict peace-building,

*Reaffirming* the responsibility of all States to put an end to impunity and prosecute those responsible for genocide, crimes against humanity and war crimes,

*Recalling* the inclusion of gender-related crimes and crimes of sexual violence in the Rome Statute of the International Criminal Court (A/CONF.183/9), which affirms that rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization and other forms of sexual violence constitute, in defined circumstances, a crime against humanity and/or a war crime, and reiterating that acts of sexual violence in situations of armed conflict can constitute serious violations or grave breaches of international humanitarian law,

*Deeply concerned* that some groups of women, such as women belonging to minority groups, indigenous women, refugee and internally displaced women, migrant women, women living in rural or remote communities, destitute women, women in institutions or in detention, the girl child, women with disabilities, elderly women, widows and women in situations of armed conflict are often especially targeted or vulnerable to violence, as are women who are otherwise discriminated against,

*Convinced* that racism, racial discrimination, xenophobia and related intolerance reveal themselves in a differentiated manner for women and girls, and can be among the factors leading to a deterioration in their living conditions, poverty, violence, multiple forms of discrimination and the limitation or denial of their human rights, and recognizing the need to integrate a gender perspective into relevant policies, strategies and programmes of action, including effective implementation of national legislation, against racism, racial discrimination, xenophobia and related intolerance in order to address multiple forms of discrimination against women,

1. *Welcomes:*

(a) The work of the Special Rapporteur on violence against women, its causes and consequences, and takes note of her report (E/CN.4/2004/66 and Add.1-2), in particular the elaboration of guidelines for developing strategies for the effective implementation of international standards to end violence against women at the national level and her proposal of an intervention strategy with three interrelated levels, consisting of the State, the community/non-State actors, and the individual woman;

(b) The increasing efforts and important contributions at the national, regional and international levels to eliminate all forms of violence against women and encourages States to build upon these successful initiatives, and to support and participate in regional consultations;

(c) The initiatives of the United Nations Development Fund for Women to combat violence against women at the international, regional and national levels, and encourages the continued efforts, within their mandates, of all United Nations bodies, funds and programmes, including the United Nations Children's Fund, the World Health Organization, the



United Nations Population Fund, the International Research and Training Institute for the Advancement of Women, and the United Nations Office for the Coordination of Humanitarian Affairs, and regional organizations, as well as non-governmental organizations including women's organizations, in their work in this area;

2. *Reaffirms* that the term “violence against women” means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life, and including domestic violence, crimes committed in the name of honour, crimes committed in the name of passion, trafficking in women and girls, traditional practices harmful to women, including female genital mutilation, early and forced marriages, female infanticide, dowry-related violence and deaths, acid attacks and violence related to commercial sexual exploitation as well as economic exploitation;

3. *Strongly condemns* all acts of violence against women and girls and in this regard calls, in accordance with the Declaration on the Elimination of Violence against Women, for the elimination of all forms of gender-based violence in the family, within the general community and where perpetrated or condoned by the State, and emphasizes the duty of Governments to refrain from engaging in violence against women and to take appropriate and effective action concerning acts of violence against women, whether those acts are perpetrated by the State, by private persons or non-State actors, and to provide access to just and effective remedies and specialized, including medical, assistance to victims;

4. *Reaffirms*, in this light, that violence against women constitutes a violation of the human rights and fundamental freedoms of women and that violence against women impairs or nullifies their enjoyment of those rights and freedoms;

5. *Strongly condemns* physical, sexual and psychological violence occurring in the family, which encompasses, but is not limited to, battering, sexual abuse of women and girls in the household, dowry-related violence, marital rape, female infanticide, female genital mutilation, crimes committed against women in the name of honour, crimes committed in the name of passion, traditional practices harmful to women, incest, early and forced marriages, non-spousal violence and violence related to commercial sexual exploitation as well as economic exploitation;

6. *Stresses* that all forms of violence against women occur within the context of de jure and de facto discrimination against women and the lower status accorded to women in society and are exacerbated by the obstacles women often face in seeking remedies from the State;

7. *Emphasizes* that violence against women has an impact on their physical and mental health, including their reproductive and sexual health and, in this regard, encourages States to ensure that women have access to comprehensive and accessible health-care services and programmes and to health-care providers who are knowledgeable and trained to recognize signs of violence against women and to meet the needs of patients who have been subjected to violence, in order to minimize the adverse physical and psychological consequences of violence;

8. *Stresses* that women should be empowered to protect themselves against violence and, in this regard, stresses that women have the right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence;

9. *Emphasizes* that violence against women and girls, including rape, female genital mutilation, incest, early and forced marriage, violence related to commercial sexual exploitation, including trafficking, as well as economic exploitation and other forms of sexual violence, increases their vulnerability to HIV/AIDS, that HIV infection further increases women's vulnerability to violence, and that violence against women contributes to the conditions fostering the spread of HIV/AIDS;

10. *Urges* Governments to strengthen initiatives that would increase the capacities of women and adolescent girls to protect themselves from the risk of HIV infection, principally through the provision of health care and health services, including for sexual and reproductive health, and through prevention education that promotes gender equality within a culturally and gender-sensitive framework;

11. *Also urges* Governments to design and implement programmes to encourage and enable men to adopt safe and responsible sexual and reproductive behaviour, and to use effectively methods to prevent unwanted pregnancies and sexually transmitted infections, including HIV/AIDS;

12. *Reminds* Governments that their obligations under the Convention on the Elimination of All Forms of Discrimination against Women must be implemented fully with regard to violence against women, taking into account general recommendation No. 19 (1992) on violence against women adopted by the Committee on the Elimination of Discrimination against Women at its eleventh session, reaffirms their commitment to accelerate the achievement of universal ratification of the Convention, and urges all States that have not yet ratified or acceded to the Convention, to consider doing so, as a matter of priority;

13. *Urges* States parties to consider signing and ratifying the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women;

14. *Also urges* States parties to limit the extent of any reservations to the Convention on the Elimination of All Forms of Discrimination against Women, to formulate any such reservations as precisely and as narrowly as possible, to ensure that no reservations are incompatible with the object and purpose of the Convention, to review their reservations regularly with a view to withdrawing them and to withdraw reservations that are contrary to the object and purpose of the Convention;

15. *Stresses* that States have an affirmative duty to promote and protect the human rights and fundamental freedoms of women and girls and must exercise due diligence to prevent, investigate and punish all acts of violence against women and girls, and calls upon States:

(a) To apply international human rights norms and to consider, as a matter of priority, becoming party to international human rights instruments that relate to violence against women and girls, and to implement fully their international obligations;

(b) To fully achieve and implement the goals set and commitments made relating to eliminating violence against women contained in the Beijing Declaration and Platform for Action adopted by the Fourth World Conference on Women and the outcome of the twenty-third special session of the General Assembly, entitled “Women 2000: gender equality, development and peace for the twenty-first century”;

(c) To take all measures to empower women and strengthen their economic independence and to protect and promote the full enjoyment of all human rights and fundamental freedoms in order to allow women and girls to protect themselves better against violence and, in this regard, to give priority to education, training, economic opportunity and political participation of women;

(d) To include in reports submitted in accordance with the provisions of relevant United Nations human rights instruments data and information disaggregated by sex, age and other factors, where appropriate, pertaining to violence against women, including measures to eliminate traditional or customary practices harmful to women and girls, and other measures taken to implement the Declaration on the Elimination of Violence against Women, the Platform for Action adopted by the Fourth World Conference on Women and other instruments relevant to the elimination of violence against women;

(e) To condemn violence against women and not to invoke custom, tradition or practices in the name of religion or culture to avoid their obligations to eliminate such violence;

(f) To address the specific circumstances facing girls and young women in relation to violence, especially sexual violence, including its immediate and long-term consequences;

(g) To intensify efforts to develop and/or utilize legislative, educational, social and other measures aimed at the prevention of violence against women and to ensure women’s full and equal access to justice, including the adoption and implementation of laws, dissemination of information, active involvement with community-based players, and training of legal, judicial and health personnel on gender-based violence and related issues, and, where possible, through developing and strengthening support services;

(h) To enact and, where necessary, reinforce or amend domestic legislation, including measures to enhance the protection of victims, to investigate, prosecute, punish and redress the wrongs done to women and girls subjected to any form of violence, whether in the home, the workplace, the community or society, in custody or in situations of armed conflict, to ensure that such legislation conforms with relevant international human rights instruments and international humanitarian law, and to take action to investigate and punish persons who perpetrate acts of violence against women;

(i) To formulate, implement and promote, at all appropriate levels, plans of action, including time-bound measurable targets where appropriate, to eliminate violence against women, guided by, inter alia, the Declaration on the Elimination of Violence against Women, as well as relevant regional instruments pertaining to the elimination of violence against women;

(j) To support initiatives undertaken by women's organizations and non-governmental organizations on the elimination of violence against women and to establish and/or strengthen, at the national level, collaborative relationships with relevant non-governmental and community-based organizations, and with public and private sector institutions, aimed at the development and effective implementation of provisions and policies relating to violence against women, including in the area of support services for victims;

(k) To intensify efforts to raise collective and individual awareness about violence against women and girls, to highlight the role of men and boys, and encourage and support men and boys to take an active part in the prevention and elimination of violence against women, and to encourage and support initiatives to promote attitudinal and behavioural change on the part of, and the rehabilitation of, perpetrators of violence against women;

(l) To develop and/or enhance, including through funding, training programmes for judicial, legal, medical, social, educational, police, correctional service, military, peacekeeping, humanitarian relief and immigration personnel, in order to prevent the abuse of power leading to violence against women and to sensitize such personnel to the nature of gender-based acts and threats of violence;

(m) To examine the impact of, and take measures to address, gender role stereotypes that contribute to the prevalence of violence against women, including in cooperation with the United Nations system, regional organizations, civil society, the media and other relevant actors;

(n) To consider establishing appropriate national mechanisms for monitoring and evaluating implementation of measures taken to eliminate violence against women and girls, including through the use of national indicators, and to mainstream a gender perspective in budget policies and processes at all levels;

16. *Strongly condemns* violence against women committed in situations of armed conflict, such as murder, rape, including systematic rape, sexual slavery and forced pregnancy, and calls for effective responses to these violations of human rights and international humanitarian law;

17. *Takes note* of work already undertaken to implement Security Council resolution 1325 (2000) on women, peace and security, and urges continued efforts towards its full implementation;

18. *Acknowledges* the inclusion of gender-related crimes in the Rome Statute of the International Criminal Court and in the Elements of Crimes, adopted by the Assembly of State Parties to the Rome Statute in September 2002, and urges States to ratify or accede to the Rome Statute, which entered into force on 1 July 2002;

19. *Stresses the importance* of efforts to eliminate impunity for violence against women and girls in situations of armed conflict, including by prosecuting gender-related crimes and crimes of sexual violence by providing protective measures, counselling and other appropriate assistance, to victims and witnesses in international and internationally-supported courts and tribunals, by integrating a gender perspective into all efforts to eliminate impunity, including into commissions of inquiry and commissions for achieving truth and reconciliation, and invites the Special Rapporteur to report, as appropriate, on these mechanisms;

20. *Urges* States to provide gender-sensitive training to all actors, as appropriate, in peacekeeping missions in dealing with victims, particularly women and girls, of violence, including sexual violence and, in this regard, acknowledges the important role of peace support operations personnel in eliminating violence against women, and calls upon States to promote, and relevant agencies of the United Nations system and regional organizations to ensure, implementation of the Ten Rules Code of Personal Conduct for Blue Helmets;

21. *Also urges* States to mainstream a gender perspective into national immigration and asylum policies, regulations and practices, as appropriate, in order to promote and protect the rights of all women, including the consideration of steps to recognize gender-related persecution and violence when assessing grounds for granting refugee status and asylum;

22. *Further urges* States and the United Nations system to give attention to, and encourages greater international cooperation in systematic research and the collection, analysis and dissemination of data, including data disaggregated by sex, age and other relevant information, on the extent, nature and consequences of violence against women and girls, and on the impact and effectiveness of policies and programmes for combating this violence;

23. *Calls upon* all relevant United Nations bodies, States, the Special Rapporteur, as well as relevant non-governmental organizations, to cooperate closely in the preparation of the Secretary-General's in-depth study on all forms of violence against women;

24. *Encourages* the Special Rapporteur to respond effectively to reliable information that comes before her and requests all Governments to cooperate with and assist the Special Rapporteur in the performance of her mandated tasks and duties, to supply all information requested, including with regard to implementation of her recommendations, and to respond to the Special Rapporteur's visits and communications;

25. *Bears in mind* the need to develop, with full participation of all Member States, an international consensus on indicators and ways to measure violence against women and calls on the Special Rapporteur to recommend proposals for indicators on violence against women and on measures taken by, inter alia, Member States, to eliminate violence against women;

26. *Invites* the Special Rapporteur, with a view to promoting greater efficiency and effectiveness, as well as enhancing her access to the information necessary to fulfil her duties, to continue to cooperate with other special procedures of the Commission, regional intergovernmental organizations and any of their mechanisms engaged in the promotion of human rights of women, including, where appropriate, undertaking joint missions, joint reports, urgent appeals and communications;

27. *Requests* special rapporteurs responsible for various human rights questions, United Nations organs and bodies, specialized agencies and intergovernmental organizations, and encourages the human rights treaty bodies, to continue to give consideration to violence against women within their respective mandates, to cooperate with and assist the Special Rapporteur in the performance of her mandated tasks and duties and, in particular, to respond to her requests for information on violence against women, its causes and consequences;

28. *Renews its request* to the Secretary-General to continue to provide the Special Rapporteur with all necessary assistance, in particular the staff and resources required to perform all mandated functions, especially in carrying out and following up on missions undertaken either separately or jointly with other special rapporteurs and working groups, and adequate assistance for periodic consultations with the Committee on the Elimination of Discrimination against Women and all other treaty bodies;

29. *Requests* the Secretary-General to ensure that the reports of the Special Rapporteur are brought to the attention of the Commission on the Status of Women at its forty-ninth session, the General Assembly, as well as to the attention of the Committee on the Elimination of Discrimination against Women;

30. *Decides* to continue consideration of the question as a matter of high priority at its sixty-first session.

*56th meeting  
20 April 2004*

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

### **2004/47. Abduction of children in Africa**

*The Commission on Human Rights,*

*Recalling* its resolution 2003/85 of 25 April 2003,

*Recalling* also the Universal Declaration of Human Rights, the Convention on the Rights of the Child, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Civil and Political Rights, the African Charter on Human and People's Rights and the African Charter on the Rights and Welfare of the Child,

*Recalling further* the Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography,

*Recalling* the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the Convention,

*Reaffirming* the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights (A/CONF.157/23) in June 1993 and the United Nations Millennium Declaration, as well as the special session of the General Assembly on children, which inter alia called for the protection of children, particularly those under difficult circumstances,

*Recalling* the obligation to respect and strictly observe international humanitarian law, including the Geneva Conventions of 12 August 1949 relative to the Treatment of Prisoners of War and to the Protection of Civilian Persons in Time of War, as well as, for the States parties, the two Protocols additional to the Geneva Conventions of 8 June 1977,

*Bearing in mind* Security Council resolutions 1379 (2001) of 20 November 2001 and 1460 (2003) of 30 January 2003 on children in armed conflict,

*Taking into account* its own resolutions on the rights of the child,

*Welcoming* the appointment by the Secretary-General of the independent expert to direct an in-depth study of the question of violence against children,

*Welcoming with satisfaction* the progress report of the Secretary-General on the study on the question of violence against children (E/CN.4/2004/68),

*Also welcoming* the entry into force, on 25 December 2003, of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime,

*Expressing its appreciation* to those African countries which have established national mechanisms to ensure greater protection of children, including measures to combat and eliminate abduction of children,

*Deeply alarmed* at the spread of the practice of abduction of children for various purposes,

1. *Condemns* the practice of abduction of children for various purposes, for example as soldiers or workers, for purposes of sexual exploitation and/or paedophilia, and for the purposes of trade in human organs;

2. *Also condemns* the abduction of children from camps of refugees and internally displaced persons by armed groups, and their subjection of children to forced conscription, torture, killing and rape;

3. *Demands* the immediate demobilization and disarmament of all child soldiers who have been recruited or used in armed conflicts in contravention of international law;

4. *Calls for* the immediate and unconditional release and safe return of all abducted children to their families and communities;

5. *Calls upon* African States:

(a) To pay particular attention to the protection of refugee children, especially unaccompanied refugee minors, and internally displaced children who are exposed to the risk of being abducted or becoming involved in armed conflicts;

(b) To take extra measures to protect refugee children and internally displaced children, particularly girls, from being abducted by guerrilla groups;

(c) To take adequate measures to prevent the abduction and recruitment of children by armed forces and armed groups, through, inter alia, the adoption of legal measures to prohibit and criminalize such practices;

6. *Encourages* all African States to integrate the rights of the child into all peace processes, peace agreements and post-conflict recovery and reconstruction phases;
7. *Urges* all African States that have not yet done so to consider ratifying the African Charter on the Rights and Welfare of the Child, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, and the Optional Protocol on the sale of children, child prostitution and child pornography;
8. *Welcomes* the progress achieved in the eradication of abduction of children by some national mechanisms and encourages other States that have not yet done so to consider establishing such mechanisms;
9. *Requests* African States, in cooperation with the relevant United Nations agencies, to provide the victims and their families with the necessary assistance and to support sustainable rehabilitation and reintegration programmes for abducted children, including the provision of psychological assistance, basic education and vocational training, taking into account the special needs of abducted girl children;
10. *Requests* States, relevant United Nations bodies and donors to provide African States and African regional mechanisms with the necessary assistance, including technical assistance, in order, first, to devise appropriate programmes to combat cross-border abduction of children and protect refugee children, especially unaccompanied minors and internally displaced children in African countries, who are exposed to the risk of being abducted, and, secondly, to develop and implement programmes for the reintegration of children in the peace process and in the post-conflict recovery and reconstruction phase;
11. *Encourages* all States, and particularly their agencies responsible for internal security, as well as the International Criminal Police Organization (Interpol), to cooperate and take steps to prevent cross-border abductions, and to exchange information with the aim of preventing the abduction of children;
12. *Calls on* Member States to put an end to impunity and to take appropriate steps to identify those responsible for child abductions and bring them to justice;
13. *Requests* the Office of the United Nations High Commissioner for Human Rights, within existing resources, to organize subregional consultations which will provide a framework for gathering research, expertise and information from each subregion, and for sensitizing political actors and networking among public authorities and civil society, including non-governmental organizations;
14. *Encourages* the independent expert for the study on violence against children to complete his study on the protection of children against all forms of physical and mental violence, including child abduction;
15. *Urges* States to submit observations on the implementation of this resolution, and calls on the relevant international organizations to submit reports on this issue to the Office of the High Commissioner;



16. *Requests* the United Nations High Commissioner for Human Rights to submit to it at its sixty-first session a report on the abduction of children in Africa;

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

56th meeting  
20 April 2004

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

## 2004/48. Rights of the child

*The Commission on Human Rights,*

*Emphasizing* the importance of the Convention on the Rights of the Child and that its provisions and other relevant human rights instruments must constitute the standard in the promotion and protection of the rights of the child, reaffirming that the best interests of the child shall be a primary consideration in all actions concerning children, and reaffirming also the general principles of, inter alia, non-discrimination, participation, and survival and development,

*Bearing in mind* the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and the Optional Protocol to the Convention on the involvement of children in armed conflict,

*Reaffirming* the World Declaration on the Survival, Protection and Development of the Child and the Plan of Action for the Implementation of the World Declaration on the Survival, Protection and Development of the Child in the 1990s adopted in September 1990 by the World Summit for Children (A/45/625, annex), the United Nations Millennium Declaration and the Vienna Declaration and Programme of Action adopted in June 1993 by the World Conference on Human Rights (A/CONF.157/23),

*Reaffirming also* the outcome document of the twenty-seventh special session of the General Assembly on children entitled “A world fit for children”, annexed to its resolution S-27/2 of 10 May 2002, and the firm commitments contained therein to promote and protect the rights of each child - every human being below the age of 18 years - and the integration of child rights issues into the outcome documents of all major United Nations conferences, special sessions and summits,

*Recalling* all its previous resolutions relating to the rights of the child, in particular resolution 2003/86 of 25 April 2003, and taking note of General Assembly resolution 58/157 of 22 December 2003,

*Welcoming* the work of the Committee on the Rights of the Child in examining the progress made by States parties in implementing the obligations undertaken in the Convention on the Rights of the Child and in providing recommendations to States parties on its implementation and, in cooperation with the Office of the United Nations High Commissioner for Human Rights, in enhancing awareness of the principles and provisions of the Convention, and taking note of the conclusions of the general discussion on the rights of indigenous children held in September 2003 (see CRC/C/133, annex II),

*Taking note* of the issuance by the Committee on the Rights of the Child of general comment No. 3 (2003) on HIV/AIDS and the rights of the child, general comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child and general comment No. 5 (2003) on general measures of implementation of the Convention (arts. 4, 42 and 44, para. 6),

*Welcoming* the increase in the membership of the Committee on the Rights of the Child from 10 to 18 and aware of the need to continue to address the working methods of the Committee with the view to enabling it to deal efficiently with its important and increasing workload,

*Welcoming also* the start of the Secretary-General's study on the question of violence against children, as well as the establishment of a secretariat, and recalling the 2002 report of the World Health Organization entitled *World Report on Violence and Health*,

*Profoundly concerned* that the situation of children in many parts of the world remains critical as a result of the persistence of poverty, social inequality, inadequate social and economic conditions in an increasingly globalized economic environment, pandemics, in particular HIV/AIDS, malaria, tuberculosis, natural disasters, armed conflicts, displacement, exploitation, illiteracy, hunger, intolerance, discrimination, gender inequality, discrimination on the basis of disability and inadequate legal protection, and convinced that urgent and effective national and international action is called for,

*Recognizing* that environmental damage has potentially negative effects on children and their enjoyment of their life, health and a satisfactory standard of living,

*Underlining* the need for mainstreaming a gender perspective in all policies and programmes relating to children,

*Concerned* that, in conflict situations, children continue to be victims and deliberate targets of attacks with consequences that are often irreversible for their physical and emotional integrity,

*Taking note with appreciation* of the reports of the Secretary-General on the status of the Convention on the Rights of the Child (E/CN.4/2004/67), of the Special Rapporteur on the right to education (E/CN.4/2004/45 and Add.1-2), of the Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/2004/9 and Add.1-2), and taking note of the reports of the Special Representative of the Secretary-General for children and armed conflict to the General Assembly at its fifty-eighth session (see A/58/328 and Corr.1) and to the Commission at its sixtieth session (E/CN.4/2004/70), the report of the Secretary-General on children and armed conflict (A/58/546-S/2003/1053 and Corr.1 and 2), the progress report of the Secretary-General on the study on the question of violence against children (E/CN.4/2004/68) and the Secretary-General's bulletin on special measures for protection from sexual exploitation and sexual abuse (ST/SGB/2003/13),

*Welcoming* the entry into force on 25 December 2003 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime,

*Concerned* at the number of illegal adoptions, of children growing up without parents and of child victims of different forms of violence, abuse, exploitation and neglect within and outside the family,

*Recognizing* that the family is the basic unit of society and as such should be strengthened; that it is entitled to receive comprehensive protection and support; that the primary responsibility for the protection, upbringing and development of children rests with the family; that all institutions of society should respect children's rights and secure their well-being and render appropriate assistance to parents, families, legal guardians and other caregivers so that children can grow and develop in a safe and stable environment and in an atmosphere of happiness, love and understanding, bearing in mind that in different cultural, social and political systems, various forms of family exist,

*Recognizing also* that partnership between Governments, international organizations and relevant bodies and organizations of the United Nations system, in particular the United Nations Children's Fund, and all actors of civil society, in particular non-governmental organizations, as well as the private sector, is important to realize the rights of the child,

*Bearing in mind* the International Decade for a Culture of Peace and Non-Violence for the Children of the World, 2001-2010 and recalling the Declaration and Programme of Action on a Culture of Peace, which serve as the basis for the International Decade,

*Reaffirming* the interrelatedness of all human rights and the necessity of taking into account the universality, indivisibility, interdependence and interrelatedness of civil, political, economic, social and cultural rights, including the right to development, to promote and protect the rights of the child,

## I. IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF THE CHILD AND OTHER INSTRUMENTS

1. *Urges once again* the States that have not yet done so to consider signing and ratifying or acceding to the Convention on the Rights of the Child as a matter of priority and, concerned at the great number of reservations to the Convention, urges States parties to withdraw reservations incompatible with the object and purpose of the Convention and to consider reviewing other reservations with a view to withdrawing them;

2. *Urges* States that have not yet done so to consider signing and ratifying or acceding to the Optional Protocols to the Convention on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography, and calls upon States parties to implement them fully, in accordance with the best interests of the child;

3. *Calls upon* States parties to implement the Convention fully and to ensure that the rights set forth in the Convention are respected without discrimination of any kind and that the best interests of the child are a primary consideration in all actions concerning children, to recognize the child's inherent right to life and that the child's survival and development are ensured to the maximum extent possible, and that the child is able to express his/her views freely in all opinions on matters affecting him/her and that these views are listened to and given due weight in accordance with his/her age and maturity;

4. *Stresses* that the achievement of the goals of the World Summit for Children and the special session of the General Assembly on children will contribute to the implementation of the Convention;

5. *Urges* States parties to take all appropriate measures for the implementation of the rights recognized in the Convention, bearing in mind article 4 of the Convention, by:

(a) Strengthening relevant governmental structures for children, including, where appropriate, ministers in charge of child issues and independent commissioners for the rights of the child;

(b) Ensuring adequate and systematic training in the rights of the child for professional groups working with and for children, including specialized judges, law enforcement officials, lawyers, social and community workers, medical doctors, health professionals and teachers, and coordination among various government bodies involved in children's rights, and encourages States and relevant bodies and organizations of the United Nations system to continue to promote education and training in this regard;

6. *Calls upon* all States to end impunity for perpetrators of crimes committed against children, recognizing in this regard the contribution of the establishment of the International Criminal Court as a way to prevent violations of human rights and international humanitarian law, in particular when children are victims of serious crimes, including the crime of genocide, crimes against humanity and war crimes, and to bring perpetrators of such crimes to justice, and not to grant amnesties for these crimes;

7. *Encourages* all States to strengthen their national statistical capacities and to use statistics disaggregated, inter alia, by age, gender and other relevant factors that may lead to disparities, and other statistical indicators at the national, subregional, regional and international levels to develop and assess social policies and programmes so that economic and social resources are used efficiently and effectively for the full realization of the rights of the child;

8. *Calls upon* States parties:

(a) To ensure that the members of the Committee on the Rights of the Child are of high moral standing and recognized competence in the field covered by the Convention, serving in their personal capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems;

(b) To strengthen their cooperation with the Committee and to comply in a timely manner with their reporting obligations under the Convention and the Optional Protocols thereto, in accordance with the guidelines elaborated by the Committee, as well as to take into account the recommendations made by the Committee in the implementation of the provisions of the Convention;

9. *Decides* to request the Secretary-General:

(a) To ensure the provision of appropriate staff and facilities from the United Nations regular budget for the effective and expeditious performance of the functions of the Committee, and invites the Committee to continue to enhance its constructive dialogue with the States parties and its transparent and effective functioning;

(b) To take note of the Committee's ongoing efforts to reform its working methods and to give further consideration to the proposals made thus far, inter alia, the possibility of working in two parallel chambers;

10. *Requests* the Office of the United Nations High Commissioner for Human Rights, United Nations mechanisms, all relevant organs of the United Nations system, in particular special representatives, special rapporteurs and working groups, regularly and systematically to incorporate a strong child rights perspective throughout all activities in the fulfilment of their mandates, as well as to ensure that their staff is trained in child protection matters, and calls upon States to cooperate closely with them;

11. *Calls upon* all States and relevant actors concerned to continue to cooperate with the special rapporteurs and special representatives of the United Nations system in the implementation of their mandates, requests the Secretary-General to provide them with appropriate staff and facilities from the United Nations regular budget, when this is in accordance with their respective mandates, invites States to continue to make voluntary contributions, where appropriate, and urges all relevant parts of the United Nations system to provide them with comprehensive reporting to make the full discharge of their mandates possible;

## II. PROTECTION AND PROMOTION OF THE RIGHTS OF THE CHILD

### **Identity, family relations and birth registration**

12. *Calls upon* all States:

(a) To continue to intensify efforts to ensure the registration of all children, irrespective of their status, immediately after birth, including by the consideration of simplified, expeditious and effective procedures;

(b) To undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations, as recognized by law, without unlawful interference, and, where a child is illegally deprived of some or all of the elements of his or her identity, to provide appropriate assistance and protection with a view to re-establishing speedily his or her identity;

(c) To ensure as far as possible the right of the child to know and be cared for by his or her parents; to ensure that the child shall not be separated from his or her parents against their will, except when the competent authorities, subject to judicial review, determine, in accordance with applicable law and procedures and giving all interested parties an opportunity to participate in the proceedings and make their views known, that such separation is necessary for the best interests of the child, consistent with article 9 of the Convention on the Rights of the Child;

(d) To address cases of international abduction of children, bearing in mind that the best interest of the child shall be the primary consideration, and encourages States to engage in multilateral and bilateral cooperation to ensure, inter alia, the return of the child to the country where he or she resided immediately before the removal or retention and, in this respect, to pay particular attention to cases of international abduction of children by one of their parents or other relatives;

(e) To guarantee, to the extent consistent with each State's obligations, the right of a child whose parents reside in different States to maintain on a regular basis, except if it is contrary to the child's best interests, personal relations and direct contacts with both parents by providing means of access and visitation in both States and by respecting the principle that both parents have common responsibilities for the upbringing and development of their children;

(f) To take all appropriate measures, especially educational measures, to promote further the responsibility of both parents in the education, development and raising of children;

### **Poverty**

13. *Reaffirms* that investments in favour of children and the realization of their rights contribute to their social and economic development and are among the most effective ways to eradicate poverty in the long term, and therefore encourages States, inter alia, to allocate financial resources particularly in areas that contribute to the development of children in a holistic manner;

14. *Calls upon* States and the international community to cooperate, support and participate in the global efforts for poverty eradication at the global, regional and country levels, recognizing that strengthened availability and effective allocation of resources are required at all of these levels, in order to ensure that all the development and poverty reduction goals, as set out in the United Nations Millennium Declaration, are realized within their time framework, and to promote the enjoyment of the rights of the child;

### **Health**

15. *Calls upon* all States to take all appropriate measures to develop sustainable health systems and social services and to ensure access to such systems and services without discrimination, and to pay particular attention to adequate food and nutrition to prevent disease and malnutrition, to prenatal and post-natal health care, to special needs of adolescents, to reproductive and sexual health and to threats from substance abuse and violence, in particular to all vulnerable groups, and calls upon all States parties to take all necessary measures to ensure the right of all children, without discrimination, to the enjoyment of the highest attainable standard of health in accordance with article 24 of the Convention on the Rights of the Child and the World Health Organization's definition of health;

16. *Also calls upon* all States to give support and rehabilitation to children and their families affected by HIV/AIDS and to involve children and their caregivers, as well as the private sector, to ensure the effective prevention of HIV infections through correct information and access to voluntary and confidential care, treatment and testing, including pharmaceutical products and medical technologies affordable to all, giving due importance to the prevention of mother-to-child transmission of the virus;

## **Education**

17. *Calls upon* all States:

(a) To recognize the right to education on the basis of equal opportunity by making primary education free and compulsory for all, without discrimination and ensuring that all children, including girls, children in need of special protection, children with disabilities, indigenous children, children belonging to minorities and children from different ethnic origins, have access without discrimination to education of good quality, as well as making secondary education generally available and accessible for all, in particular by the progressive introduction of free education, bearing in mind that special measures to ensure equal access, including affirmative action, contribute to achieving equal opportunity and combating exclusion, and that the education of the child is carried out and that States parties develop and implement programmes for the education of the child in accordance with articles 28 and 29 of the Convention;

(b) To develop national plans of action, or to strengthen existing ones, in order to achieve the objectives of Education for All so as to ensure that all boys and girls complete a full course of primary schooling, and reaffirms the coordinating role of the United Nations Educational, Scientific and Cultural Organization in this regard;

(c) To design and implement programmes to provide social services and support to pregnant adolescents and adolescent mothers, in particular to enable them to continue and complete their education;

(d) To promote an educational setting that eliminates all barriers that impede the schooling of pregnant adolescents and adolescent mothers;

(e) To take all appropriate measures to prevent racism and discriminatory and xenophobic attitudes and behaviour through education, keeping in mind the important role that children play in changing these practices;

(f) To ensure that children, from an early age, benefit from education and from participation in activities which develop respect for human rights and to emphasize the practice of non-violence towards oneself and others, with the aim of instilling in them the values and goals of a culture of peace, and invites States to develop national strategies for human rights education which are comprehensive, participatory and effective;

(g) To ensure that education programmes and materials reflect fully the promotion and protection of human rights and values of peace, tolerance and gender equality, using every opportunity presented by the International Decade for a Culture of Peace and Non-Violence for the Children of the World (2001-2010);

(h) To harness the rapidly evolving information and communication technologies to support education at an affordable cost, including open and distance education, while reducing inequality in access and quality;

18. *Urges* States:

(a) To take measures to protect students from violence, injury or abuse, including sexual abuse and intimidation or maltreatment in schools, to establish complaint mechanisms that are age appropriate and accessible to children and to undertake thorough and prompt investigations of all acts of violence and discrimination;

(b) To take measures to eliminate the use of corporal punishment in schools;

### **Freedom from violence**

19. *Welcomes* the establishment of a secretariat for the Secretary-General's study on the question of violence against children in collaboration with the Office of the United Nations High Commissioner for Human Rights, the United Nations Children's Fund and the World Health Organization, invites Member States, United Nations bodies and organizations, including the Committee on the Rights of the Child, as well as other relevant intergovernmental organizations, to provide substantive and, where appropriate, financial support, including through voluntary contributions, for the effective conduct of the study and invites non-governmental organizations to contribute to the study, taking into account the recommendations of the Committee made following the general discussions on violence against children held in September 2000 and 2001, and, further, encourages the independent expert to seek also the participation of children in the study, taking into account their age and maturity;

20. *Requests* the Secretary-General to submit a substantive progress report on the study to the Commission at its sixty-first session and the final in-depth study to the Commission at its sixty-second session for its consideration, with the aim of evaluating all possible complementary measures and future actions;

21. *Requests* all relevant human rights mechanisms, in particular special rapporteurs and working groups, within their mandates, to pay attention to the special situation of violence against children, reflecting their experience in the field;

22. *Calls upon* all States to take all appropriate national, bilateral and multilateral measures to prevent, and to protect children from, all forms of physical, sexual and psychological violence, including violence occurring, inter alia, in the family, in public or private institutions, in society, or perpetrated or tolerated by private individuals, juridical persons or the State;

23. *Also calls upon* all States to investigate and submit cases of torture and other forms of violence against children to the competent authorities for the purpose of prosecution and to impose appropriate disciplinary or penal sanctions against those responsible for such practices;

### **III. NON-DISCRIMINATION**

24. *Calls upon* all States to ensure that children are entitled to their civil, political, economic, social and cultural rights without discrimination of any kind;



25. *Notes with concern* the large number of children, particularly girls, among the victims of racism, racial discrimination, xenophobia and related intolerance, and stresses the need to incorporate special measures, in accordance with the principle of the best interests of the child and respect for his or her views, in programmes to combat racism, racial discrimination, xenophobia and related intolerance, in order to give priority attention to the rights and the situation of children who are victims of these practices, and calls upon States to provide special support and ensure equal access to services for those children;

26. *Calls upon* all States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist not to deny to a child belonging to such a minority, or who is indigenous, the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language;

### **The girl child**

27. *Calls upon* all States to take all necessary measures, including legal reforms where appropriate:

(a) To ensure the full and equal enjoyment by girls of all human rights and fundamental freedoms, to take effective actions against violations of those rights and freedoms, and to base programmes and policies on the rights of the child, taking into account the special situation of girls;

(b) To eliminate all forms of discrimination against girls and all forms of violence, including female infanticide and prenatal sex selection, rape, sexual abuse and harmful traditional or customary practices, including female genital mutilation, son preference, marriages without free and full consent of the intending spouses, early marriages and forced sterilization, including addressing their root causes, by enacting and enforcing legislation and, where appropriate, formulating comprehensive, multidisciplinary and coordinated national plans, programmes or strategies protecting girls;

### **Children with disabilities**

28. *Calls upon* all States to take necessary measures to ensure the full and equal enjoyment of all human rights and fundamental freedoms by children with disabilities in both the public and private spheres, including access to good quality education and health care, protection from violence, abuse and neglect and to develop and, where it already exists, to enforce legislation against their discrimination to ensure their dignity, promote their self-reliance and facilitate their active participation and integration in the community, taking into account the particularly difficult situation of children with disabilities living in poverty;

29. *Encourages* the Ad Hoc Committee on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities to consider in its deliberations children with disabilities;

## **Migrant children**

30. *Calls upon* all States to ensure, for migrant children, the enjoyment of all human rights as well as access to health care, social services and education of good quality; States should ensure that migrant children and especially those who are unaccompanied, in particular victims of violence and exploitation, receive special protection and assistance;

## **IV. PROTECTION AND PROMOTION OF THE RIGHTS OF CHILDREN IN PARTICULARLY DIFFICULT SITUATIONS**

### **Children working and/or living on the street**

31. *Calls upon* all States to prevent violations of the rights of children working and/or living on the street, including discrimination, arbitrary detention and extrajudicial, arbitrary and summary executions, torture, all kinds of violence and exploitation, and to bring the perpetrators to justice, to adopt and implement policies for the protection, social and psychosocial rehabilitation and reintegration of these children, and to adopt economic, social and educational strategies to address the problems of children working and/or living on the street;

### **Refugee and internally displaced children**

32. *Calls upon* all States to protect refugee, asylum-seeking and internally displaced children, in particular those who are unaccompanied, who are particularly exposed to risks in connection with armed conflict, such as recruitment, sexual violence and exploitation, to pay particular attention to programmes for voluntary repatriation and, wherever possible, local integration and resettlement, to give priority to family tracing and reunification and, where appropriate, to cooperate with international humanitarian and refugee organizations;

### **Child labour**

33. *Calls upon* all States to translate into concrete action their commitment to the progressive and effective elimination of child labour that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development, and to eliminate immediately the worst forms of child labour, to promote education as a key strategy in this regard, including the creation of vocational training and apprenticeship programmes and the integration of working children into the formal education system, as well as to examine and devise economic policies, where necessary, in cooperation with the international community, that address factors contributing to these forms of child labour;

34. *Urges* all States that have not yet done so to consider ratifying and implementing the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (No. 182) and the Convention concerning the Minimum Age for Employment, 1973 (No. 138) of the International Labour Organization and calls upon States parties to these instruments to implement them fully and to comply in a timely manner with their reporting obligations;

## **Children alleged to have or recognized as having infringed penal law**

### 35. *Calls upon:*

(a) All States, in particular, States in which the death penalty has not been abolished, to comply with their obligations as assumed under relevant provisions of international human rights instruments, including in particular articles 37 and 40 of the Convention on the Rights of the Child and articles 6 and 14 of the International Covenant on Civil and Political Rights, keeping in mind the safeguards guaranteeing protection of the rights of those facing the death penalty and guarantees set out in Economic and Social Council resolutions 1984/50 of 25 May 1984 and 1989/64 of 24 May 1989, and calls upon those States to abolish by law as soon as possible the death penalty for those aged under 18 at the time of the commission of the offence;

(b) All States to protect children deprived of their liberty from torture and other cruel, inhuman or degrading treatment or punishment;

(c) All States to take appropriate steps to ensure compliance with the principle that depriving children of their liberty should be used only as a measure of last resort and for the shortest appropriate period of time, in particular before trial, and to ensure that, if they are arrested, detained or imprisoned, children are provided with adequate legal assistance and are separated from adults, to the greatest extent feasible, unless it is considered in their best interest not to do so, and also to take appropriate steps to ensure that no child in detention is sentenced to forced labour, corporal punishment, or deprived of access to and provision of health-care services, hygiene and environmental sanitation, education, basic instruction and vocational training, taking into consideration the special needs of children with disabilities in detention, in accordance with their obligations under the Convention on the Rights of the Child;

36. *Encourages* States to develop national disaggregated statistics in the area of juvenile justice, including statistics on children in detention;

## **V. PREVENTION AND ERADICATION OF THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY**

### 37. *Calls upon* all States:

(a) To take all appropriate national, bilateral and multilateral measures, inter alia to develop national laws and allocate resources for the development of long-term policies, programmes and practices and to collect comprehensive and disaggregated gender-specific data, to facilitate the participation of child victims of sexual abuse and exploitation in the development of strategies and to ensure the effective implementation of relevant international instruments concerning the prevention and the combat of trafficking and sale of children for any purpose or in any form, including the transfer of the organs of the child for profit, child prostitution and child pornography, and encourages all actors of civil society, the private sector and the media to cooperate in efforts to this end;

(b) To increase cooperation at all levels to prevent and dismantle networks trafficking in children;

(c) To consider ratifying or acceding to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;

(d) To criminalize and effectively penalize all forms of sexual exploitation and sexual abuse of children, including within the family or for commercial purposes, child pornography and child prostitution, child trafficking, child sex tourism, the sale of children and their organs, and the use of the Internet for these purposes, while ensuring that, in the treatment by the criminal justice system of children who are victims, the best interests of the child shall be a primary consideration, and to take effective measures against the criminalization of children who are victims of exploitation and effective measures to ensure prosecution of offenders, whether local or foreign, by the competent national authorities, either in the country where the crime was committed, or in the offender's country of origin, or in the country of destination, in accordance with due process of law;

(e) In cases of the sale of children, child prostitution and child pornography, to address effectively the needs of victims, including their physical and psychological recovery and full reintegration into society;

(f) To combat the existence of a market that encourages such criminal practices against children and factors leading to these practices, including through the adoption and effective application of preventive and enforcement measures targeting customers or individuals who sexually exploit or sexually abuse children, as well as ensuring public awareness;

(g) To afford one another the greatest measure of assistance in connection with investigations or criminal or extradition proceedings brought in respect of the offences set forth in article 3, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, including assistance in obtaining evidence at their disposal for the proceedings;

(h) To contribute to the elimination of the sale of children, child prostitution and child pornography by adopting a holistic approach, addressing the contributing factors, including underdevelopment, poverty, economic disparities, inequitable socio-economic structures, dysfunctioning families, lack of education, urban-rural migration, gender discrimination, irresponsible adult sexual behaviour, harmful traditional practices, armed conflicts and trafficking in children;

38. *Requests* the Special Rapporteur on the sale of children, child prostitution and child pornography to submit a report to the Commission at its sixty-first session;

## VI. PROTECTION OF CHILDREN AFFECTED BY ARMED CONFLICT

39. *Reaffirms* the essential role of the General Assembly, the Economic and Social Council and the Commission on Human Rights for the promotion and protection of the rights and welfare of children, including children in armed conflict, and takes note of the importance of the debates held by the Security Council on children and armed conflict, of

Council resolutions 1379 (2001) of 20 November 2001 and 1460 (2003) of 30 January 2003, and of the undertaking by the Council to give special attention to the protection, welfare and rights of children in armed conflict when taking action aimed at maintaining peace and security, including provisions for the protection of children in the mandates of peacekeeping operations, as well as the inclusion of child protection advisers in these operations;

40. *Stresses* the continuing importance of the Plan of Action on Children Affected by Armed Conflict of the International Red Cross and Red Crescent Movement and the resolution on this subject adopted at the twenty-seventh International Conference of the Red Cross and Red Crescent;

41. *Recognizes* the inclusion in the Rome Statute of the International Criminal Court (A/CONF.183/9), as a war crime, of crimes involving sexual violence and crimes of conscripting or enlisting children under the age of 15 years or using them to participate actively in hostilities in both international and non-international armed conflicts;

42. *Calls upon* States:

(a) To end the recruitment of children and their use in armed conflicts contrary to international law, including obligations assumed under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (No. 182) of the International Labour Organization;

(b) When ratifying the Optional Protocol, to raise the minimum age for voluntary recruitment of persons into their national armed forces from that set out in article 38, paragraph 3, of the Convention, bearing in mind that under the Convention persons under 18 years of age are entitled to special protection, and to adopt safeguards to ensure that such recruitment is not forced or coerced;

(c) To take all feasible measures to prevent recruitment and use of children by armed groups, as distinct from the armed forces of a State, including the adoption of legal measures necessary to prohibit and criminalize such practices;

(d) To take all feasible measures to ensure the demobilization and effective disarmament of children used in armed conflicts and to implement effective measures for their rehabilitation, physical and psychological recovery and reintegration into society, taking into account the rights and the specific needs and capacities of girls;

43. *Recognizes* that education is an integral part of the process of demobilization, effective disarmament, rehabilitation, physical and psychological recovery and reintegration into society of children involved in armed conflicts, and that it is a means of facilitating a return to normality for such children and is a key protection measure against re-recruitment by parties to armed conflict as well as against sexual abuse and exploitation and other rights violations;

44. *Calls upon:*

(a) All States and other parties to armed conflict to respect fully international humanitarian law and, in this regard, calls upon States parties to respect fully the provisions of the Geneva Conventions of 12 August 1949 and the Additional Protocols thereto of 1977;

(b) Armed groups that are distinct from the armed forces of a State not, under any circumstances, to recruit or use in hostilities persons under the age of 18 years;

(c) All States and relevant United Nations bodies and agencies and regional organizations to integrate the rights of the child into all activities in conflict and post-conflict situations, to ensure adequate child protection training of their staff and personnel and to facilitate the participation of children in the development of strategies in this regard, making sure that there are opportunities for children's voices to be heard;

(d) All States and relevant United Nations bodies to continue to support national and international mine action efforts, including through financial contributions, assistance to victims and social and economic reintegration, mine awareness programmes, mine clearance and child-centred rehabilitation, recalling the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, and welcomes the positive effects on children of concrete legislative and other measures with respect to anti-personnel mines, and also recalling the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby Traps and Other Devices (Amended Protocol II) to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, and the implementation of these instruments by those States that become parties to them;

45. *Recommends* that, whenever sanctions are imposed, in particular in the context of armed conflict, their impact on children be assessed and monitored and, to the extent that there are humanitarian exemptions, they be child-focused and formulated with clear guidelines for their application, in order to address possible adverse effects of the sanctions, and reaffirms the recommendations of the General Assembly and the International Conference of the Red Cross and Red Crescent;

## VII. RECOVERY AND SOCIAL REINTEGRATION

46. *Encourages* States to cooperate, including through bilateral and multilateral technical cooperation and financial assistance, in the implementation of their obligations under the Convention on the Rights of the Child, including in the prevention of any activity contrary to the rights of the child and in the rehabilitation and social integration of the victims, such assistance and cooperation to be undertaken in consultation among concerned States and relevant international organizations as well as other relevant actors;

47. *Also encourages* States to promote actions for the social reintegration of children in difficult situations, considering, inter alia, views, skills and capacities that these children have developed in the conditions in which they lived and, where appropriate, with their meaningful participation;

## VIII.

### 48. *Decides:*

(a) To request the Secretary-General to submit to the Commission at its sixty-first session a report on the rights of the child, with information on the status of the Convention on the Rights of the Child and on the problems addressed in the present resolution;

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

*56th meeting  
20 April 2004*

[Adopted by a recorded vote of 52 to 1. See chap. XIII.]

### **2004/49. Violence against women migrant workers**

*The Commission on Human Rights,*

*Recalling* all previous resolutions on violence against women migrant workers adopted by the General Assembly, the Commission on the Status of Women, the Commission on Crime Prevention and Criminal Justice, and the Commission on Human Rights, as well as the Declaration on the Elimination of Violence against Women,

*Reaffirming* the provisions concerning women migrant workers contained in the outcome documents of the World Conference on Human Rights, held in Vienna in June 1993, the International Conference on Population and Development, held in Cairo in September 1994, the Fourth World Conference on Women, held in Beijing in September 1995, and the World Summit for Social Development, held in Copenhagen in March 1995, and their five-year reviews,

*Welcoming* the entry into force, on 29 September 2003 and 25 December 2003, respectively, of the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the Convention, and acknowledging with appreciation the entry into force of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families on 1 July 2003,

*Recalling* the pertinent provisions that apply to women migrant workers in the Durban Declaration and Programme of Action adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia, and Related Intolerance (A/CONF.189/12 and Corr.1),

*Reaffirming* the necessity of eliminating racial discrimination against migrants, including migrant workers, in relation to issues such as employment, social services, including education and health, as well as access to justice, and that their treatment must be in accordance with international human rights instruments, free from racism, racial discrimination, xenophobia, and related intolerance,

*Noting* the large numbers of women from developing countries and from some countries with economies in transition who continue to venture forth to more affluent countries in search of a living for themselves and their families as a consequence of, inter alia, poverty, unemployment and other socio-economic conditions, and acknowledging the duty of sending States to work for conditions that provide employment and security for their citizens,

*Deeply concerned* over the continuing reports of grave abuses and acts of violence committed against the persons of women migrant workers by some employers in some host countries as well as by traffickers in some countries,

*Encouraged* by some measures adopted by some receiving States to alleviate the plight of women migrant workers residing within their areas of jurisdiction,

*Recognizing* the importance of continued cooperation at the bilateral, regional, interregional and international levels in protecting and promoting the rights and welfare of women migrant workers,

*Noting* that women migrant workers are particularly vulnerable to violence,

1. *Takes note* of the note by the Secretary-General (E/CN.4/2004/71) and his report on violence against women migrant workers submitted to the General Assembly at its fifty-eighth session (A/58/161);
2. *Takes note with appreciation* of the report of the Special Rapporteur on the human rights of migrants (E/CN.4/2004/76 and Add.1-4), which focuses on an analysis of the situation of women migrant domestic workers;
3. *Calls upon* all Governments to take all necessary measures to ensure the full enjoyment of human rights by women migrant workers and encourages Governments to seek ways to eliminate causes that put them at risk;
4. *Also calls upon* concerned Governments, in particular those of countries of origin and destination, if they have not yet done so, to put in place penal sanctions to punish traffickers and perpetrators of violence against women migrant workers and, to the extent possible, to provide the victims of violence and trafficking with the full range of immediate assistance, such as counselling, legal and consular assistance, temporary shelter and other measures that will allow them to be present during the judicial process, to safeguard their dignified return to the country of origin as well as to establish reintegration and rehabilitation schemes for returning women migrant workers;
5. *Invites* the States concerned, specifically countries of origin and destination, to consider adopting appropriate legal measures against intermediaries who deliberately encourage the clandestine movement of workers and who exploit women migrant workers in violation of their human dignity;
6. *Reaffirms emphatically* the duty of States parties to the Vienna Convention on Consular Relations of 1963 to ensure full respect for and observance of the Convention, in particular article 36 with regard to the right of foreign nationals, regardless of their immigration



status, to communicate with a consular official of their own State in the case of detention, and the obligation of the State in whose territory the detention occurs to inform the foreign national of that right;

7. *Encourages* States to consider signing and ratifying or acceding to the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, the United Nations Convention against Transnational Organized Crime and its two additional protocols, the Protocol against the Smuggling of Migrants by Land, Sea and Air, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, as well as the Slavery Convention of 1926;

8. *Decides* to continue its consideration of this question at its sixty-second session under the appropriate agenda item.

*56th meeting  
20 April 2004*

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

### **2004/50. Missing persons**

*The Commission on Human Rights,*

*Guided* by the purposes, principles and provisions of the Charter of the United Nations,

*Guided also* by the principles and norms of international humanitarian law, in particular the Geneva Conventions of 12 August 1949 and the Additional Protocols thereto of 1977, as well as international standards of human rights, in particular the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child and the Vienna Declaration and Programme of Action adopted in June 1993 by the World Conference on Human Rights,

*Recalling* its resolution 2002/60 of 25 April 2002 and General Assembly resolution 57/207 of 18 December 2002,

*Noting with deep concern* that armed conflicts continue to exist in various parts of the world, often resulting in serious violations of international humanitarian law and human rights law,

*Noting* in this regard that the issue of persons reported missing in connection with international armed conflicts, in particular those who are victims of serious violations of international humanitarian law and human rights law, continues to have a negative impact on efforts aimed at putting an end to these conflicts,

*Welcoming* the convening in Geneva from 19 to 21 February 2003 by the International Committee of the Red Cross of the International Conference of Governmental and Non-Governmental Experts on the following topic: “The Missing: action to resolve the problem

of people unaccounted for as a result of armed conflict or internal violence and to assist their families” and its observations on, and recommendations to address, the problems of missing persons and of their families,

*Welcoming also* the undertakings made by the participants at the 28th International Conference of the Red Cross and Red Crescent, held in Geneva from 2 to 6 December 2003, through their adoption of the Agenda for Humanitarian Action, in particular its general objective 1, “Respect and restore the dignity of persons missing as a result of armed conflicts or other situations of armed violence and of their families”,

1. *Urges* States strictly to observe and respect and ensure respect for the rules of international humanitarian law, as set out in the Geneva Conventions of 12 August 1949 and, for States parties, the Additional Protocols thereto of 1977;

2. *Calls upon* States that are parties to an armed conflict to take all appropriate measures to prevent persons from going missing in connection with armed conflict and to account for persons reported missing as a result of such a situation;

3. *Reaffirms* the right of families to know the fate of their relatives reported missing in connection with armed conflicts;

4. *Also reaffirms* that each party to an armed conflict, as soon as circumstances permit and at the latest from the end of active hostilities, shall search for the persons who have been reported missing by an adverse party;

5. *Calls upon* States that are parties to an armed conflict to take immediate steps to determine the identity and fate of persons reported missing in connection with the armed conflict;

6. *Requests* States to pay the utmost attention to cases of children reported missing in connection with armed conflicts and to take appropriate measures to search for and identify those children;

7. *Invites* States which are parties to an armed conflict to cooperate fully with the International Committee of the Red Cross in establishing the fate of missing persons and to adopt a comprehensive approach to this issue, including all practical and coordination mechanisms as may be necessary, based on humanitarian considerations only;

8. *Urges* States and encourages intergovernmental and non-governmental organizations to take all necessary measures at the national, regional and international levels to address the problem of persons reported missing in connection with armed conflicts and to provide appropriate assistance as requested by the concerned States;

9. *Invites* all relevant human rights mechanisms and procedures, as appropriate, to address the problem of persons reported missing in connection with armed conflicts in their forthcoming reports to the Commission;

10. *Requests* the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations bodies, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations;
11. *Also requests* the Secretary-General to report to the Commission at its sixty-second session on the progress made in the implementation of the present resolution;
12. *Decides* to remain seized of the matter at its sixty-second session.

*56th meeting  
20 April 2004*

[Adopted by a recorded vote of 52 votes to none,  
with 1 abstention. See chap. XIV.]

### **2004/51. Rights of persons belonging to national or ethnic, religious and linguistic minorities**

*The Commission on Human Rights,*

*Recalling* General Assembly resolution 47/135 of 18 December 1992, and subsequent resolutions of the General Assembly on the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities,

*Recalling also* its resolution 1995/24 of 3 March 1995 as well as Economic and Social Council resolution 1995/31 of 25 July 1995 and decision 1998/246 of 30 July 1998 on the mandate of the Working Group on Minorities of the Sub-Commission on the Promotion and Protection of Human Rights,

*Taking note* of Sub-Commission resolution 2003/23 of 13 August 2003 on the rights of minorities and the recommendations contained therein,

*Considering* that the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities contribute to political and social stability and peace and enrich the cultural diversity and heritage of society,

*Taking note* of General Assembly resolution 57/337 of 3 July 2003 on prevention of armed conflict, in which the Assembly affirmed, inter alia, that the ethnic, cultural and religious identity of minorities, where they exist, must be protected,

*Concerned* at the frequency and severity of disputes and conflicts involving minorities in many countries, and their often tragic consequences, and that persons belonging to minorities often suffer disproportionately the effects of conflict resulting in the violation of their human rights and are particularly vulnerable to displacement through, inter alia, population transfers, refugee flows and forced relocation,

*Concerned also* at instances of victimization or marginalization of persons belonging to minorities in situations of political or economic instability,

*Affirming* that effective measures and the creation of favourable conditions for the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities, ensuring effective non-discrimination and equality for all, as well as full and effective participation in matters affecting them, contribute to the prevention and peaceful solution of human rights problems and situations involving minorities,

*Emphasizing* the importance of the timely identification of human rights problems and situations involving national or ethnic, religious and linguistic minorities,

*Acknowledging* the need to promote tolerance within societies, inter alia through education, in particular human rights education,

*Welcoming* the work of the Working Group on Minorities and its emphasis on the participation of minority representatives in its deliberations,

1. *Reaffirms* the obligation of States to ensure that persons belonging to national or ethnic, religious and linguistic minorities may exercise fully and effectively all human rights and fundamental freedoms without any discrimination and in full equality before the law, as proclaimed in the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities;

2. *Urges* all States to promote and protect the rights of persons belonging to national or ethnic, religious and linguistic minorities, as set out in the Declaration, and, while applying a gender perspective, to take, as appropriate, all the necessary constitutional, legislative, administrative and other measures to promote and give effect to the Declaration, including the provision of equal access to education, and facilitate their full participation in economic progress and development;

3. *Urges* States to pay specific attention to the negative impact of racism, racial discrimination, xenophobia and related intolerance on the situation of persons belonging to national or ethnic, religious and linguistic minorities, and draws attention to the relevant provisions of the Durban Declaration and Programme of Action adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/CONF.189/12 and Corr.1), including the provisions on forms of multiple discrimination;

4. *Calls upon* States to give special attention to the promotion and protection of the human rights of children belonging to minorities, taking into account that girls and boys may face different types of risks;

5. *Also calls upon* States to take all appropriate measures to protect the cultural and religious sites of national or ethnic, religious and linguistic minorities;

6. *Invites* the human rights treaty monitoring bodies when considering reports submitted by States parties, as well as special procedures of the Commission and relevant United Nations agencies and programmes, to continue to give attention, within their respective mandates, to situations and rights of persons belonging to national or ethnic, religious and linguistic minorities;

7. *Recognizes with appreciation* the efforts of the Working Group on Minorities, as requested by the Sub-Commission, in promoting regional and local initiatives to further the implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities and invites it to strengthen its role as a platform for interactive dialogue between representatives of Governments and minority groups and to continue its efforts to hold regional seminars;

8. *Welcomes* the efforts of the Working Group to review its activities and the results of its work regarding the timely identification of minority issues, and notes its recommendation regarding the possible establishment of a special procedure on minority issues;

9. *Welcomes* in this respect the report of the United Nations High Commissioner for Human Rights (E/CN.4/2004/75) and notes the proposals for strengthening the international protection of the rights of persons belonging to minorities and conclusions contained therein;

10. *Requests* the High Commissioner to study options for the timely identification of minority issues and pertaining measures through the compilation of the views of Member States, of all relevant parts of the United Nations system, as well as of regional and international intergovernmental and non-governmental organizations regarding their analysis of the activities of the Working Group and its results achieved, taking into account the assessment and recommendations by the Working Group as well as the proposals contained in the report of the High Commissioner, and the need to avoid duplication and to make the best use of all available resources and to report thereon to the Commission at its sixty-first session;

11. *Invites* the High Commissioner to continue efforts to improve coordination and cooperation among United Nations agencies and programmes active in the field of the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities, inter alia in the framework of the Executive Committee on Peace and Security, the United Nations Development Group, the Executive Committee on Economic and Social Affairs and the Executive Committee on Humanitarian Affairs, in particular with respect to the implementation of the United Nations Millennium Declaration and the Millennium Development Goals, and to engage in a dialogue with concerned Governments for that purpose;

12. *Requests* the Secretary-General and the High Commissioner to provide all the necessary assistance for strengthening the capacity of the Office of the High Commissioner to deal with minority issues, and to seek voluntary contributions towards participation of representatives of non-governmental organizations and persons belonging to minorities in the work of the Working Group;

13. *Requests* the High Commissioner to report to the Commission at its sixty-first session on the implementation of the present resolution;

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

*56th meeting  
20 April 2004*  
[Adopted without a vote. See chap. XIV.]

## **2004/52. Human rights of persons with disabilities**

*The Commission on Human Rights,*

*Recalling* that all persons with disabilities have the right to protection against discrimination and to full and equal enjoyment of all human rights, as laid down, inter alia, in the provisions of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention concerning Vocational Rehabilitation and Employment (Disabled Persons), 1983 (No. 159) of the International Labour Organization,

*Recalling and reaffirming* commitments relating to the human rights and fundamental freedoms of persons with disabilities made at the major United Nations conferences and summits since 1990 and their follow-up processes and stressing the importance of mainstreaming the disability issue in their implementation,

*Reaffirming* its resolution 2003/49 of 23 April 2003 on human rights of persons with disabilities,

*Recalling* General Assembly resolution 48/96 of 20 December 1993, by which it adopted the Standard Rules on the Equalization of Opportunities for Persons with Disabilities, and taking note of Assembly resolution 58/132 of 22 December 2003 on the implementation of the World Programme of Action concerning Disabled Persons,

*Recalling also* General Assembly resolution 56/168 of 19 December 2001, in which the Assembly established the Ad Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities,

*Taking note* of General Assembly resolution 58/246, of 23 December 2003, in which the Assembly decided that the Ad Hoc Committee would start the negotiations on a draft convention at its third session,

*Taking note also* of the draft resolutions of the Commission for Social Development of 13 February 2004 on a comprehensive and integral international convention on protection and promotion of the rights and dignity of persons with disabilities, and on the further promotion of equalization of opportunities by, for and with persons with disabilities, and protection of the human rights of persons with disabilities,

*Reaffirming* the universality, indivisibility and interdependence of all human rights and fundamental freedoms and the need for persons with disabilities to be guaranteed their full enjoyment without discrimination, and convinced of the contribution that a convention can make in this regard,

*Welcoming* the contributions made thus far by all stakeholders to the process of elaborating an international convention,

*Recognizing* the considerable contribution of civil society, including non-governmental organizations, especially organizations of persons with disabilities, as well as national human rights institutions, in promoting the full and equal enjoyment of all human rights by persons with disabilities, and welcoming in this regard their active participation in the work of the Ad Hoc Committee,

*Recalling* the study on human rights and disability submitted to the Commission at its fifty-eighth session,

*Concerned* that persons with disabilities face discrimination and may be affected by multiple discrimination,

*Emphasizing* the need to include a gender perspective in all efforts to promote and protect the full and equal enjoyment of all human rights by persons with disabilities,

*Expressing grave concern* that situations of armed conflict have especially devastating consequences for the human rights of persons with disabilities,

*Concerned* at the extent of disabilities caused by the indiscriminate use of anti-personnel mines and other weapons which may be deemed to be excessively injurious or to have indiscriminate effects, and at the long-lasting impact of these weapons which prevent the full and effective enjoyment of human rights, particularly among civilian populations, and welcoming increased international efforts to address this issue,

*Reaffirming* its commitment to ensuring that the human rights of persons with disabilities and their concerns for full participation in all aspects of society continue to be addressed in all of its work,

1. *Urges* Governments to take active measures to:
  - (a) Ensure the full and equal enjoyment by persons with disabilities of all human rights and fundamental freedoms;
  - (b) Prevent and prohibit all forms of discrimination against persons with disabilities; and
  - (c) Ensure equal opportunities for their full participation in all spheres of life;
2. *Welcomes* the report of the Ad Hoc Committee (A/58/118 and Corr.1);
3. *Takes note with appreciation* of the report of the United Nations High Commissioner for Human Rights on progress in the implementation of the recommendations contained in the study on the human rights of persons with disabilities (E/CN.4/2004/74) and requests the Secretary-General to make it available to the Ad Hoc Committee;
4. *Calls upon* the Office of the United Nations High Commissioner for Human Rights to continue to consider in its activities implementing the recommendations that relate to it in the study on human rights and disability, submitted to the Commission at its fifty-eighth session, as well as to continue to strengthen collaboration with other United Nations agencies and bodies;

5. *Calls upon* the Office of the High Commissioner to report to the Commission at its sixty-first session on progress in the implementation of the recommendations contained in the study on human rights and disability and on the achievement of the objectives set forth in the programme of work of the Office in relation to the human rights of persons with disabilities;

6. *Welcomes* the contributions and support of the Office of the High Commissioner to the work of the Ad Hoc Committee, and requests the Office to continue these in close collaboration with the Department of Economic and Social Affairs of the United Nations and also with other relevant bodies and agencies of the United Nations through, inter alia, the provision of information to assist in the formulation of a draft convention;

7. *Also welcomes* the work accomplished by the Working Group established by the Ad Hoc Committee in preparing a draft text which would be the basis for negotiations on a draft convention in the Ad Hoc Committee, taking into account all contributions;

8. *Encourages* Member States and observers to participate actively in the Ad Hoc Committee in order to present to the General Assembly, as a matter of priority, a draft text of a convention;

9. *Reaffirms* its commitment to continue to contribute to the process of elaboration of an international convention by, inter alia, providing its recommendations on the full and effective enjoyment of all human rights of persons with disabilities;

10. *Urges* that further efforts be made to ensure the active participation of non-governmental organizations in the Ad Hoc Committee, in accordance with General Assembly resolution 56/510 of 23 July 2002 and based on the decision of the Ad Hoc Committee on the modalities for the participation of non-governmental organizations in its work;

11. *Urges* Member States, observers, civil society and the private sector to continue to contribute to the voluntary fund established by the General Assembly in resolution 57/229 of 18 December 2002, to support the participation of non-governmental organizations and experts from developing countries, in particular from the least developed countries, in the work of the Ad Hoc Committee;

12. *Invites* all special rapporteurs, in carrying out their mandates, to take into account the full and equal enjoyment of all human rights by persons with disabilities;

13. *Underlines* the importance of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities for the promotion and protection of the full and equal enjoyment of all human rights by persons with disabilities and invites the Special Rapporteur on disability of the Commission for Social Development to address the Commission on Human Rights at its sixty-first session on her experience in disability and human rights-related issues, drawing from the experience gained by her and the panel of experts through monitoring the Standard Rules, and looks forward to a continued involvement of the Special Rapporteur in issues relating to disability within the Commission on Human Rights in order to mainstream a disability perspective;



14. *Invites* human rights treaty monitoring bodies to take into account the concerns of persons with disabilities in their lists of issues and concluding observations, to consider drafting general comments and recommendations on the full enjoyment of human rights by persons with disabilities and to integrate a disability perspective into their monitoring activities;

15. *Urges* Governments to address fully the question of the human rights of persons with disabilities in complying with their reporting obligations under the relevant United Nations human rights instruments and welcomes the efforts of those Governments that have begun to do so;

16. *Invites* national human rights institutions and non-governmental organizations to strengthen their work on human rights and disability, including by participating actively in the work of the Ad Hoc Committee in elaborating a draft convention, and to enhance their level of contributions to the work of the treaty monitoring bodies;

17. *Calls upon* all United Nations organizations and specialized agencies and all intergovernmental institutions for development cooperation to integrate a disability and human rights perspective into their activities, including by addressing the problems that exist in creating equal opportunities for persons with disabilities at all levels, and to reflect this in their activity reports;

18. *Requests* the Secretary-General to include in relevant reports to the General Assembly information on the progress of efforts to ensure the full recognition of and the full and equal enjoyment of all human rights by persons with disabilities;

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

*56th meeting  
20 April 2004*

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

### **2004/53. Human rights of migrants**

*The Commission on Human Rights,*

*Reaffirming* the Universal Declaration of Human Rights, which proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, in particular as to race, colour or national origin,

*Recalling* its resolution 2003/46 of 23 April 2003 and taking note of General Assembly resolution 58/190 of 22 December 2003,

*Considering* that every State party to the International Covenant on Civil and Political Rights must ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant,

*Bearing in mind* that every State party to the International Covenant on Economic, Social and Cultural Rights has undertaken to guarantee the exercise of all rights enunciated in that Covenant without discrimination of any kind, including in particular on the basis of national origin,

*Reaffirming* the provisions concerning migrants adopted by the World Conference on Human Rights, the International Conference on Population and Development, the World Summit for Social Development and the Fourth World Conference on Women,

*Recalling* the renewed commitment made in the United Nations Millennium Declaration to take measures to ensure respect for and protection of the human rights of migrants, migrant workers and their families, to eliminate the increasing acts of racism and xenophobia in all societies and to promote greater harmony and tolerance,

*Welcoming* the provisions on the human rights of migrants contained in the Durban Declaration and Programme of Action adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/CONF.189/12 and Corr.1), and expressing its satisfaction at the important recommendations made for the development of international and national strategies for the protection of migrants and for the design of migration policies that fully respect the human rights of migrants and members of their families,

*Recalling* General Assembly resolution 40/144 of 13 December 1985, by which it approved the Declaration on the Human Rights of Individuals Who are not Nationals of the Country in which They Live,

*Aware* of the increasing number of migrants worldwide,

*Bearing in mind* the situation of vulnerability in which migrants frequently find themselves, owing, inter alia, to their absence from their State of origin and to the difficulties they encounter because of differences of language, custom and culture, as well as the economic and social difficulties and obstacles to the return of migrants, especially for those who are undocumented or in an irregular migratory situation, to their States of origin,

*Deeply concerned* at the manifestations of violence, racism, racial discrimination, xenophobia and other forms of intolerance and inhuman and degrading treatment against migrants, especially women and children, in different parts of the world,

*Recognizing* the positive contributions that migrants frequently make, including through their eventual integration into their host society, and the efforts that some host countries undertake to integrate migrants and their families,

*Highlighting* the importance of creating conditions that favour greater harmony, tolerance and respect between migrants and the rest of society in the countries in which they find themselves, in order to eliminate manifestations of racism and xenophobia against migrants and members of their families,

*Welcoming* the active role played by governmental and non-governmental organizations in combating racism and xenophobia and assisting individual victims of racist acts, including migrant victims,

*Recalling* the judgment of the International Court of Justice of 27 June 2001 and of Advisory Opinion OC-16/99, issued by the Inter-American Court of Human Rights on 1 October 1999 on the right to information on consular assistance in the framework of the guarantees of the due process of law, in the case of foreign nationals detained by the authorities of a receiving State,

*Taking note* of the judgment of the International Court of Justice of 31 March 2004 in the *Avena and Other Mexican Nationals* case (Mexico v. United States of America),

*Bearing in mind* the mandate of the Special Rapporteur on the human rights of migrants contained in its resolution 1999/44 of 27 April 1999,

*Encouraged* by the increasing interest of the international community in the effective and full protection of the human rights of all migrants, and underlining the need to make further efforts to ensure respect for the human rights and fundamental freedoms of all migrants,

*Taking note* of Advisory Opinion OC-18/03, issued by the Inter-American Court of Human Rights on 17 September 2003, on the juridical situation and rights of undocumented migrants,

*Resolved* to ensure respect for the human rights and fundamental freedoms of all migrants,

1. *Strongly condemns* the manifestations and acts of racism, racial discrimination, xenophobia and related intolerance against migrants and the stereotypes often applied to them and urges States to apply the existing laws, when xenophobic or intolerant acts, or manifestations or expressions against migrants occur, in order to eradicate impunity for those who commit xenophobic and racist acts;

2. *Also strongly condemns* all forms of racial discrimination and xenophobia related to access to employment, vocational training, housing, schooling, health services and social services, as well as services intended for use by the public;

3. *Requests* all States, in conformity with national legislation and applicable international legal instruments to which they are party, firmly to prosecute violations of labour law with regard to migrant workers' conditions of work, inter alia those related to their remuneration and conditions of health and safety at work;

4. *Also requests* States effectively to promote and protect the human rights and fundamental freedoms of all migrants, especially those of women and children, regardless of their migratory condition, in conformity with the Universal Declaration of Human Rights and the international instruments to which they are party, which may include the International Covenants on Human Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading

Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and the International Convention on the Elimination of All Forms of Racial Discrimination, and other relevant human rights instruments, norms and standards;

5. *Calls upon* States to implement fully the commitments and recommendations relating to the promotion and protection of the human rights of migrants contained in the Durban Declaration and Programme of Action through, inter alia, the adoption of national plans of action as recommended by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance;

6. *Also calls upon* all States to consider reviewing and, where necessary, revising immigration policies with a view to eliminating all discriminatory practices against migrants and their families and to provide specialized training for government policy-making and law enforcement, migration and other concerned officials, including in cooperation with non-governmental organizations and civil society, thus underlining the importance of effective action to create conditions that foster greater harmony and tolerance within societies;

7. *Reaffirms emphatically* the duty of States parties to ensure full respect for and observance of the Vienna Convention on Consular Relations, particularly with regard to the right of foreign nationals, regardless of their immigration status, to communicate with a consular official of their own State in the case of detention, and the obligation of the State in whose territory the detention occurs to inform the foreign national of that right;

8. *Urges* all States to adopt effective measures to put an end to the arbitrary arrest and detention of migrants, including by individuals or groups;

9. *Encourages* States that have not yet done so to enact domestic legislation and to take further effective measures to combat international trafficking and smuggling of migrants, which should take into account, in particular, trafficking and smuggling that endanger the lives of migrants or entail different forms of servitude or exploitation, such as any form of debt bondage, slavery and sexual exploitation or forced labour, and also encourages them to strengthen international cooperation to combat such trafficking and smuggling;

10. *Calls upon* States to observe national legislation and applicable international legal instruments to which they are party, when enacting national security legislation measures, in order to respect the human rights of migrants;

11. *Also calls upon* States to protect all human rights of migrant children, particularly unaccompanied migrant children, ensuring that the best interests of the children are a primary consideration, and underlines the importance of reuniting them with their parents, when possible, and encourages the relevant United Nations bodies, within the framework of their respective mandates, to pay special attention to the conditions of migrant children in all States and, where necessary, to put forward recommendations to strengthen their protection;

12. *Requests* States to adopt concrete measures in order to prevent the violation of the human rights of migrants while in transit, including in ports and airports and at borders and migration checkpoints, to train public officials who work in those facilities and in border areas to

treat migrants and their families respectfully and in accordance with the law, and to prosecute, in conformity with applicable law, any act of violation of the human rights of migrants and their families - inter alia arbitrary detention, torture and violations of the right to life, including extrajudicial executions - during their transit from their country of origin to the country of destination and vice versa, including their transit through national borders;

13. *Encourages* all States to remove unlawful obstacles that may prevent the safe, unrestricted and expeditious transfer of earnings, assets and pensions of migrants to their country of origin or to any other countries, in conformity with applicable legislation, and to consider, as appropriate, measures to solve other problems that may impede such transfers;

14. *Calls upon* States to facilitate family reunification in an expeditious and effective manner, with due regard to applicable laws, as such reunification has a positive effect on the integration of migrants;

15. *Welcomes* immigration programmes adopted by some countries that allow migrants to integrate fully into the host countries, facilitate family reunification and promote a harmonious and tolerant environment, and encourages States to consider the possibility of adopting these types of programmes;

16. *Encourages* States to consider participating in international and regional dialogues on migration that include sending and receiving countries, as well as countries of transit, and invites them to consider negotiating bilateral and regional agreements on migrant workers in the framework of applicable human rights law and designing and implementing programmes with States of other regions to protect the rights of migrants;

17. *Encourages* States of origin to promote and protect the human rights of those families of migrant workers which remain in the countries of origin, paying particular attention to children and adolescents whose parents have emigrated, and encourages international organizations to consider supporting States in this regard;

18. *Encourages* States, in cooperation with non-governmental organizations, to undertake information campaigns aimed at clarifying opportunities, limitations and rights in the event of migration, so as to enable everyone, in particular women, to make informed decisions and to prevent them from becoming victims of trafficking and utilizing dangerous means of access that put their lives and physical integrity at risk;

19. *Takes note with appreciation* of the fifth report of the Special Rapporteur on the human rights of migrants (E/CN.4/2004/76 and Add.1-4) and her interim report to the General Assembly (see A/58/275), both submitted pursuant to Commission resolution 2003/46, especially regarding the work she has undertaken, including on the aspect of migrant domestic workers, and takes note of her observations and recommendations;

20. *Encourages* the Special Rapporteur to continue to examine ways and means of overcoming existing obstacles to the full and effective protection of the human rights of persons belonging to this large vulnerable group, including obstacles to and difficulties for the return of migrants who are undocumented or in an irregular situation, in conformity with her mandate as contained in Commission resolution 1999/44;

21. *Requests* the Special Rapporteur, in carrying out her mandate and within the framework of the Universal Declaration of Human Rights and all other international human rights instruments, to request, receive and exchange information on violations of the human rights of migrants, wherever they may occur, from Governments, treaty bodies, specialized agencies and the special mechanisms of the Commission, as well as from intergovernmental organizations, other competent organizations of the United Nations system and non-governmental organizations, including migrants' organizations, and to respond effectively to such information;
22. *Requests* all relevant mechanisms to cooperate with the Special Rapporteur;
23. *Requests* the Special Rapporteur, as part of her activities, to continue her programme of visits, which contribute to improving the protection afforded to the human rights of migrants and to the broad and full implementation of all the aspects of her mandate;
24. *Encourages* Governments to give serious consideration to inviting the Special Rapporteur to visit their countries so as to enable her to fulfil her mandate effectively, and notes with appreciation that some Governments have already invited her;
25. *Requests* all Governments to cooperate fully with the Special Rapporteur in the performance of the tasks and duties mandated, to furnish all information requested and to react promptly to her urgent appeals;
26. *Requests* the Special Rapporteur to take into account, while carrying out her mandate, the recommendations on migrants contained in the Durban Declaration and Programme of Action;
27. *Also requests* the Special Rapporteur, in carrying out her mandate, to take into account bilateral and regional negotiations which aim at addressing, inter alia, the return and reinsertion of migrants who are undocumented or in an irregular situation;
28. *Further requests* the Special Rapporteur to submit a report on her activities to the General Assembly at its fifty-ninth session and to the Commission at its sixty-first session;
29. *Requests* the Secretary-General to give the Special Rapporteur all necessary human and financial assistance for the fulfilment of her mandate;
30. *Calls upon* States and intergovernmental and non-governmental organizations to observe on 18 December of each year International Migrants Day, proclaimed by the General Assembly, by disseminating, inter alia, information on the human rights and fundamental freedoms of migrants and on their economic, social and cultural contributions to their host and home countries, and by sharing experiences and adopting measures to ensure their protection and to promote greater harmony between migrants and the societies in which they live;

31. *Welcomes* the entry into force of the United Nations Convention against Transnational Organized Crime and of two additional protocols thereto, namely, the Protocol against the Smuggling of Migrants by Land, Sea and Air, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and encourages States parties to implement those instruments fully, and urges States that have not done so to consider ratifying them;

32. *Decides* to examine this question further, as a matter of priority, at its sixty-first session under the same agenda item.

*56th meeting*

*20 April 2004*

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

### **2004/54. Tolerance and pluralism as indivisible elements in the promotion and protection of human rights**

*The Commission on Human Rights,*

*Recalling* the Preamble to the Charter of the United Nations, which enjoins the peoples of the United Nations to practise tolerance and live together in peace with one another as good neighbours,

*Recalling also* the purposes and principles of the Charter of the United Nations,

*Recalling further* that the Universal Declaration of Human Rights affirms that education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms and shall promote understanding, tolerance and friendship among all nations and all racial or religious groups,

*Recalling* the relevant paragraphs of the Vienna Declaration and Programme of Action adopted in June 1993 by the World Conference on Human Rights (A/CONF.157/23),

*Reaffirming* the principles of equality and non-discrimination in the Universal Declaration of Human Rights and encouraging respect for human rights and fundamental freedoms for all without distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

*Noting* that tolerance involves a positive acceptance of and respect for diversity and that pluralism encompasses the willingness to accord equal respect to the rights of all individuals, without distinction based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

*Reaffirming* that cultural, religious and ethnic differences within and between societies should be celebrated rather than merely tolerated, and that cultural diversity should be embraced and cherished as a treasure that enriches all societies, and humanity at large,

*Recognizing* that the equal participation of all individuals and peoples in the formation of just, equitable, democratic and inclusive societies can contribute to a world free from racism, racial discrimination, xenophobia and related intolerance,

*Noting* that tolerance and mutual respect are fundamental values common to all civilizations and upheld by all religions,

*Concerned* that forces of aggressive nationalism, religious intolerance and ethnic extremism continue to pose fresh challenges,

*Recognizing* that intolerance often leads to discrimination which, in a multi-ethnic, multi-religious and multicultural world, can lead to violence and conflict, thus endangering peace and stability both within States and internationally,

*Convinced* that tolerance and pluralism need to be actively promoted by the international community in order to strengthen democracy, facilitate the full enjoyment of all human rights and provide a sound foundation for civil society, social harmony and peace,

*Recognizing* that efforts to promote tolerance require cooperation by States, civil society, the media and individuals,

*Recognizing also* that promoting a culture of tolerance through human rights education is an objective that must be advanced in all States, and that the Office of the United Nations High Commissioner for Human Rights and mechanisms of the United Nations human rights system have an important role to play in this regard,

*Taking note* of the addendum to the report of the United Nations High Commissioner for Human Rights (E/CN.4/2004/12/Add.2), submitted pursuant to Commission resolution 2002/55 of 25 April 2002,

1. *Affirms* that all peoples and individuals have contributed to the progress of civilizations and cultures that form the common heritage of humanity, that they collectively constitute one human family rich in diversity, and that preservation and promotion of tolerance, pluralism and respect for diversity can produce more inclusive societies;
2. *Condemns unequivocally* all violent acts and activities that infringe upon human rights, fundamental freedoms and democracy and thereby undermine the values of tolerance and pluralism;
3. *Reiterates* the obligation of all States and the international community:
  - (a) To promote and enhance tolerance, coexistence and harmonious relations between ethnic, religious, linguistic and other groups and ensure that the values of pluralism, respect for diversity and non-discrimination are promoted effectively;
  - (b) To protect effectively the human rights of all persons belonging to national or ethnic, religious or linguistic minorities without any discrimination and in full equality before the law;



(c) To oppose all forms of discrimination, in accordance with their international obligations, based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status in order to promote tolerance and pluralism at the national and international levels and take all appropriate means towards their prevention and elimination;

(d) To take steps to prevent all manifestations of hatred, intolerance and acts of violence, in particular through education and dialogue;

(e) To foster a culture conducive to promoting and protecting human rights, fundamental freedoms and tolerance, inter alia through education leading to genuine pluralism, a positive acceptance of diversity of opinion and belief, and respect for the dignity of the human person;

4. *Recognizes* that the media can promote tolerance and respect for diversity and that information and communication technologies can enhance intercultural communication and mutual understanding, especially through the promotion of cultural and linguistic pluralism, the generation of cross-cultural links, and the sharing of knowledge and information in various forms by networking communities and individuals;

5. *Welcomes* the role of civil society, particularly non-governmental organizations working at the grass-roots level, in disseminating the importance of tolerance and pluralism through their awareness-raising activities;

6. *Calls upon* the High Commissioner to continue to take steps:

(a) To include, in the work programmes of the Office, within overall existing resources, the promotion of tolerance, where appropriate through workshops and seminars, using mass media and non-governmental organizations, and, through its programme of advisory services and technical cooperation, to assist countries in their national programmes;

(b) To undertake, in that regard, specific educational initiatives and public-awareness activities for the promotion of tolerance and pluralism within the programmes and activities being implemented by the United Nations;

(c) To advise or assist countries, upon request, through the programme of advisory services and technical cooperation, to put in place effective safeguards, including appropriate legislation, against intolerance and discrimination;

7. *Calls upon* the relevant mechanisms of the Commission:

(a) To continue to attach the highest priority to the effective promotion, at the national and international levels, of the values of democracy, pluralism and tolerance;

(b) To study further situations and conditions that promote intolerance;

(c) To continue efforts aimed at identifying commonly accepted principles and best practices to promote tolerance and pluralism;

8. *Calls upon* the High Commissioner to include details of activities undertaken by the Office to implement the present resolution in the High Commissioner's report to the Commission at its sixty-second session;

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

*56th meeting  
20 April 2004*

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

## **2004/55. Internally displaced persons**

*The Commission on Human Rights,*

*Deeply disturbed* by the alarmingly high numbers throughout the world of persons who have been forced or obliged to flee or leave their homes or places of habitual residence and who have not crossed an internationally recognized State border, for reasons including armed conflict, violations of human rights and natural or human-made disasters,

*Conscious* of the human rights and humanitarian dimensions of the problem of internally displaced persons, who often do not receive adequate protection and assistance, and aware of the serious challenge this is creating for the international community and of the responsibility of States and the international community to strengthen methods and means to address better the specific protection and assistance needs of internally displaced persons,

*Emphasizing* the primary responsibility of national authorities to provide protection and assistance to internally displaced persons within their jurisdiction, as well as to address the root causes of their displacement in appropriate cooperation with the international community,

*Noting* the resolve of the international community to find durable solutions for all internally displaced persons and to strengthen international cooperation in order to help them return voluntarily to their homes in safety and with dignity or, based on their free choice, to resettle in another part of their country, and to be smoothly reintegrated into their societies,

*Recalling* the relevant norms of international human rights law, international humanitarian law and international refugee law, and recognizing that the protection of internally displaced persons has been strengthened by identifying, reaffirming and consolidating specific standards for their protection, in particular through the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2, annex),

*Bearing in mind* the relevant provisions of, inter alia, the United Nations Millennium Declaration (General Assembly resolution 55/2 of 8 September 2000), the Vienna Declaration and Programme of Action adopted in June 1993 by the World Conference on Human Rights (A/CONF.157/23), and the Durban Declaration and Programme of Action adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/CONF.189/12 and Corr.1),

*Noting* that the Rome Statute of the International Criminal Court (A/CONF.183/9) defines the deportation or forcible transfer of population as a crime against humanity and the unlawful deportation or transfer of the civilian population as well as ordering the displacement of the civilian population as war crimes,

*Taking note with appreciation* of the convening of regional seminars on internal displacement, in particular the Regional Seminar on Internal Displacement in the Americas, held in Mexico City from 18 to 20 February 2004, as well as the Conference on Internal Displacement in the Inter-Governmental Authority on Development Subregion, held in Khartoum from 30 August to 1 September 2003,

*Recalling* its previous relevant resolutions, in particular resolution 2003/51 of 23 April 2003, and taking note of Economic and Social Council resolution 2003/5 of 15 July 2003 and General Assembly resolution 58/177 of 22 December 2003,

*Recognizing* that significant progress has been made by the Representative of the Secretary-General on internally displaced persons in defining and raising awareness of the problem of internal displacement, developing normative and institutional frameworks for the protection of, and assistance to, internally displaced persons, in particular the compilation and analysis of legal norms (E/CN.4/1996/52/Add.2) and the development of the Guiding Principles on Internal Displacement, undertaking country missions to engage in dialogue with Governments and other pertinent actors, conducting policy-oriented research into various dimensions of the displacement crisis and issuing reports, together with proposals for preventive or remedial measures,

*Expressing its appreciation* to the Representative of the Secretary-General for these achievements and for improving international understanding of the issue of internal displacement,

*Noting* nonetheless that the magnitude of the problem of internal displacement remains serious and that the human rights needs of internally displaced persons, in particular for protection, are a matter of concern and require greater attention,

1. *Takes note with appreciation* of the report of the Representative of the Secretary-General on internally displaced persons (E/CN.4/2004/77 and Add.1-3) and commends him for his efforts to promote a comprehensive strategy that focuses on the prevention of displacement and on the protection, assistance and development needs of internally displaced persons, as well as on durable solutions;

2. *Expresses concern* at the persistent problems of large numbers of internally displaced persons worldwide, in particular the risk of extreme poverty and socio-economic exclusion, their limited access to humanitarian assistance, vulnerability to human rights violations, as well as difficulties resulting from their specific situation, such as lack of food, medication or shelter and issues pertinent during their reintegration, including, in appropriate cases, the need for the restitution of or compensation for property;

3. *Expresses particular concern* at the grave problems faced by many internally displaced women and children, including violence and abuse, sexual exploitation, forced recruitment and abduction, and notes the need to pay more systematic and in-depth attention to

their special assistance, protection and development needs, as well as those of other groups with special needs among the internally displaced, such as older persons and persons with disabilities, taking into account the relevant resolutions of the General Assembly and bearing in mind Security Council resolution 1325 (2000) of 31 October 2000;

4. *Notes* the importance of taking the human rights and the specific protection and assistance needs of internally displaced persons into consideration, when appropriate, in peace processes and in reintegration and rehabilitation processes;

5. *Welcomes* the cooperation established between the Representative of the Secretary-General and the United Nations as well as other international and regional organizations, in particular his participation in the work of the Inter-Agency Standing Committee and its subsidiary bodies;

6. *Expresses its appreciation* of the Guiding Principles on Internal Displacement as an important tool for dealing with situations of internal displacement, welcomes the fact that an increasing number of States, United Nations agencies and regional and non-governmental organizations are applying them as a standard, and encourages all relevant actors to make use of the Guiding Principles when dealing with situations of internal displacement;

7. *Welcomes* the dissemination, promotion and application of the Guiding Principles and the fact that the Representative of the Secretary-General has used them in his dialogues with Governments, intergovernmental and non-governmental organizations and other pertinent actors, and encourages the continued dissemination and promotion of the Guiding Principles, inter alia through supporting and initiating their publication and translation, undertaking training programmes, holding consultations with Governments, regional organizations, intergovernmental and non-governmental organizations and other relevant institutions, convening national, regional and international seminars on displacement, and providing support for efforts to promote capacity-building and the use of the Guiding Principles;

8. *Expresses its appreciation* to Governments and intergovernmental and non-governmental organizations which have provided assistance and protection to internally displaced persons, developed policies to address their plight and supported the work of the Representative of the Secretary-General;

9. *Calls upon* Governments to provide protection and assistance, including reintegration and development assistance, to internally displaced persons, to develop national policies aimed at addressing their plight, as well as to ensure that they benefit from public services, in particular basic social services such as health services and education, based on the principle of non-discrimination, and to facilitate the efforts of relevant United Nations agencies and humanitarian organizations in these respects, including by improving access to internally displaced persons;

10. *Urges* all those concerned, as set forth in international humanitarian law, including the Geneva Conventions of 12 August 1949 and the Regulations of 18 October 1907 annexed to the Hague Convention IV concerning the Laws and Customs of War on Land, to allow full unimpeded access by humanitarian personnel to all people in need of assistance, and to

make available, as far as possible, all necessary facilities for their operations, and to promote the safety, security and freedom of movement of humanitarian personnel and the United Nations and its associated personnel and their assets;

11. *Encourages* all Governments, in particular Governments of countries with situations of internal displacement, to facilitate United Nations activities and to respond favourably to requests for visits as well as for information, and urges Governments as well as the relevant parts of the United Nations system, also at the country level, to follow up effectively on United Nations recommendations and to make available information on measures taken in this regard;

12. *Stresses* the need to strengthen further inter-agency arrangements and the capacities of United Nations agencies and other relevant actors to meet the immense humanitarian challenge of internal displacement, and calls upon States to provide adequate resources for programmes to assist and protect internally displaced persons with a view to enhancing the capacities of countries with situations of internal displacement, and of the relevant intergovernmental and non-governmental organizations, to meet the needs of internally displaced persons;

13. *Emphasizes* in this regard the central role of the Emergency Relief Coordinator in inter-agency coordination for the protection and assistance of internally displaced persons, notes the work of the Unit on Internal Displacement within the Office for the Coordination of Humanitarian Affairs, and welcomes the collaboration that was extended to the Representative of the Secretary-General;

14. *Notes with appreciation* the activities aimed at addressing the plight of internally displaced persons undertaken by the United Nations High Commissioner for Human Rights, the United Nations High Commissioner for Refugees, the United Nations Development Programme, the United Nations Children's Fund, the World Food Programme, the World Health Organization, the International Organization for Migration, the International Labour Organization, the Food and Agriculture Organization of the United Nations, the World Bank, and by all other relevant humanitarian assistance, human rights and development agencies and organizations, including non-governmental organizations, and encourages them to enhance further their collaboration and coordination with regard to internally displaced persons, especially through the Inter-Agency Standing Committee;

15. *Encourages* the Emergency Relief Coordinator, in his capacity as head of the Office for the Coordination of Humanitarian Affairs, to lead the efforts aimed at promoting an effective, predictable and collaborative response among all relevant international agencies and bodies with regard to protecting and assisting internally displaced persons, at headquarters as well as in countries with situations of internal displacement, making use of the Unit on Internal Displacement and bearing in mind the role of resident or humanitarian coordinators;

16. *Notes with appreciation* the increased attention paid to internally displaced persons in the United Nations consolidated appeals process and encourages further efforts in this regard;

17. *Acknowledges with appreciation* the work of the International Committee of the Red Cross and the other components of the International Red Cross and Red Crescent Movement in protecting and assisting internally displaced persons;

18. *Notes with appreciation* the efforts of non-governmental organizations and the increasing role of national human rights institutions in assisting internally displaced persons and in promoting and protecting their human rights;

19. *Welcomes* the initiatives undertaken by regional organizations, such as the African Union, the Organization of American States, the Organization for Security and Cooperation in Europe, the Intergovernmental Authority on Development, the Council of Europe, the Commonwealth and the Economic Community of West African States, to address the assistance, protection and development needs of internally displaced persons, and encourages them and other regional organizations to strengthen their activities in this regard;

20. *Also welcomes* the attention paid by relevant special rapporteurs, working groups, experts and treaty bodies to issues of internal displacement, and calls upon them to continue to seek information on situations which have already created or could create internal displacement and to include relevant information and recommendations thereon in their reports;

21. *Calls upon* the United Nations High Commissioner for Human Rights, in cooperation with Governments and national human rights institutions, and with other relevant parts of the United Nations system, to continue to promote the human rights of internally displaced persons, to enhance their protection on the ground and to develop projects to address their plight as part of the programme of advisory services and technical cooperation, including in the areas of human rights education, training and assistance in legislative and policy development, and to provide information thereon;

22. *Recognizes* the relevance of the global database on internally displaced persons advocated by the Representative of the Secretary-General, and encourages the members of the Inter-Agency Standing Committee and Governments to continue to collaborate on and support this effort, including by providing relevant data on situations of internal displacement and financial resources;

23. *Requests* the Secretary-General, in effectively building upon the work of his Representative, to establish a mechanism that will address the complex problem of internal displacement, in particular by mainstreaming human rights of the internally displaced into all relevant parts of the United Nations system;

24. *Recommends* that this mechanism work towards strengthening the international response to the complex problem of situations of internal displacement, and engage in coordinated international advocacy and action for improving protection and respect of the human rights of the internally displaced, while continuing and enhancing dialogues with Governments, as well as non-governmental organizations and other relevant actors;

25. *Requests* the Secretary-General to provide this mechanism, from within existing resources, with all necessary assistance and adequate staffing to carry out its mandate effectively and to ensure that the mechanism works with the support of the Office of the United Nations

High Commissioner for Human Rights, from within its existing resources, and in close cooperation with the Emergency Relief Coordinator and, in particular, the Unit on Internal Displacement and the United Nations High Commissioner for Refugees;

26. *Encourages* States as well as relevant organizations and institutions to consider making voluntary contributions;

27. *Requests* the Secretary-General to review the new mechanism's performance and effectiveness two years after its inception and submit a report thereon, as well as on the details of the mechanism, to the Commission at its sixty-second session;

28. *Also requests* the Secretary-General to ensure that the mechanism submits annual reports on its activities to the Commission and to the General Assembly, making suggestions and recommendations regarding the human rights of internally displaced persons and engaging in an interactive dialogue thereon;

29. *Decides* to continue its consideration of the question of internal displacement at its sixty-first session.

*56th meeting  
20 April 2004*

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

#### **2004/56. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families**

*The Commission on Human Rights,*

*Reaffirming* that all human beings are born free and equal in dignity and rights, are endowed with reason and conscience and should act towards one another in a spirit of brotherhood,

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

*Guided* by the basic instruments regarding the international protection of human rights, in particular the Universal Declaration of Human Rights, the International Covenants on Human Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child, and reaffirming the obligation of States to promote and protect human rights and fundamental freedoms,

*Bearing in mind* the principles and standards established within the framework of the International Labour Organization and the importance of the work done in connection with migrant workers and members of their families in other specialized agencies and in various United Nations bodies,

*Aware* of the marked increase in migratory movements that has occurred, especially in certain parts of the world,

*Deeply concerned* at the grave situation of vulnerability of migrant workers and members of their families,

*Recalling* the renewed commitment made in the United Nations Millennium Declaration to take measures to ensure respect for and protection of the human rights of migrants, migrant workers and their families, to eliminate the increasing acts of racism and xenophobia in all societies and to promote greater harmony and tolerance,

*Reiterating* that, despite the existence of an established body of principles and norms, there is an urgent need worldwide to make further efforts to improve the situation of and to guarantee respect for the human rights and dignity of all migrant workers and members of their families,

*Recalling* General Assembly resolution 45/158 of 18 December 1990, by which the Assembly adopted and opened for signature, ratification and accession the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,

*Considering* that the Vienna Declaration and Programme of Action adopted in June 1993 by the World Conference on Human Rights (A/CONF.157/23) urges all States to guarantee the protection of all migrant workers and their families and invites them to consider the possibility of signing and ratifying the Convention at the earliest possible time,

1. *Acknowledges with appreciation* the entry into force of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families on 1 July 2003;
2. *Welcomes* the signing or ratification of or accession to the Convention since then by other States and takes note of the report of the Secretary-General on the status of the Convention (E/CN.4/2004/73);
3. *Calls upon* all States that have not yet done so to consider urgently signing and ratifying or acceding to the Convention;
4. *Expresses its appreciation* for the convening of the first meeting of the States parties to the Convention, especially for the election of the 10 independent experts of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families in accordance with article 72 of the Convention, and for the convening of the first session of the Committee, and takes note of its rules of procedure, adopted in accordance with article 75 of the Convention;
5. *Requests* the Secretary-General to continue providing the facilities and assistance necessary for the effective functioning of this new body created by virtue of an international treaty on human rights;
6. *Invites* the Committee to take into account the work of other human rights committees to protect and promote the human rights of migrant workers, as well as the work of other international forums addressing issues of international migration;



7. *Also invites* the Committee to take into account the debate in other human rights committees concerning improvements in their methods of work and to avoid any duplication;
8. *Calls upon* States parties to the Convention to submit in due time their first periodic report requested by article 73 of the Convention;
9. *Invites* States parties to the Convention to consider making the declarations foreseen in articles 76 and 77 of the Convention;
10. *Requests* the Secretary-General to provide all facilities and assistance necessary for the active promotion of the Convention, through the programme of advisory services and technical cooperation in the field of human rights;
11. *Welcomes* the increasing activities of the International Steering Committee of the Global Campaign for the Ratification of the Convention and invites organizations and agencies of the United Nations system, as well as intergovernmental and non-governmental organizations, to continue and to intensify their efforts with a view to disseminating information on the Convention and promoting understanding of the importance of the Convention;
12. *Also welcomes* the work of the Special Rapporteur on the human rights of migrants in relation to the Convention and encourages her to persevere in this endeavour;
13. *Notes* that the Committee should present an annual report to the General Assembly on the application of the Convention, in accordance with its article 74;
14. *Requests* the Secretary-General to report to the Commission at its sixty-second session on the status of the Convention and on the efforts made by the Secretariat to promote the Convention and the protection of the rights of migrant workers;
15. *Decides* to include in the provisional agenda of its sixty-second session the agenda sub-item entitled “Specific groups and individuals: migrant workers”.

*56th meeting  
20 April 2004*

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

#### **2004/57. Working Group on Indigenous Populations of the Sub-Commission on the Promotion and Protection of Human Rights**

*The Commission on Human Rights,*

*Considering* Economic and Social Council resolution 1982/34 of 7 May 1982, in which the Council authorized the Sub-Commission on the Promotion and Protection of Human Rights, formerly the Sub-Commission on Prevention of Discrimination and Protection of Minorities, to establish annually a working group on indigenous populations with the mandate to review developments pertaining to the promotion and protection of the human rights and fundamental freedoms of indigenous populations, giving special attention to the evolution of standards concerning the rights of indigenous populations,

*Taking note* of Sub-Commission resolution 2003/29 of 14 August 2003 and of the report of the Working Group on Indigenous Populations on its twenty-first session (E/CN.4/Sub.2/2003/22), in particular its programme of work,

*Taking into account* that in accordance with Economic and Social Council decision 2003/307 of 25 July 2003 the Council will consider at its substantive session of 2004 the review mandated in paragraph 8 of Council resolution 2000/22 of 28 July 2000 regarding all existing mechanisms, procedures and programmes within the United Nations concerned with indigenous issues, including the Working Group on Indigenous Populations,

*Recalling* its resolution 2003/55 of 24 April 2003 in which it endorsed the recommendations made by the Sub-Commission in its resolutions 2002/17 and 2002/21 of 14 August 2002,

*Reaffirming* the urgent need to recognize, promote and protect more effectively the human rights and fundamental freedoms of indigenous people and the important role to be played in that respect by all existing mechanisms within the United Nations system mandated to review indigenous issues,

*Encouraged* by the renewed commitment and growing interest of the international community in the full and effective protection of the human rights of indigenous people,

*Considering* the continuing need for the Working Group on account of its present mandate, which is distinct from those of the Permanent Forum on Indigenous Issues and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people,

*Convinced* of the need to continue exploring ways and means to promote and further strengthen the already existing cooperation between the Working Group, the Permanent Forum and the Special Rapporteur, since their respective mandates are complementary and do not give rise to duplication,

1. *Reiterates* the recommendation made to the Economic and Social Council in Commission resolution 2003/55 that the Council take duly into account the contents of that resolution when holding the review of all existing mechanisms, procedures and programmes within the United Nations concerning indigenous issues mandated in paragraph 8 of Council resolution 2000/22;

2. *Recommends also* that the Economic and Social Council take duly into account the contents of the present resolution when carrying out the review at its substantive session of 2004, pursuant to Council decision 2003/307.

*56th meeting  
20 April 2004*

[Adopted by a recorded vote of 38 votes to 15. See chap. XV.]

**2004/58. Working Group on Indigenous Populations of the Sub-Commission on the Promotion and Protection of Human Rights, and the International Decade of the World's Indigenous Peoples**

*The Commission on Human Rights,*

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

*Recalling* its previous resolutions on the Working Group on Indigenous Populations of the Sub-Commission on the Promotion and Protection of Human Rights and the International Decade of the World's Indigenous People, in particular resolution 1997/32 of 11 April 1997,

*Recalling also* Economic and Social Council resolution 1982/34 of 7 May 1982, in which the Council authorized the Sub-Commission to establish annually a working group on indigenous populations with the mandate to review developments pertaining to the promotion and protection of the human rights and fundamental freedoms of indigenous people, giving special attention to the evolution of standards concerning the rights of indigenous people,

*Reaffirming* its recognition of the value and diversity of the cultures and forms of social organization of indigenous people and that the development of indigenous people within their countries will contribute to the socio-economic, cultural and environmental advancement of all the countries of the world,

*Recalling* that the goal of the Decade is to strengthen international cooperation for the solution of problems faced by indigenous people in such areas as human rights, the environment, development, education and health, and that the theme of the Decade is "Indigenous people: partnership in action",

*Recognizing* the importance of consultation and cooperation with indigenous people in planning and implementing the programme of activities for the Decade, the need for adequate financial support from the international community, including support from within the United Nations and the specialized agencies, and the need for adequate coordination and communication channels,

*Mindful* that the Economic and Social Council will consider at its substantive session of 2004 the review mandated in paragraph 8 of Council resolution 2000/22 of 28 July 2000 regarding all existing mechanisms, procedures and programmes within the United Nations concerned with indigenous issues, including the Working Group on Indigenous Populations,

*Bearing in mind* in this regard that in 2003 the Permanent Forum on Indigenous Issues, at its second session, in its draft decision VII (see E/2003/43-E/C.19/2003/22, chap. I, sect. A), the Working Group, at its twenty-first session (see E/CN.4/Sub.2/2003/22, para. 117), and the Sub-Commission, in its resolution 2003/30 of 14 August 2003, recommended that a second

international decade be proclaimed by the General Assembly, and that the Economic and Social Council, in decision 2003/306 of 25 July 2003, requested the Assembly to initiate the consideration of such a decade, taking into account, inter alia, the forthcoming review by the Council in 2004,

*Recalling* in this regard Economic and Social Council decisions 2001/316 of 26 July 2001 and 2002/286 of 25 July 2002 and taking note of 2003/307 of 25 July 2003,

I. REPORT OF THE WORKING GROUP ON INDIGENOUS POPULATIONS OF THE SUB-COMMISSION ON THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

1. *Takes note* of the report of the Sub-Commission on the Promotion and Protection of Human Rights (E/CN.4/2004/2-E/CN.4/Sub.2/2003/43) and of the report of the Working Group on Indigenous Populations on its twenty-first session (E/CN.4/Sub.2/2003/22);

2. *Welcomes* the fact that the Working Group has continued to carry out a comprehensive review of developments and of the diverse situations and aspirations of the world's indigenous people and that at its twenty-second session, the Working Group will focus on the theme "Indigenous peoples and conflict resolution", and invites Governments, intergovernmental organizations, indigenous organizations and non-governmental organizations to provide information and data on this theme to the Working Group at its twenty-second session;

3. *Invites* the Working Group to take into account in its deliberations on developments pertaining to the promotion and protection of the human rights of indigenous people the work, within the framework of their respective mandates, of the Permanent Forum on Indigenous Issues, all thematic special rapporteurs, special representatives, independent experts, working groups and expert seminars as it pertains to the situation of indigenous people;

4. *Also invites* all thematic special rapporteurs, special representatives, independent experts, working groups and expert seminars, within the framework of their respective mandates, to take duly into account in their deliberations the particular situation of indigenous people and to ensure that it is properly reflected in their periodic reports to their superior bodies, so as to contribute to the effective fulfilment of the respective mandates of the Economic and Social Council, the Commission, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and the Permanent Forum;

5. *Recommends* that the Economic and Social Council authorize the Working Group to meet for five working days prior to the fifty-sixth session of the Sub-Commission;

6. *Invites* the Working Group to continue its consideration of ways and means in which the expertise of indigenous people can contribute to the work of the Working Group, and encourages initiatives by Governments, organizations of indigenous people and non-governmental organizations to ensure the full participation of indigenous people in the activities related to the tasks of the Working Group;

7. *Recommends* that the Economic and Social Council authorize the Chairperson-Rapporteur of the twenty-first session of the Working Group to submit the report on its twenty-first session to the Permanent Forum during the second week (17-21 May) of the Forum's third session in 2004, as requested in Sub-Commission resolution 2002/20 of 14 August 2002;

8. *Requests* the Secretary-General:

(a) To provide adequate resources and assistance to the Working Group in the discharge of its tasks, including adequate dissemination of information about the activities of the Working Group to Governments, specialized agencies, non-governmental organizations and organizations of indigenous people, in order to encourage the widest possible participation in its work;

(b) To transmit the reports of the Working Group to Governments, organizations of indigenous people and intergovernmental and non-governmental organizations, as soon as possible, for specific comments and suggestions;

9. *Recalls* General Assembly resolution 56/140 of 19 December 2001, which expanded the mandate of the United Nations Voluntary Fund for Indigenous Populations to assist representatives of indigenous communities and organizations in attending the sessions of the Permanent Forum, and appeals to all Governments, organizations and individuals in a position to do so to consider contributing to the Fund, if possible with a substantial increase in the level of contributions;

## II. INTERNATIONAL DECADE OF THE WORLD'S INDIGENOUS PEOPLE

10. *Invites* the Working Group on Indigenous Populations to continue its review of activities undertaken during the Decade and encourages Governments and intergovernmental and non-governmental organizations to provide information on the implementation of the goals of the Decade, in accordance with paragraph 16 of the annex to General Assembly resolution 50/157 of 21 December 1995;

11. *Emphasizes* the affirmation by the General Assembly that a major objective of the Decade is the adoption of a declaration on the rights of indigenous people and calls for the early conclusion of the drafting of that most important document;

12. *Welcomes* the results of the second session of the Permanent Forum on Indigenous Issues, held in New York in May 2003, and looks forward to the convening of its third annual session from 10 to 21 May 2004, and encourages all parties concerned, including all mechanisms, procedures and programmes of the United Nations concerned with indigenous issues, to continue efforts to secure, from within existing resources, an adequately funded and well-functioning Forum that reflects its broad mandate, including through the provision of adequate secretariat support;

13. *Requests* the United Nations High Commissioner for Human Rights, in her capacity as Coordinator of the Decade, to submit a final report reviewing the activities within the United Nations system under the programme of activities for the Decade and evaluating their results, to the Commission at its sixty-first session under the agenda item entitled “Indigenous issues”, in accordance with the request by the General Assembly to the Secretary-General;

14. *Emphasizes* the important role of international cooperation in promoting the goals and activities of the Decade and the rights, well-being and sustainable development of indigenous people;

15. *Appeals* to all Governments, organizations and individuals in a position to do so to support the Decade by contributing to the Voluntary Fund for the International Decade of the World’s Indigenous People, if possible with a substantial increase in the level of contributions;

16. *Encourages* Governments, as appropriate, recognizing the importance of action at the national level for the implementation of the goals and activities of the Decade, to continue supporting the Decade during its present final stage, in consultation with indigenous people, by:

(a) Executing the relevant programmes, plans and reports in relation to the Decade through effective mechanisms involving indigenous people to ensure that the objectives and activities of the Decade are implemented on the basis of full partnership with indigenous people;

(b) Seeking means of giving indigenous people greater responsibility for their own affairs and an effective voice in decisions on matters which affect them, in compliance with the provisions of the Vienna Declaration and Programme of Action;

17. *Also encourages* Governments to continue to give support, as appropriate, towards the achievement of the goals of the Decade, to the Fund for the Development of Indigenous Peoples of Latin America and the Caribbean;

18. *Requests* the High Commissioner to ensure that the minorities and indigenous people’s unit in the Office of the United Nations High Commissioner for Human Rights is adequately staffed and resourced to enable the activities of the Decade to be implemented effectively;

19. *Recommends* that the High Commissioner, when developing programmes within the framework of the International Decade of the World’s Indigenous People and the United Nations Decade for Human Rights Education, continue to give due regard to the continued development of human rights training for indigenous people;

20. *Encourages* the High Commissioner to continue cooperating with the Department of Public Information in preparing and disseminating information on the International Decade of the World’s Indigenous People, taking due care to portray accurately the information regarding indigenous people;

21. *Invites* the United Nations financial and development institutions, operational programmes and specialized agencies, in accordance with the existing procedure of their governing bodies:

(a) To continue giving increased priority and resources to improving the conditions of indigenous people, with particular emphasis on the needs of these people in developing countries, including through the preparation of specific programmes of action for the follow-up of the goals of the Decade, within their areas of competence;

(b) To launch, as appropriate, special projects, through adequate channels and in collaboration with indigenous people, for strengthening their community-level initiatives, and to facilitate the exchange of information and expertise among indigenous people and other relevant experts;

22. *Recalls* the recommendation of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance that the Secretary-General conduct an evaluation of the results of the Decade and make recommendations concerning how to mark the end of this Decade, including an appropriate follow-up, and requests the Secretary-General to begin the implementation of this evaluation;

23. *Decides* to consider the final evaluation of the International Decade of the World's Indigenous People at its sixty-first session under the agenda item entitled "Indigenous issues".

*56th meeting  
20 April 2004*

[Adopted by a recorded vote of 38 votes to 2,  
with 13 abstentions. See chap. XV.]

**2004/59. Working group of the Commission on Human Rights to elaborate  
a draft declaration in accordance with paragraph 5 of  
General Assembly resolution 49/214 of 23 December 1994**

*The Commission on Human Rights,*

*Bearing in mind* General Assembly resolution 47/75 of 14 December 1992 and Part II, paragraph 28, of the Vienna Declaration and Programme of Action (A/CONF.157/23),

*Reaffirming* its resolution 1995/32 of 3 March 1995, in which it established an open-ended intersessional working group with the sole purpose of elaborating a draft declaration, considering the draft contained in the annex to resolution 1994/45 of 26 August 1994 of the Sub-Commission on the Promotion and Protection of Human Rights, entitled "Draft United Nations declaration on the rights of indigenous peoples", for consideration and adoption by the General Assembly within the International Decade of the World's Indigenous People,

*Underlining* the importance of concluding, at the latest in 2004, the draft United Nations declaration on the rights of indigenous people for consideration and adoption by the General Assembly, prior to the conclusion of the Decade,

*Reaffirming in particular* that the invitation contained in resolution 1995/32 was addressed to organizations of indigenous people seeking authorization to participate in the open-ended intersessional working group on the draft United Nations declaration on the rights of indigenous peoples,

*Recognizing* that organizations of indigenous people have special knowledge and understanding of the current situation of the world's indigenous people and their human rights needs,

*Recalling* General Assembly resolution 49/214 of 23 December 1994, in which the Assembly encouraged the Commission to consider the draft declaration with the participation of representatives of indigenous people, on the basis of and in accordance with appropriate procedures to be determined by the Commission,

*Welcoming* the progress made in the process of drafting a declaration on the rights of indigenous people and emphasizing the importance and special nature of such a draft declaration as an instrument specifically for promoting the rights of indigenous people,

*Encouraging* Governments and organizations of indigenous people to participate actively and in a spirit of compromise in the working group in order to present a draft United Nations declaration on the rights of indigenous people to the General Assembly, as a matter of priority, for consideration and adoption,

*Recalling* the need for the working group to consider all aspects of the draft declaration, including its scope of application,

1. *Takes note* of the report of the working group (E/CN.4/2004/81 and Add.1) and welcomes the continuation and positive nature of the deliberations of the working group, in particular the measures taken to ensure effective input by organizations of indigenous people;

2. *Expresses its appreciation* for the work of the Economic and Social Council in considering applications from organizations of indigenous people to participate in the working group under the procedures set out in the annex to Commission resolution 1995/32;

3. *Welcomes* the decisions of the Council approving the participation of organizations of indigenous people in the work of the working group and urges the Council to process all pending applications as soon as possible, taking strictly into account the procedures set out in the annex to Commission resolution 1995/32;

4. *Recommends* that the working group meet for 10 working days prior to the sixty-first session of the Commission, the cost of the meeting to be met from within existing resources;

5. *Invites* the Chairperson-Rapporteur of the working group to undertake inquiries with the Office of the United Nations High Commissioner for Human Rights to determine the possibility of convening additional meetings of the working group, within existing resources, with a view to facilitating progress in drafting a declaration on the rights of indigenous people;



6. *Also invites* the Chairperson-Rapporteur of the working group and all interested parties to conduct broad informal intersessional consultations with a view to facilitating progress in concluding a declaration on the rights of indigenous people at the next session of the Working Group;

7. *Encourages* organizations of indigenous people that are not already registered to participate in the working group and that wish to do so to apply for authorization in accordance with the procedures set out in the annex to Commission resolution 1995/32;

8. *Requests* the working group to submit a report for consideration by the Commission at its sixty-first session under the same agenda item;

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

[For the text, see chap. I, draft decision 21.]

*56th meeting  
20 April 2004*

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

#### **2004/60. The work of the Sub-Commission on the Promotion and Protection of Human Rights**

*The Commission on Human Rights,*

*Recalling* its previous relevant resolutions, in particular 2003/59 of 24 April 2003 and the resolutions identified therein, as well as the terms of reference of the Sub-Commission on the Promotion and Protection of Human Rights (formerly the Sub-Commission on the Prevention of Discrimination and Protection of Minorities) as set out in the relevant resolutions of the Commission on Human Rights, the Economic and Social Council, and the General Assembly,

*Recalling also* the report of the intersessional open-ended working group on enhancing the effectiveness of the mechanisms of the Commission on Human Rights (E/CN.4/2000/112), and reaffirming Commission decision 2000/109 of 26 April 2000,

*Recalling further* the rules of procedure of the functional commissions of the Economic and Social Council and other decisions and practices relating thereto, and Sub-Commission decision 1999/114 of 26 August 1999 by which the Sub-Commission adopted guidelines for the application of the rules,

*Bearing in mind* the final working paper on the methods of work of the Sub-Commission (E/CN.4/Sub.2/1999/2),

*Taking note of:*

(a) The report of the Sub-Commission on its fifty-fifth session (E/CN.4/2004/2-E/CN.4/Sub.2/2003/43),

(b) The report of the Chairperson of the fifty-fifth session of the Sub-Commission (E/CN.4/2004/83),

1. *Reaffirms* its recognition of the valuable contribution made by the Sub-Commission, as a subsidiary body of the Commission, to the human rights work of the United Nations over the past 57 years;

2. *Recognizes* in particular the important contribution of the Sub-Commission and its thematic mechanisms to the development of a better understanding of human rights through the study of important issues, the elaboration of international human rights standards and the promotion and protection of human rights throughout the world, as well as the valuable contribution that Governments, intergovernmental organizations and non-governmental organizations have made to the success of the Sub-Commission;

3. *Decides* that the Sub-Commission can best assist the Commission by providing it with:

(a) Independent expert studies and working papers solely carried out by its members or alternates during their mandate, notwithstanding the completion of currently existing mandates;

(b) Recommendations based on, and after full consideration of, these studies;

(c) Studies, research and expert advice at the request of the Commission, including proposals confirmed by the Commission which have been suggested by treaty bodies or other United Nations human rights bodies;

4. *Notes* the proposals made by the Acting United Nations High Commissioner for Human Rights at the opening of the fifty-fifth session concerning the future role of the Sub-Commission;

5. *Welcomes* the actions taken by the Sub-Commission at its fifty-fifth session to respond to recommendations by the Commission for the initiation of working papers and new studies;

6. *Also welcomes* the attention given by the Sub-Commission to economic, social and cultural rights, as well as its continued attention to civil and political rights;

7. *Further welcomes* the improved working methods of the Sub-Commission at its last three sessions at which it:

(a) Reformed, improved and streamlined its agenda to seven items;

(b) Held a closed joint meeting with the Expanded Bureau of the fifty-ninth session of the Commission;

(c) Drafted many of its resolutions in closed session rather than attempting to do so in public sessions;

8. *Takes note* of the report submitted by the Office of the High Commissioner pursuant to the request of the Commission in its resolution 2002/66 of 25 April 2002 on possible ways and means of addressing the issues raised by the Sub-Commission and of improving the Commission's action on proposals of the Sub-Commission (E/CN.4/2003/95) and of discussions in which the Bureau of the Commission studied further those proposals, and decides to continue consideration of possible ways and means of improving, as soon as possible, the Commission's prompt action on proposals of the Sub-Commission;

9. *Reiterates and reaffirms:*

(a) Its decision that the Sub-Commission should not adopt country-specific resolutions, decisions or Chairperson's statements and, in negotiating and adopting thematic resolutions or decisions, should refrain from including references to specific countries;

(b) That the Sub-Commission should continue to be able to debate country situations not being dealt with in the Commission, as well as urgent matters involving serious violations of human rights in any country, and that its discussions would be reflected in the summary records of its debates, which should continue to be forwarded to the Commission;

(c) That the Sub-Commission should seek the Commission's approval prior to embarking on any new activity, with the exception of the preparation of studies and research;

(d) That the role of the Sub-Commission is that of a "think tank", as confirmed by the Commission in decision 2000/109, and therefore should not attribute to itself monitoring functions, while reaffirming the content of paragraph 52 of the annex to its decision 2000/109;

10. *Recommends* that the Sub-Commission continue at its future sessions the successful innovations of the fifty-third session which were confirmed at the fifty-fourth and fifty-fifth sessions, in particular by:

(a) Having annual closed meetings with the Expanded Bureau of the sixtieth and subsequent sessions of the Commission, so as to exchange views aimed at improving cooperation between the two organs;

(b) Maintaining a streamlined agenda;

(c) Holding its discussions of its working rules, procedures and timetable in closed meeting;

(d) Drafting as many of its resolutions as possible in closed session, in view of the limited time available;

(e) Using the "question and answer" format and some expert panel discussions;

11. *Also recommends* that the Sub-Commission further improve its methods of work by:

(a) Focusing on its primary role as an advisory body to the Commission, specifically when its advice is requested by the Commission;

(b) Giving particular attention to the selection of studies specifically recommended by the Commission or proposals confirmed by the Commission which have been suggested by treaty bodies or other United Nations human rights bodies, at the same time focusing on how and when the implementation of existing standards can be improved;

(c) Respecting strictly the highest standards of impartiality and expertise and avoiding acts which would affect confidence in the independence of its members, in particular in situations where they could have a conflict of interest;

(d) Facilitating efficient and effective participation of non-governmental organizations;

(e) Giving full consideration to studies and working papers by special rapporteurs and its members before sending them to the Commission;

(f) Taking further steps to accomplish its work within a three-week session, while making efforts to avoid the scheduling of working groups and plenary sessions concurrently with each other;

(g) Making proposals to the Commission on how it might assist the Sub-Commission in improving its work, and vice versa;

(h) Focusing strictly on questions relating to human rights in accordance with its mandate;

(i) Avoiding duplication of its work with that being carried out by other competent bodies and mechanisms;

(j) Taking fully into account legal opinions addressed to the Sub-Commission by the Legal Counsel of the United Nations;

12. *Requests* States when nominating and electing members and alternates to the Sub-Commission:

(a) To be conscious of the strong concern to ensure that the body is independent and is seen to be so;

(b) To keep in mind the need to ensure universality, a balanced representation, as well as the benefits of continuity and the importance of renewal;

(c) To select members with acknowledged expertise in human rights;

(d) To submit nominations, if possible, at least two months prior to the beginning of the session at which they will be elected, so as to enable the members of the Commission thoroughly to assess the qualifications and the independence of the nominees;

(e) To keep in mind that they should be impartial and independent and without a conflict of interest;

13. *Invites* the Secretary-General to give support to the Sub-Commission, inter alia by making available documentation in good time before each session in the official languages of the United Nations and assisting the Sub-Commission in requests for information from Governments and intergovernmental and non-governmental organizations, and reiterates that such requests, like all requests for concrete measures, must first have been approved by the Commission;

14. *Recommends* that the Chairperson of the Sub-Commission or his/her representative attend the meeting of special rapporteurs/representatives, experts and chairpersons of working groups of the special procedures of the Commission and the meeting of chairpersons of treaty bodies, so as to facilitate coordination between the Sub-Commission and other relevant bodies and procedures of the United Nations, in accordance with their respective mandates;

15. *Invites* the Chairperson of the sixtieth session of the Commission to address the Sub-Commission at the opening meeting of its fifty-sixth session and to inform it about the present resolution and the debate that took place on this subject at the sixtieth session of the Commission under agenda item 16;

16. *Invites* the Chairperson of the fifty-sixth session of the Sub-Commission to report to the Commission at its sixty-first session, including an assessment of how recent enhancements of the effectiveness of the Sub-Commission and of its mechanisms have worked in practice;

17. *Decides* to consider the issue of the work of the Sub-Commission at its sixty-first session under the relevant agenda item.

*56th meeting  
20 April 2004*

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

### **2004/61. Situation of human rights in Myanmar**

*The Commission on Human Rights,*

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

*Reaffirming* that all Member States have an obligation to promote and protect human rights and fundamental freedoms and the duty to fulfil the obligations they have undertaken under the various international instruments in the field,

*Aware* that Myanmar is a party to the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Prevention and Punishment of the Crime of Genocide, the Geneva Conventions of 12 August 1949 on the protection of the victims of war, as well as the Convention concerning Forced or Compulsory Labour, 1930 (No. 29) and the Convention concerning Freedom of Association and Protection of the Right to Organize, 1948 (No. 87) of the International Labour Organization,

*Recalling* its previous resolutions on the subject, the most recent of which is resolution 2003/12 of 16 April 2003, and those of the General Assembly, the most recent of which is resolution 58/247 of 23 December 2003,

*Bearing in mind* the report of the Secretary-General on children and armed conflict (A/58/546-S/2003/1053 and Corr.1 and 2),

*Recalling* resolution I adopted by the International Labour Organization at its eighty-eighth session, on 14 June 2000, concerning the practice of forced or compulsory labour in Myanmar,

*Affirming* that the will of the people is the basis of the authority of government and that the will of the people of Myanmar was clearly expressed in the elections held in 1990,

*Affirming also* that the establishment of a genuine democratic government in Myanmar is essential for the realization of all human rights and fundamental freedoms,

*Recognizing* that good governance, democracy, the rule of law and respect for human rights are essential to achieve sustainable development and economic growth, and that good governance includes the idea of transparent, responsible, accountable and participatory government at all levels,

*Taking note* of the road map for the transition to democracy announced by the Prime Minister of Myanmar on 30 August 2003,

1. *Welcomes:*

(a) The reports of both the Special Rapporteur on the situation of human rights in Myanmar (E/CN.4/2004/33) and of the Secretary-General (A/58/325 and Add.1 and E/CN.4/2004/30);

(b) The visits to Myanmar by the Special Envoy of the Secretary-General during the past year and the cooperation extended to him by the Government of Myanmar;

(c) The visits to Myanmar by the Special Rapporteur during the past year, noting that the Government of Myanmar has communicated to the United Nations High Commissioner for Human Rights the results of its investigation into the placing of listening devices during the interviews held by the Special Rapporteur with prisoners in Insein prison in March 2003, which led to the curtailment of his fact-finding visit;

(d) The release from prison of a number of persons detained for political activities and the continued cooperation with the International Committee of the Red Cross;

(e) The agreement reached, in Yangon on 27 May 2003, on the Joint Government of the Union of Myanmar-International Labour Organization Plan of Action for the Elimination of Forced Labour Practices in Myanmar, including the agreement on the establishment of an independent facilitator to assist possible victims of forced labour, while noting that the conditions for the implementation of the Plan of Action do not exist at present;

(f) The second visit by an Amnesty International delegation to Myanmar, which took place in December 2003, but notes with concern that it was unable to meet all those it requested to meet;

(g) The continued presence of the liaison officer of the International Labour Organization and her efforts to fulfil her mandate;

(h) The dissemination of human rights standards for public officials and some non-governmental organizations and ethnic groups through a series of human rights workshops, but stresses that such activities need to lead also to concrete efforts to improve the human rights situation on the ground;

(i) The establishment by the Government of a Committee for Preventing Recruitment of Child Soldiers, and stresses the need for it to work closely with the United Nations Children's Fund;

(j) The negotiations to conclude a ceasefire agreement between the Government and the Karen National Union, and hopes that this will contribute to the elimination of human rights abuses in Karen State;

(k) The developments allowing access for the Office of the United Nations High Commissioner for Refugees to Karen and Mon States in order to assist in creating conditions conducive to the return of refugees to these areas;

2. *Takes note* of the efforts of the Government of Myanmar to meet the HIV/AIDS challenge and calls upon it to enhance its efforts in this regard and to support the effective implementation of the Joint Plan of Action on HIV/AIDS in cooperation with the relevant international agencies;

3. *Expresses its grave concern* at:

(a) The ongoing systematic violation of human rights, including civil, political, economic, social and cultural rights, of the people of Myanmar;

(b) The events of 30 May 2003, the corresponding, subsequent and continuing violations of human rights, which constitute a serious setback for the human rights situation in Myanmar, and the apparent involvement of the Government-affiliated Union Solidarity and Development Association, as well as the ongoing systematic and consistent harassment of members of the National League for Democracy and other opposition activists;

(c) The detention and the house arrest of Daw Aung San Suu Kyi and the persistent denial of her human rights and fundamental freedoms, including freedom of movement and association, as well as the continued detention of other senior leaders of the National League for Democracy and of the leadership of other political parties or ethnic minorities;

(d) Extrajudicial killings, rape and other forms of sexual violence persistently carried out by members of the armed forces, continuing use of torture, renewed instances of political arrests and continuing detentions, including of prisoners whose sentences have expired; prisoners held incommunicado while awaiting trial; forced relocation; destruction of livelihoods and confiscations of land by the armed forces; forced labour, including child labour; trafficking in

persons; denial of freedom of assembly, association, expression and movement; discrimination and persecution on the basis of religious or ethnic background; wide disrespect for the rule of law and lack of independence of the judiciary; unsatisfactory conditions of detention; systematic use of child soldiers; and violations of the rights to an adequate standard of living, such as the rights to food, medical care and education;

(e) The violations of human rights suffered in particular by persons belonging to ethnic minorities, women and children, especially in non-ceasefire areas;

(f) The situation of the large number of internally displaced persons and the flow of refugees to neighbouring countries, and recalls in this context the obligations of Myanmar under international law;

4. *Calls upon* the Government of Myanmar:

(a) To fulfil its obligations to restore the independence of the judiciary and due process of law, and to take further steps to reform the system of the administration of justice;

(b) To take immediate action to implement fully concrete legislative, executive and administrative measures to eradicate the practice of forced labour by all organs of government, including the armed forces, and to implement fully the recommendations of the Commission of Inquiry established to examine the observance by Myanmar of the Convention concerning Forced or Compulsory Labour, 1930 (No. 29) of the International Labour Organization;

(c) To take the action foreseen by the Governing Body of the International Labour Office, most recently at its March 2004 session, which could enable the implementation of the Plan of Action to go ahead, in particular the functions of the facilitator as envisaged by the High Level Team;

(d) To ensure immediately safe and unhindered access to all parts of Myanmar for the United Nations and international humanitarian organizations and to cooperate fully with all sectors of society, especially with the National League for Democracy and other relevant political, ethnic and community-based groups through consultation, to ensure the provision of humanitarian assistance and to guarantee that it actually reaches the most vulnerable groups of the population;

(e) To cooperate fully with the Special Envoy of the Secretary-General for Myanmar and the Special Rapporteur in order to bring Myanmar towards a transition to civilian rule, and to ensure that they are both granted full, free and unimpeded access to Myanmar and that no person cooperating with the Special Envoy, the Special Rapporteur and any international organization is subjected to any form of intimidation, harassment or punishment, and to review as a matter of urgency the cases of those currently undergoing punishment in this regard;

(f) To consider as a matter of high priority becoming party to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention relating to the Status of Refugees and the Protocol thereto, the Optional Protocols to the Convention on the Rights of the



Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography, the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (No. 182) of the International Labour Organization, the Convention on the Prohibition on the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, and the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949;

(g) To pursue through dialogue and peaceful means the immediate suspension and permanent end of conflict with all ethnic groups in Myanmar;

(h) To follow up the negotiations to conclude a ceasefire agreement with the Karen National Union with substantial political dialogue in order to ensure that the rights of ethnic nationalities are fully respected;

(i) To establish a national human rights commission in accordance with the Principles relating to the establishment of national institutions for the promotion and protection of human rights (the Paris Principles);

5. *Strongly urges* the Government of Myanmar:

(a) To end the systematic violations of human rights in Myanmar, to ensure full respect for all human rights and fundamental freedoms, to end impunity and to investigate and bring to justice any perpetrators of human rights violations, including members of the military and other government agents in all circumstances, and to initiate a full and independent inquiry, with international cooperation, into the Depayin incident of 30 May 2003, as called for by the General Assembly;

(b) To lift all restraints on peaceful political activity of all persons, including former political prisoners, by, inter alia, guaranteeing freedom of association and freedom of expression, including freedom of the media, and to ensure unhindered access to information for the people of Myanmar;

(c) To restore democracy and respect the results of the 1990 elections by, inter alia, releasing immediately and unconditionally the leadership of the National League for Democracy, including Daw Aung San Suu Kyi and members of the National League for Democracy detained on or after 30 May 2003, and to allow them to play a full role in bringing about national reconciliation and the transition towards democracy, and in this regard draws attention to the recommendation of the Special Rapporteur that a general amnesty would be the best path for releasing all political prisoners, who would then be able to play a positive role in the future political process;

(d) To enter into a substantive and structured dialogue with Daw Aung San Suu Kyi and other leaders of the National League for Democracy intended to lead towards democratization and national reconciliation and at an early stage to include other political leaders in these talks, including representatives of the ethnic groups;

(e) To release unconditionally and immediately all political prisoners with particular emphasis on the elderly and the sick;

(f) To ensure that the National Convention is fully inclusive of all political parties and representatives elected in the last election and all major ethnic nationalities not represented by a political party, and is held in a democratic atmosphere that allows for freedom of expression and guarantees the safety of all participants;

(g) Without further delay to cooperate fully with the Special Rapporteur to facilitate an independent international investigation of continuing reports of sexual violence and other abuse of civilians carried out by members of the armed forces in Shan and other states and further to ensure the safety and freedom from intimidation of all persons who collaborate with the Special Rapporteur;

(h) To put an immediate end to the recruitment and use of child soldiers and to extend full cooperation to relevant international organizations in order to ensure the demobilization of child soldiers, their return home and their rehabilitation in accordance with Security Council resolution 1460 (2003) of 30 January 2003;

(i) To end the systematic enforced displacement of persons and other causes of refugee flows to neighbouring countries, to provide the necessary protection and assistance to internally displaced persons, in cooperation with the international community, and to respect the right of refugees to voluntary, safe and dignified return monitored by appropriate international agencies;

(j) To elaborate the road map for the transition to democracy, which is still lacking in essential elements such as concrete timing and an adequate plan for the involvement of all political groups and ethnic nationalities, in a way that ensures that the process is transparent and inclusive;

6. *Decides:*

(a) To extend the mandate of the Special Rapporteur, as contained in Commission resolution 1992/58 of 3 March 1992, for a further year and requests the Special Rapporteur to submit an interim report to the General Assembly at its fifty-ninth session and to report to the Commission at its sixty-first session and to integrate a gender perspective throughout his work;

(b) To request the Secretary-General to continue to give all necessary assistance to the Special Rapporteur to enable him to discharge his mandate fully;

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

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

[For the text, see chap. I, draft decision 22.]

*57th meeting  
21 April 2004*

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

## 2004/62. Human rights and indigenous issues

*The Commission on Human Rights,*

*Bearing in mind* that the Charter of the United Nations establishes as one of the purposes of the Organization the achievement of international cooperation in solving international problems of an economic, social, cultural or humanitarian character and in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

*Considering* that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights, that all are entitled to equal protection against any discrimination and that everyone is entitled to all the rights and freedoms set forth in the Declaration, without distinction of any kind, such as race, colour, sex, language, religion, national origin, birth or other status,

*Guided* by the relevant norms and standards of international human rights instruments, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Elimination of All Forms of Discrimination against Women,

*Acknowledging with appreciation* the entry into force of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families,

*Recalling* the Convention concerning Indigenous and Tribal Peoples in Independent Countries, 1989 (No. 169), of the International Labour Organization,

*Bearing in mind* the recommendations of the World Conference on Human Rights held in Vienna in June 1993,

*Recalling* the provisions relevant to the present resolution contained in the Durban Declaration and Programme of Action adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/CONF.189/12 and Corr.1),

*Recalling* that the objective of the International Decade of the World's Indigenous People is the strengthening of international cooperation for the solution of the problems they face in areas such as human rights, the environment, development, education and health,

*Underlining* the importance of concluding, at the latest in 2004, the "Draft United Nations declaration on the rights of indigenous peoples", for consideration and adoption by the General Assembly prior to the conclusion of the International Decade of the World's Indigenous People,

*Welcoming* the important contributions made so far by the Permanent Forum on Indigenous Issues and its report on its second session (E/2003/43-E/C.19/2003/22) and recalling that the mandate of the Permanent Forum consists of discussing indigenous issues within the mandate of the Economic and Social Council relating to economic and social development, culture, the environment, education, health and human rights,

*Taking into account* the mandate of the Working Group on Indigenous Populations of the Sub-Commission on the Promotion and Protection of Human Rights to review developments pertaining to the promotion and protection of their human rights and fundamental freedoms, giving special attention to the evolution of standards concerning their rights,

*Recalling* the first report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (E/CN.4/2002/97 and Add.1), in which he identified seven issues that synthesize the main human rights concerns affecting indigenous people in all regions of the world and which must be analysed further,

*Noting with appreciation* the outcomes of the Expert Seminar on Indigenous Peoples and Administration of Justice as contained in the addendum to the report of the Special Rapporteur (E/CN.4/2004/80/Add.4) organized by the Office of the United Nations High Commissioner for Human Rights with the participation of governmental, indigenous, non-governmental and independent experts, and inviting all States to take into account those outcomes in the elaboration of public policies on the subject,

*Deeply concerned* about the precarious levels of economic and social development that indigenous people endure in many parts of the world and the disparities in their situation in comparison to the overall population, as well as about the persistence of grave violations of their human rights,

*Reaffirming* the urgent need to recognize, promote and protect more effectively the human rights and fundamental freedoms of indigenous people,

*Encouraged* by the renewed commitment and growing interest of the international community to ensure the full respect and equal enjoyment by indigenous people of all human rights and fundamental freedoms,

*Recalling* its resolution 2003/56 of 24 April 2003,

1. *Decides* to extend the mandate of the Special Rapporteur for a further period of three years;
2. *Takes note* of the report of the Special Rapporteur (E/CN.4/2004/80 and Add.1-4), submitted pursuant to Commission resolution 2003/56 as well as the official visits he has made during the last year, and encourages Governments to respond positively to requests by the Special Rapporteur to visit their country;

3. *Encourages* the Special Rapporteur to continue to examine ways and means of overcoming existing obstacles to the full and effective protection of the human rights and fundamental freedoms of indigenous people, in conformity with his mandate, and to pay special attention to violations of the human rights and fundamental freedoms of indigenous children and women, and to take into account a gender perspective;

4. *Requests* the Special Rapporteur, in performing his work, to consider the recommendations of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance on matters concerning his mandate, as well as the recommendations, observations and conclusions of the Committee on the Elimination of Racial Discrimination;

5. *Also requests* the Special Rapporteur, in carrying out his mandate and within the framework of the Universal Declaration of Human Rights and all other international human rights instruments, to request, receive and exchange information on violations of the human rights of indigenous people, wherever they may occur, from Governments, United Nations human rights treaty bodies, specialized agencies, special mechanisms of the Commission and the Sub-Commission on the Promotion and Protection of Human Rights, as well as from intergovernmental organizations, other relevant organizations of the United Nations system and civil society, including indigenous organizations, and to respond effectively to such information;

6. *Further requests* the Special Rapporteur to continue working on the topics included in his first report, in particular, those that impact on the situation of the human rights and fundamental freedoms of indigenous people, which may contribute to advancing the debate on fundamental issues of the “Draft United Nations declaration on the rights of indigenous peoples”;

7. *Invites* the Special Rapporteur, in carrying out his task, to take into account all the recommendations of the Permanent Forum on Indigenous Issues and of the Working Group on Indigenous Populations relevant to his mandate;

8. *Requests* the Office of the United Nations High Commissioner for Human Rights to facilitate the attendance of the Special Rapporteur at the third annual session of the Permanent Forum on Indigenous Issues to be held at United Nations Headquarters in May 2004;

9. *Requests* all Governments to cooperate fully with the Special Rapporteur in the performance of the tasks and duties mandated, to furnish all information requested and to react promptly to his urgent appeals;

10. *Takes note* of the intention of the Office of the High Commissioner to organize, making use of voluntary contributions, a seminar on indigenous education, with the participation of indigenous and governmental and non-governmental experts, to assist the Special Rapporteur in examining the main topic of his annual report to the Commission in 2005;

11. *Encourages* the United Nations, including its specialized agencies, regional intergovernmental organizations, Governments, independent experts, interested institutions, non-governmental organizations and, in particular, indigenous people to cooperate to the fullest extent possible with the Special Rapporteur in the fulfilment of his mandate;

12. *Encourages* the World Summit on the Information Society to take indigenous issues duly into account in its declaration of principles and action plan and in all other relevant programmes to be adopted by the Summit in its second phase, to be held in Tunis in 2005;

13. *Urges* those States that have not yet done so to consider, as a matter of priority, signing, ratifying or acceding to the Convention concerning Indigenous and Tribal Peoples in Independent Countries, 1989 (No. 169);

14. *Requests* the Special Rapporteur to submit a report on his activities to the General Assembly at its fifty-ninth session and to the Commission at its sixty-first session;

15. *Requests* the Secretary-General and the United Nations High Commissioner for Human Rights to provide all the necessary human, technical and financial assistance to the Special Rapporteur for the effective fulfilment of his mandate;

16. *Decides* to continue 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:

[For the text, see chap. I, draft decision 23.]

*57th meeting  
21 April 2004*

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

### **2004/63. Enhancement of international cooperation in the field of human rights**

*The Commission on Human Rights,*

*Bearing in mind* that among the purposes of the United Nations are those of developing friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples and taking other appropriate measures to strengthen universal peace, as well as achieving international cooperation in solving international problems of an economic, social, cultural or humanitarian character and in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

*Recalling* the adoption of the United Nations Millennium Declaration by the General Assembly on 8 September 2000 and its own resolution 2003/60 of 24 April 2003 on the enhancement of international cooperation in the field of human rights,

*Recalling also* General Assembly resolution 54/113 of 10 December 1999 on the United Nations Year of Dialogue among Civilizations and the proclamation of the Global Agenda for Dialogue among Civilizations by the Assembly in its resolution 56/6 of 9 November 2001,

*Reaffirming* its commitment to promoting international cooperation, as set forth in the Charter of the United Nations, in particular Article 1, paragraph 3, as well as relevant provisions of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993 (A/CONF.157/23), for enhancing genuine cooperation among Member States in the field of human rights,

*Emphasizing* that the enhancement of international cooperation in the field of human rights is essential for the full achievement of the purposes of the United Nations, including the effective promotion and protection of all human rights,

*Underlining* that tolerance and respect for diversity and the universal promotion and protection of human rights are mutually supportive, and recognizing that tolerance and respect for diversity effectively promote and are supported by, inter alia, the empowerment of women,

*Reaffirming* that dialogue among religions, cultures and civilizations, including in the field of human rights, could contribute greatly to the enhancement of international cooperation in this field,

*Bearing in mind* the valuable contribution that dialogue among civilizations can make to an improved awareness and understanding of the common values shared by all humankind,

*Emphasizing* the need for the promotion and protection of all human rights to be guided by the principles of impartiality, objectivity and non-selectivity, in the spirit of constructive international dialogue and cooperation,

*Underlining* that mutual understanding, dialogue, cooperation, transparency and confidence-building are important elements in all the activities for the promotion and protection of human rights,

*Expressing its conviction* that an unbiased and fair approach to human rights issues contributes to the promotion of international cooperation as well as to the effective promotion, protection and realization of human rights and fundamental freedoms,

*Bearing in mind* that all human rights, including the right to development, are universal, indivisible, interdependent and interrelated, and thus should be treated equally in the course of international cooperation,

1. *Reaffirms* that it is one of the purposes of the United Nations and the responsibility of all Member States to promote, protect and encourage respect for human rights and fundamental freedoms through, inter alia, international cooperation;

2. *Considers* that international cooperation in this field, in conformity with the purposes and principles set out in the Charter of the United Nations and international law, should make an effective and practical contribution to the urgent task of preventing violations of human rights and of fundamental freedoms for all;

3. *Reaffirms* that the promotion, protection and full realization of all human rights and fundamental freedoms should be guided by the principles of universality, non-selectivity, impartiality, objectivity and transparency, in a manner consistent with the purposes and principles of the Charter and should not be used for political ends;

4. *Recognizes* that, in addition to their separate responsibilities to their individual societies, States have a collective responsibility to uphold the principles of human dignity, equality and equity at the global level;
5. *Urges* all actors on the international scene to build an international order based on inclusion, justice, equality and equity, human dignity, mutual understanding and promotion of and respect for cultural diversity and universal human rights, and to reject all doctrines of exclusion based on racism, racial discrimination, xenophobia and related intolerance;
6. *Calls upon* Member States, specialized agencies and intergovernmental organizations to continue to carry out a constructive dialogue and consultations for the enhancement of understanding and the promotion and protection of all human rights and fundamental freedoms, and encourages non-governmental organizations to contribute actively to this endeavour;
7. *Invites* States and relevant United Nations human rights mechanisms and procedures to continue to pay attention to the importance of mutual cooperation, understanding and dialogue in ensuring the promotion and protection of all human rights;
8. *Decides* to continue its consideration of this question, as a matter of priority, at its sixty-first session.

*57th meeting  
21 April 2004*

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

#### **2004/64. Promotion of a democratic and equitable international order**

*The Commission on Human Rights,*

*Recalling* all previous resolutions of the General Assembly and the Commission on Human Rights on this issue,

*Reaffirming* the commitment of all States to fulfil their obligations to promote universal respect for, and observance and protection of, all human rights and fundamental freedoms for all in accordance with the Charter of the United Nations, other instruments relating to human rights, and international law,

*Affirming* that the enhancement of international cooperation for the promotion and protection of all human rights should continue to be carried out in full conformity with the purposes and principles of the Charter and international law, as set forth in Articles 1 and 2 of the Charter, and, inter alia, with full respect for sovereignty, territorial integrity, political independence, the non-use of force or the threat of force in international relations and non-intervention in matters that are essentially within the domestic jurisdiction of any State,

*Recalling* the Preamble to the Charter, in particular the determination to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, and in the equal rights of men and women and of nations large and small,



*Reaffirming* that everyone is entitled to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights can be fully realized,

*Reaffirming also* the determination expressed in the Preamble to the Charter to save succeeding generations from the scourge of war, to establish conditions under which justice and respect for obligations arising from treaties and other sources of international law can be maintained, to promote social progress and better standards of life in larger freedom, to practise tolerance and good neighbourliness and to employ international machinery for the promotion of the economic and social advancement of all peoples,

*Stressing* that the responsibility for managing worldwide economic and social development, as well as threats to international peace and security, must be shared among the nations of the world and should be exercised multilaterally, and that in this regard the central role must be played by the United Nations, as the most universal and representative organization in the world,

*Emphasizing* that the effective implementation of the outcomes of the United Nations Millennium Summit and of other major United Nations summits and conferences will require political will to implement the commitments undertaken, in particular in making available the means for implementation,

*Considering* the major changes taking place on the international scene and the aspirations of all peoples for an international order based on the principles enshrined in the Charter, including promoting and encouraging respect for human rights and fundamental freedoms for all and respect for the principle of equal rights and self-determination of peoples, peace, democracy, justice, equality, the rule of law at the national and international levels, pluralism, development, better standards of living and solidarity,

*Considering also* that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

*Reaffirming* that democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing, and that democracy is based on the freely expressed will of the people to determine their own political, economic, social and cultural systems and their full participation in all aspects of their lives,

*Emphasizing* that democracy is not only a political concept but also has economic and social dimensions,

*Recognizing* that democracy, respect for all human rights, including the right to development, transparent and accountable governance and administration in all sectors of society, and effective participation by civil society are an essential part of the necessary foundations for the realization of social and people-centred sustainable development,

*Recognizing also* that the international community should promote effective international cooperation, as well as equitable economic relations and a favourable economic environment at the international level, for the realization of the right to development and the elimination of obstacles to development,

*Reaffirming* the importance of good governance at the international level through democratization and transparency and accountability in international economic and financial decision-making in all forums and at all levels with the full and effective participation of all countries,

*Noting with concern* that racism, racial discrimination, xenophobia and related intolerance may be aggravated by, inter alia, inequitable distribution of wealth, marginalization and social exclusion,

*Underlining* that it is an imperative for the international community to ensure that globalization becomes a positive force for all the world's people, and that only through broad and sustained efforts, on the basis of common humanity in all its diversity and worldwide solidarity, can globalization be made fully inclusive and equitable,

*Stressing* that efforts to make globalization fully inclusive and equitable must include policies and measures at the global level that correspond to the needs of developing countries and economies in transition and are formulated and implemented with their effective participation,

*Having listened* to the peoples of the world and recognizing their aspirations to justice, to equality of opportunity for all and everyone, and to the enjoyment of their human rights, including the right to development, to live in peace and freedom and to equal participation without discrimination in economic, social, cultural, civil and political life,

*Resolved* to take all measures within its power to secure a democratic and equitable international order,

1. *Affirms* that everyone is entitled to a democratic and equitable international order;
2. *Also affirms* that a democratic and equitable international order fosters the full realization of all human rights for all;
3. *Calls upon* all Member States to fulfil their commitment expressed in September 2001 in Durban, South Africa, during the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance to maximize the benefits of globalization through, inter alia, the strengthening and enhancement of international cooperation to increase equality of opportunities for trade, economic growth and sustainable development, global communications through the use of new technologies and increased intercultural exchange through the preservation and promotion of cultural diversity, and reiterates that only through broad and sustained efforts to create a shared future based upon our common humanity, and all its diversity, can globalization be made fully inclusive and equitable;

4. *Affirms* that a democratic and equitable international order requires, inter alia, the realization of the following:

(a) The right of all peoples to self-determination, by virtue of which they can freely determine their political status and freely pursue their economic, social and cultural development;

(b) The right of peoples and nations to permanent sovereignty over their natural wealth and resources;

(c) The right of every human person and all peoples to development, as a universal and inalienable right and an integral part of fundamental human rights;

(d) The right of all peoples to peace;

(e) The right to an international economic order based on equal participation in the decision-making process, interdependence, mutual interest, solidarity and cooperation among all States;

(f) Solidarity, as a fundamental value by virtue of which global challenges must be managed in a way that distributes the costs and burdens fairly in accordance with basic principles of equity and social justice, ensuring that those who suffer or who benefit least receive help from those who benefit most;

(g) The promotion and consolidation of transparent, democratic, just and accountable international institutions in all areas of cooperation, in particular through the implementation of the principles of full and equal participation in their respective decision-making mechanisms;

(h) The right to equitable participation of all, without any discrimination, in domestic as well as global decision-making;

(i) The principle of equitable regional and gender-balanced representation in the composition of the staff of the United Nations system;

(j) The promotion of a free, just, effective and balanced international information and communication order, based on international cooperation for the establishment of a new equilibrium and greater reciprocity in the international flow of information, in particular correcting the inequalities in the flow of information to and from developing countries;

(k) The promotion of an inclusive global information society directed towards bridging the digital divide, promoting access to information and communication technologies, creating digital opportunities, and benefiting from the potential offered by these technologies;

(l) Respect for cultural diversity and the cultural rights of all, since this enhances cultural pluralism, contributes to a wider exchange of knowledge and understanding of cultural backgrounds, advances the application and enjoyment of universally accepted human rights across the world and fosters stable, friendly relations among peoples and nations worldwide;

(m) The right of every person and all peoples to a healthy environment;

(n) The promotion of equitable access to benefits from the international distribution of wealth through enhanced international cooperation, in particular in international economic, commercial and financial relations;

(o) The enjoyment by everyone of ownership of the common heritage of mankind;

5. *Stresses* the importance of preserving the rich and diverse nature of the international community of nations and peoples, as well as respect for national and regional particularities and various historical, cultural and religious backgrounds, in the enhancement of international cooperation in the field of human rights;

6. *Also stresses* that all human rights are universal, indivisible, interdependent and interrelated and 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 reaffirms that while the significance of national and regional particularities 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;

7. *Urges* all actors on the international scene to build an international order based on inclusion, justice, peace, equality and equity, human dignity, mutual understanding and promotion of and respect for cultural diversity and universal human rights, and to reject all doctrines of exclusion based on racism, racial discrimination, xenophobia and related intolerance;

8. *Expresses its rejection* of unilateralism and stresses its commitment to multilateralism and multilaterally agreed solutions, in accordance with the Charter of the United Nations and international law, as the only reasonable method of addressing international problems;

9. *Recalls* the proclamation by the General Assembly of its determination to work urgently for the establishment of an international economic order based on equity, sovereign equality, interdependence, common interest and cooperation among all States, irrespective of their economic and social systems, which shall correct inequalities and redress existing injustices, make it possible to eliminate the widening gap between the developed and the developing countries, and ensure steadily accelerating economic and social development and peace and justice for present and future generations;

10. *Reaffirms* that the international community should devise ways and means to remove current obstacles and meet the challenges to the full realization of all human rights and to prevent the continuation of human rights violations resulting therefrom throughout the world;

11. *Urges* States to continue their efforts, through enhanced international cooperation, towards the establishment of a democratic and equitable international order;

12. *Requests* the human rights treaty bodies, the Office of the United Nations High Commissioner for Human Rights and the mechanisms of the Commission and the Sub-Commission on the Promotion and Protection of Human Rights to pay due attention, within their respective mandates, to the present resolution and to make contributions towards its implementation;

13. *Requests* the Secretary-General to bring the present resolution to the attention of Member States, United Nations organs, bodies and components, intergovernmental organizations, in particular the Bretton Woods institutions, and non-governmental organizations and to disseminate it on the widest possible basis;

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

*57th meeting*

*21 April 2004*

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

**2004/65. Promotion of peace as a vital requirement for the full  
enjoyment of all human rights by all**

*The Commission on Human Rights,*

*Recalling* all previous resolutions on this issue,

*Recalling also* resolutions 1996/16 of 29 August 1996 and 1997/36 of 28 August 1997 of the Sub-Commission on the Promotion and Protection of Human Rights, entitled “International peace and security as an essential condition for the enjoyment of human rights, above all the right to life”,

*Noting* General Assembly resolution 39/11 of 12 November 1984, entitled “Declaration of the Right of Peoples to Peace”, and the United Nations Millennium Declaration,

*Determined* to foster strict respect for the purposes and principles enshrined in the Charter of the United Nations,

*Underlining*, in accordance with the purposes and principles of the United Nations, its full and active support for the United Nations and for the enhancement of its role and effectiveness in strengthening international peace, security and justice and in promoting the solution of international problems, as well as the development of friendly relations and cooperation among States,

*Reaffirming* the obligation of all States to settle their international disputes by peaceful means in such a manner that international peace and security, and justice are not endangered,

*Emphasizing* its objective of promoting better relations among all States and contributing to setting up conditions in which their people can live in true and lasting peace, free from any threat to or attempt against their security,

*Reaffirming* the obligation of all States to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations,

*Reaffirming also* its commitment to peace, security and justice and the continuing development of friendly relations and cooperation among States,

*Rejecting* the use of violence in pursuit of political aims and stressing that only peaceful political solutions can assure a stable and democratic future for all peoples around the world,

*Reaffirming* the importance of ensuring respect for the principles of sovereignty, territorial integrity and political independence of States and non-intervention in matters which are essentially within the domestic jurisdiction of any State, in accordance with the Charter and international law,

*Also reaffirming* that all peoples have the right to self-determination, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development,

*Further reaffirming* the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,

*Recognizing* that peace and development are mutually reinforcing, including in the prevention of armed conflict,

*Underlining* that the subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental rights, is contrary to the Charter and is an impediment to the promotion of world peace and cooperation,

*Recalling* that everyone is entitled to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights can be fully realized,

*Convinced* of the aim of creating conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples,

*Also convinced* that life without war is the primary international prerequisite for the material well-being, development and progress of countries, and for the full implementation of the rights and fundamental human freedoms proclaimed by the United Nations,

1. *Stresses* that peace is a vital requirement for the promotion and protection of all human rights for all;

2. *Also stresses* that the deep fault line that divides human society between the rich and the poor, and the ever-increasing gap between the developed and developing worlds pose a major threat to global prosperity, security and stability;

3. *Solemnly declares* that the preservation of peace and its promotion constitute a fundamental obligation of each State;

4. *Emphasizes* that the preservation of peace and its promotion demand that the policies of States be directed towards the elimination of the threat of war, particularly nuclear war, the renunciation of the use or threat of use of force in international relations and the settlement of international disputes by peaceful means on the basis of the Charter of the United Nations;

5. *Affirms* that all States should promote the establishment, maintenance and strengthening of international peace and security and an international system based on respect of the principles enshrined in the Charter and the promotion of all human rights and fundamental freedoms, including the right to development and the right of peoples to self-determination;

6. *Urges* all States to respect and to put into practice the principles and purposes of the Charter in their relations with all other States, irrespective of their political, economic or social systems, as well as of their size, geographical location or level of economic development;

7. *Reaffirms* the duty of all States, in accordance with the principles of the Charter, to use peaceful means to settle any dispute to which they are parties and the continuance of which is likely to endanger the maintenance of international peace and security, and encourages States to settle their disputes as early as possible, as a vital requirement for the promotion and protection of all human rights of everyone and all peoples;

8. *Decides* to continue considering the issue at its sixty-first session under the same agenda item.

*57th meeting  
21 April 2004*

[Adopted by a recorded vote of 32 votes to 15,  
with 6 abstentions. See chap. XVII.]

## **2004/66. Human rights and international solidarity**

*The Commission on Human Rights,*

*Underlining* that the processes of promoting and protecting human rights should be conducted in conformity with the purposes and principles of the Charter of the United Nations and international law,

*Reaffirming* that democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing,

*Recalling* that at the World Conference on Human Rights, held in June 1993, States pledged to cooperate with each other in ensuring development and eliminating obstacles to development, and stressed that the international community should promote effective international cooperation for the realization of the right to development and the elimination of obstacles to development,

*Reaffirming* that article 4 of the Declaration on the Right to Development states that sustained action is required to promote more rapid development of developing countries and, as a complement to the efforts of developing countries, effective international cooperation is essential in providing these countries with appropriate means and facilities to foster their comprehensive development,

*Taking into account* that article 2 of the International Covenant on Economic, Social and Cultural Rights states that each State party to the Covenant undertakes to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the Covenant by all appropriate means, including particularly the adoption of legislative measures,

*Reaffirming* that the widening gap between the economically developed and developing countries is unacceptable and unsustainable and that it impedes the realization of human rights in the international community, and makes it all the more imperative for every nation, according to its capacities, to make the maximum possible effort to close this gap,

*Expressing concern* at the fact that the immense benefits resulting from the process of globalization and economic interdependence have not reached all countries, communities and individuals, and at the increasing marginalization from their benefits of several countries, particularly the least developed and the African countries,

*Convinced* that a better world is possible for the present and future generations,

*Recognizing* the need for new and additional resources to finance the development programmes of developing countries,

*Reaffirming* the crucial importance of increasing the resources allocated for official development assistance, and recalling the pledge of the industrialized countries to allocate 0.7 per cent of their gross national product for official development assistance,

*Asserting* the necessity for establishing new, equitable and global links of partnership and intra-generational solidarity, and for promoting intergenerational solidarity for the perpetuation of humankind,

*Recognizing* that the attention paid to the importance of international solidarity as a vital component of the efforts of developing countries towards the realization of the right to development of their peoples and the promotion of the full enjoyment of economic, social and cultural rights by everyone has been insufficient,

*Persuaded* that social development can be promoted by peaceful coexistence, friendly relations and cooperation among States with different social, economic or political systems,

*Resolved* to strive to ensure that the present generations are fully aware of their responsibilities towards future generations,

1. *Reaffirms* the interdependence between the concepts of democracy, development and respect for human rights and fundamental freedoms;



2. *Welcomes* the recognition set forth in the declaration adopted by the heads of State and Government at the Millennium Summit of the United Nations of the fundamental value of solidarity to international relations in the twenty-first century, in stating that global challenges must be managed in a way that distributes costs and burdens fairly, in accordance with basic principles of equity and social justice, and that those who suffer, or who benefit least, deserve help from those who benefit most;

3. *Expresses its determination* to contribute towards the solution of current world problems through increased international cooperation, to create such conditions as will ensure that the needs and interests of future generations are not jeopardized by the burden of the past, and to hand on a better world to future generations;

4. *Urges* the international community to consider urgently concrete measures to promote and consolidate international assistance to developing countries in their endeavours for development and for the promotion of conditions that make possible the full realization of all human rights;

5. *Recognizes* that the so-called “third-generation rights” or “right to solidarity” need further progressive development within the United Nations human rights machinery in order to be able to respond to the increasing challenges of international cooperation in this field;

6. *Decides* to continue its examination of this issue at the sixty-second session under the same agenda item.

*57th meeting  
21 April 2004*

[Adopted by a recorded vote of 37 votes to 15,  
with 1 abstention. See chap. XVII.]

### **2004/67. Question of the death penalty**

*The Commission on Human Rights,*

*Recalling* article 3 of the Universal Declaration of Human Rights, which affirms the right of everyone to life, article 6 of the International Covenant on Civil and Political Rights and articles 6 and 37 (a) of the Convention on the Rights of the Child,

*Noting* that the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, provides that no one within the jurisdiction of a State party shall be executed and that each State party shall take all necessary measures to abolish the death penalty within its jurisdiction,

*Welcoming* the entry into force, on 1 July 2003, of Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), concerning the abolition of the death penalty in all circumstances,

*Recalling* its previous resolutions in which it expressed its conviction that abolition of the death penalty contributes to the enhancement of human dignity and to the progressive development of human rights,

*Welcoming* the exclusion of capital punishment from the penalties that the International Criminal Tribunal for the Former Yugoslavia, the International Tribunal for Rwanda and the International Criminal Court are authorized to impose,

*Welcoming also* the abolition or restriction of the death penalty that has taken place in some States since the last session of the Commission, and commending States that have recently acceded to the Second Optional Protocol to the International Covenant on Civil and Political Rights,

*Welcoming further* the fact that many countries that still retain the death penalty in their penal legislation are applying a moratorium on executions, and further welcoming the regional initiatives aimed at the establishment of a moratorium on executions and the abolition of the death penalty,

*Referring* to the safeguards guaranteeing protection of the rights of those facing the death penalty, set out in the annex to Economic and Social Council resolution 1984/50 of 25 May 1984,

*Noting* that, in some countries, the death penalty is often imposed after trials which do not conform to international standards of fairness and that persons belonging to national or ethnic, religious and linguistic minorities appear to be disproportionately subject to the death penalty, and condemning cases in which women are subjected to capital punishment on the basis of gender-discriminatory legislation,

*Deeply concerned* that several countries impose the death penalty in disregard of the limitations set out in the Covenant and the Convention on the Rights of the Child,

*Concerned* that several countries, in imposing the death penalty, do not take into account the safeguards guaranteeing protection of the rights of those facing the death penalty,

*Concerned* about the recent lifting of existing moratoriums on executions in several countries,

*Noting* the consideration of issues relating to the question of the death penalty by the Human Rights Committee,

*Recalling* the sixth quinquennial report of the Secretary-General on capital punishment and implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty, submitted in accordance with Economic and Social Council resolution 1995/57 of 28 July 1995 (E/2000/3),

1. *Welcomes* the yearly supplement of the Secretary-General on changes in law and practice concerning the death penalty worldwide contained in his report (E/CN.4/2004/86), which concludes that the trend towards abolition of the death penalty continues and reports progress on the increase in the number of countries that have ratified or acceded to international instruments aiming at the abolition of the death penalty;

2. *Reaffirms* resolution 2000/17 of 17 August 2000 of the Sub-Commission on the Promotion and Protection of Human Rights on international law and the imposition of the death penalty on those aged under 18 at the time of the commission of the offence;

3. *Calls upon* all States parties to the International Covenant on Civil and Political Rights that have not yet done so to consider acceding to or ratifying the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty;
4. *Urges* all States that still maintain the death penalty:
  - (a) Not to impose it for crimes committed by persons below 18 years of age;
  - (b) To exclude pregnant women and mothers with dependent infants from capital punishment;
  - (c) Not to impose the death penalty on a person suffering from any form of mental disorder or to execute any such person;
  - (d) Not to impose the death penalty for any but the most serious crimes and only pursuant to a final judgement rendered by an independent and impartial competent court, and to ensure the right to a fair trial and the right to seek pardon or commutation of sentence;
  - (e) To ensure that all legal proceedings, including those before special tribunals or jurisdictions, and particularly those related to capital offences, conform to the minimum procedural guarantees contained in article 14 of the International Covenant on Civil and Political Rights;
  - (f) To ensure that the notion of “most serious crimes” does not go beyond intentional crimes with lethal or extremely grave consequences and that the death penalty is not imposed for non-violent acts such as financial crimes, religious practice or expression of conscience and sexual relations between consenting adults;
  - (g) Not to enter any new reservations under article 6 of the Covenant which may be contrary to the object and the purpose of the Covenant and to withdraw any such existing reservations, given that article 6 enshrines the minimum rules for the protection of the right to life and the generally accepted standards in this area;
  - (h) To observe the safeguards guaranteeing protection of the rights of those facing the death penalty and to comply fully with their international obligations, in particular with those under article 36 of the 1963 Vienna Convention on Consular Relations, particularly the right to receive information on consular assistance within the context of a legal procedure, as affirmed by the jurisprudence of the International Court of Justice and confirmed in recent relevant judgments;
  - (i) To ensure that, where capital punishment occurs, it shall be carried out so as to inflict the minimum possible suffering and shall not be carried out in public or in any other degrading manner, and to ensure that any application of particularly cruel or inhuman means of execution, such as stoning, is stopped immediately;
  - (j) Not to execute any person as long as any related legal procedure, at the international or at the national level, is pending;

5. *Calls upon* all States that still maintain the death penalty:
- (a) To abolish the death penalty completely and, in the meantime, to establish a moratorium on executions;
  - (b) Progressively to restrict the number of offences for which the death penalty may be imposed and, at the least, not to extend its application to crimes to which it does not at present apply;
  - (c) To make available to the public information with regard to the imposition of the death penalty and to any scheduled execution;
  - (d) To provide to the Secretary-General and relevant United Nations bodies information relating to the use of capital punishment and the observance of the safeguards guaranteeing protection of the rights of those facing the death penalty as contained in Economic and Social Council resolution 1984/50;
6. *Calls upon* States that no longer apply the death penalty but maintain it in their legislation to abolish it;
7. *Requests* States that have received a request for extradition on a capital charge to reserve explicitly the right to refuse extradition in the absence of effective assurances from relevant authorities of the requesting State that capital punishment will not be carried out, and calls upon States to provide such effective assurances if requested to do so;
8. *Requests* the Secretary-General to submit his quinquennial report on capital punishment and implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty, paying special attention to the imposition of the death penalty against persons younger than 18 years of age at the time of the offence;
9. *Decides* to continue consideration of the matter at its sixty-first session under the same agenda item.

*57th meeting*

*21 April 2004*

[Adopted by a recorded vote of 29 votes to 19,  
with 5 abstentions. See chap. XVII.]

## **2004/68. Human rights defenders**

*The Commission on Human Rights,*

*Recalling* General Assembly resolution 53/144 of 9 December 1998, by which the Assembly adopted by consensus the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, annexed to that resolution,

*Reiterating* the importance of the Declaration and stressing the importance of its wide dissemination,

*Recalling* all previous resolutions on this subject, in particular its resolution 2003/64 of 24 April 2003 and taking note of General Assembly resolution 58/178 of 22 December 2003,

*Noting with deep concern* that, in many countries, persons and organizations engaged in promoting and defending human rights and fundamental freedoms are facing threats, harassment and insecurity as a result of those activities,

*Gravely concerned* by the human rights violations committed against persons engaged in promoting and defending human rights and fundamental freedoms around the world,

*Recalling* that human rights defenders are entitled to equal protection of the law, and deeply concerned about any abuse of civil or criminal proceedings against them because of their activities for the promotion and protection of human rights and fundamental freedoms,

*Concerned* at the considerable number of communications received by the Special Representative of the Secretary-General on the situation of human rights defenders which, together with the reports submitted by some of the special procedure mechanisms, indicate the serious nature of the risks faced by human rights defenders including during periods of special vulnerability, and including the severe consequences for women human rights defenders and defenders of rights of persons belonging to minorities,

*Noting with deep concern* that, in a number of countries in all regions of the world, impunity for threats, attacks and acts of intimidation against human rights defenders persists and that this impacts negatively on the work and safety of human rights defenders,

*Emphasizing* the important role that individuals, non-governmental organizations and groups play in the promotion and protection of human rights and fundamental freedoms, including in combating impunity, promoting access to justice and to information and public participation in decision-making, and promoting, strengthening and preserving democracy,

*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 in this regard, recalling Human Rights Committee general comment No. 29 (2001) on derogations from provisions of the Covenant during a state of emergency, which underlines the exceptional and temporary nature of any such derogations,

*Gravely concerned* that, in some instances, national security and counter-terrorism legislation and other measures have been misused to target human rights defenders or have hindered their work and safety in a manner contrary to international law,

*Acknowledging* the significant work conducted by the Special Representative of the Secretary-General and welcoming the cooperation between the Special Representative and other special procedures of the Commission,

*Welcoming* regional initiatives for the promotion and protection of human rights defenders and the cooperation between international and regional mechanisms for the protection of human rights defenders, and encouraging further development in this regard,

*Welcoming also* the steps taken by some States towards adoption of national policies or legislation for the promotion and protection of human rights defenders,

*Recalling* that the primary responsibility for promoting and protecting human rights rests with the State, and noting with deep concern that the activities of some non-State actors pose a major threat to the security of human rights defenders,

*Emphasizing* the need for strong and effective measures for the protection of human rights defenders,

1. *Calls upon* all States to promote and give full effect to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, including by taking, as appropriate, practical steps to that end;

2. *Welcomes* the reports of the Special Representative of the Secretary-General on human rights defenders (E/CN.4/2001/94, A/56/341, E/CN.4/2002/106 and Add.1-2, A/57/182, E/CN.4/2003/104 and Add.1-4, A/58/380 and E/CN.4/2004/94 and Add.1-3);

3. *Condemns* all human rights violations committed against persons engaged in promoting and defending human rights and fundamental freedoms around the world and urges States to take all appropriate action, consistent with the Declaration and all other relevant human rights instruments, to eliminate such human rights violations;

4. *Calls upon* all States to take all necessary measures to ensure the protection of human rights defenders;

5. *Urges* States to ensure that any measures to combat terrorism and preserve national security comply with their obligations under international law, in particular, under international human rights law, and do not hinder the work and safety of human rights defenders;

6. *Emphasizes* the importance of combating impunity and in this regard urges States to take appropriate measures to address the question of impunity for threats, attacks and acts of intimidation against human rights defenders;

7. *Encourages* all States to ensure and maintain an environment conducive to the work of human rights defenders;

8. *Urges* all Governments to cooperate with and assist the Special Representative in the performance of her tasks and to furnish all information for the fulfilment of her mandate upon request;

9. *Calls upon* Governments to give serious consideration to responding favourably to the Special Representative's requests to visit their countries and urges them to enter into a constructive dialogue with the Special Representative with respect to the follow-up to, and implementation of, her recommendations, so as to enable her to fulfil her mandate even more effectively;
10. *Urges* those Governments that have not yet responded to the communications transmitted to them by the Special Representative to answer without further delay;
11. *Encourages* all Governments to investigate promptly urgent appeals and allegations brought to their attention by the Special Representative and to take timely action to prevent violations of the rights of human rights defenders;
12. *Invites* Governments to consider translating the Declaration into national languages and encourages them to disseminate it widely;
13. *Requests* the Special Representative to continue to report on her activities to the General Assembly and to the Commission in accordance with her mandate;
14. *Requests* the Secretary-General to provide the Special Representative with all necessary human, material and financial resources in order to enable her to continue to carry out her mandate effectively, including through country visits;
15. *Requests* all concerned United Nations agencies and organizations, within their mandates, to provide all possible assistance and support to the Special Representative in the implementation of her programme of activities;
16. *Decides* to consider this question at its sixty-first session, under the same agenda item.

*57th meeting  
21 April 2004*

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

## **2004/69. Status of the International Covenants on Human Rights**

*The Commission on Human Rights,*

*Taking note* of General Assembly resolution 58/165 of 19 December 2003 and recalling its own resolution 2002/78 of 25 April 2002,

*Mindful* that the International Covenants on Human Rights constitute the first all-embracing and legally binding international treaties in the field of human rights and, together with the Universal Declaration of Human Rights, form the core of the International Bill of Human Rights,

*Having considered* the report of the Secretary-General on the status of the International Covenants on Human Rights (E/CN.4/2004/85),

*Recalling* the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, and reaffirming that all human rights and fundamental freedoms are universal, indivisible, interdependent and interrelated and that the promotion and protection of one category of rights should never exempt or excuse States from promotion and protection of the other rights,

*Recognizing* the important role of the Human Rights Committee and the Committee on Economic, Social and Cultural Rights in examining the progress made by States parties in fulfilling the obligations undertaken in the International Covenants on Human Rights and the Optional Protocols to the International Covenant on Civil and Political Rights and in providing recommendations to States parties on their implementation,

*Recognizing also* the importance of regional human rights instruments and monitoring mechanisms in complementing the universal system of promotion and protection of human rights,

*Considering* that the effective functioning of the Human Rights Committee and the Committee on Economic, Social and Cultural Rights is indispensable for the full and effective implementation of the International Covenants on Human Rights,

1. *Reaffirms* the importance of the International Covenants on Human Rights as major parts of international efforts to promote universal respect for and observance of human rights and fundamental freedoms;
2. *Appeals strongly* to all States that have not yet done so to become parties to the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, as well as to consider, as a matter of priority, acceding to the Optional Protocols to the International Covenant on Civil and Political Rights and making the declaration provided for in article 41 of that Covenant;
3. *Invites* the United Nations High Commissioner for Human Rights to intensify systematic efforts to encourage States to become parties to the International Covenants on Human Rights and, through the programme of technical cooperation and advisory services in the field of human rights, to assist such States, at their request, in ratifying or acceding to the Covenants and to the Optional Protocols to the International Covenant on Civil and Political Rights with a view to achieving universal adherence;
4. *Emphasizes* the importance of the strictest compliance by States parties with their obligations under the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights and, where applicable, the Optional Protocols to the International Covenant on Civil and Political Rights;
5. *Also emphasizes* that States must ensure that any measure to combat terrorism complies with their obligations under relevant international law, including their obligations under the International Covenants on Human Rights;



6. *Stresses* the importance of avoiding the erosion of human rights by derogation, and underlines the necessity of strict observance of the agreed conditions and procedures for derogation under article 4 of the International Covenant on Civil and Political Rights, bearing in mind the need for States parties to provide the fullest possible information during states of emergency so that the justification for the appropriateness of measures taken in those circumstances can be assessed; and, in this regard, recalls Human Rights Committee general comment No. 29 (2001) on derogations from provisions of the Covenant;

7. *Acknowledges* the important contributions of the Human Rights Committee and the Committee on Economic, Social and Cultural Rights towards furthering the interpretation of the rights in the Covenants and, in this regard, takes note of the practice of the Committees to elaborate general comments;

8. *Encourages* States parties to limit the extent of any limitations they lodge to the International Covenants on Human Rights, to review any reservations regularly with a view to withdrawing them, to formulate any reservations as precisely and narrowly as possible and to ensure that no reservation is incompatible with the object and purpose of the relevant treaty;

9. *Urges* States parties to fulfil in a timely manner such reporting obligations under the International Covenants on Human Rights as may be requested and to make use of gender-disaggregated data in their reports and stresses the importance of taking fully into account a gender perspective in the implementation of the International Covenants at a national level, including in the national reports of States parties and in the work of the Human Rights Committee and the Committee on Economic, Social and Cultural Rights and in all other treaty bodies;

10. *Also urges* States parties to take duly into account, in implementing the provisions of the International Covenants on Human Rights, the observations made at the conclusion of the consideration of their reports by the Human Rights Committee and by the Committee on Economic, Social and Cultural Rights, as well as the views adopted by the Human Rights Committee under the Optional Protocol to the International Covenant on Civil and Political Rights, and stresses the need for a more effective follow-up to the concluding observations;

11. *Invites* States parties to give particular attention to the dissemination at the national level of the reports they have submitted to the Human Rights Committee and the Committee on Economic, Social and Cultural Rights, the summary records relating to the examination of those reports and the recommendations and observations made by the Committees after the examination of those reports;

12. *Once again encourages* all Governments to publish the texts of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Optional Protocols to the latter in as many local languages as possible and to distribute them and make them known as widely as possible in their territories;

13. *Urges* each State party to translate, publish and make widely available in its territory by appropriate means the full text of the concluding observations made on its reports to the Human Rights Committee and the Committee on Economic, Social and Cultural Rights;

14. *Invites* the Human Rights Committee and the Committee on Economic, Social and Cultural Rights, when considering the reports of States parties, to continue to identify specific needs that might be addressed by United Nations departments, funds and programmes and the specialized agencies, including through the advisory services and technical assistance programme of the Office of the United Nations High Commissioner for Human Rights;

15. *Stresses* the need for improved coordination between relevant United Nations mechanisms and bodies in supporting States parties, upon their request, in implementing the International Covenants on Human Rights and the Optional Protocols to the International Covenant on Civil and Political Rights, and encourages continued effort in this direction;

16. *Reiterates* that States parties should take into account, in their nomination of members to the Human Rights Committee and the Committee on Economic, Social and Cultural Rights, that the Committees shall be composed of persons of high moral character and recognized competence in the field of human rights, consideration being given to the usefulness of the participation of some persons having legal experience, as well as to equal representation of women and men, and that members shall serve in their personal capacity, and also reiterates that, in the elections of the Committees, consideration shall be given to equitable geographical distribution of membership and to the representation of the different forms of civilization and of the principal legal systems;

17. *Welcomes* the efforts of the Human Rights Committee and the Committee on Economic, Social and Cultural Rights to strive for uniform standards in the implementation of the provisions of the International Covenants on Human Rights;

18. *Also welcomes* the meeting held by the Human Rights Committee and States parties in October 2002 and the meeting held by the Committee on Economic, Social and Cultural Rights and States parties in May 2003, as well as the inter-committee meetings, to exchange ideas on how to harmonize the working methods of the Committees, and encourages all States parties to continue to contribute to the dialogue with practical and concrete proposals and ideas on ways to improve the functioning of the Human Rights Committee and the Committee on Economic, Social and Cultural Rights;

19. *Notes* the need for further consideration of the issue of justiciability of the rights set forth in the International Covenant on Economic, Social and Cultural Rights, and for further efforts towards developing indicators and benchmarks to measure progress in the national implementation by States parties of the rights protected by the Covenant;

20. *Takes note* of the first session of the open-ended Working Group of the Commission with a view to considering options regarding the elaboration of an optional protocol to the International Covenant on Economic, Social and Cultural Rights and encourages all parties to take part actively in any future sessions of the Working Group;

21. *Encourages* the Secretary-General to continue to assist States parties to the International Covenants on Human Rights in the preparation of their reports, including by convening seminars or workshops at the national level for the purpose of training government

officials engaged in the preparation of such reports and by exploring other possibilities available under the regular programme of advisory services and technical cooperation in the field of human rights;

22. *Requests* the Secretary-General to ensure that the Office of the High Commissioner effectively assists the Human Rights Committee and the Committee on Economic, Social and Cultural Rights in the implementation of their respective mandates, including by the provision of adequate Secretariat staff resources, and, in this regard, takes note with interest of the establishment of the Treaties and Commission Branch within the Office of the High Commissioner;

23. *Welcomes* the initiative of the Secretary-General, taking into account the suggestions of the Human Rights Committee, to take determined steps, in particular through the Department of Public Information of the Secretariat, to give more publicity to the work of that Committee and of the Committee on Economic, Social and Cultural Rights;

24. *Requests* the Secretary-General to submit to the Commission on Human Rights, at its sixty-first and sixty-second sessions, a report on the status of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Optional Protocols to the International Covenant on Civil and Political Rights, including all reservations and declarations;

25. *Decides* to consider this question at its sixty-second session under the agenda item entitled "Status of the International Covenants on Human Rights".

*57th meeting*

*21 April 2004*

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

## **2004/70. The role of good governance in the promotion of human rights**

*The Commission on Human Rights,*

*Guided* by the Universal Declaration of Human Rights as a common standard of achievement of all peoples and all nations applying to every individual and every organ of society, and also the Vienna Declaration and Programme of Action (A/CONF.157/23), which affirmed that all human rights are universal, indivisible, interdependent and interrelated,

*Recalling* its resolution 2003/65 of 24 April 2003 and all previous relevant resolutions on the role of good governance in the promotion of human rights, as well as the United Nations Millennium Declaration,

*Recognizing* the importance of a conducive environment, at both the national and the international levels, for the full enjoyment of all human rights and the fundamental role that good governance plays in creating and maintaining such an environment,

*Recognizing also* that transparent, responsible, accountable and participatory government, responsive to the needs and aspirations of the people, is the foundation on which good governance rests and that such a foundation is a sine qua non for the full realization of human rights, including the right to development,

*Recognizing further* that good governance and the building of effective democratic institutions are a continuous process for all Governments, regardless of the level of development of the countries concerned,

*Noting* that good governance practices necessarily vary according to the particular circumstances and needs of different societies, and that the responsibility for determining and implementing such practices, based on transparency and accountability, and for creating and maintaining an enabling environment conducive to the enjoyment of all human rights at the national level rests with the State concerned,

*Welcoming* the Ulaanbaatar Declaration and Plan of Action: Democracy, Good Governance and Civil Society, adopted at the Fifth International Conference of New or Restored Democracies held in Ulaanbaatar from 10 to 12 September 2003,

*Recognizing* the contribution of democratic values founded on good governance practices in the realization of human rights, and in this context looking forward to the forthcoming Third Ministerial Conference of the Community of Democracies to be held in Santiago in February 2005,

*Welcoming* in this regard the emphasis given in the conclusions of the fifth session of the Working Group on the Right to Development to the importance of good governance at all levels in the implementation of the right to development,

*Reaffirming* the importance of international and regional cooperation, when required by the States in need, in order to facilitate the implementation of good governance practices at all levels,

1. *Calls upon* States to provide transparent, responsible, accountable and participatory government, responsive to the needs and aspirations of the people, in order to achieve the full realization of human rights;
2. *Reaffirms* the special role of good governance in development and poverty eradication, as reflected in paragraph 13 of the United Nations Millennium Declaration;
3. *Encourages*, in this context, the growing recognition of the value of partnerships among relevant actors of all levels as a solid foundation on which good governance rests, and notes that such partnerships are strengthened by, inter alia, constructive approaches to international development cooperation;
4. *Welcomes* the provision by States and intergovernmental organizations of case studies and practical examples of activities that have been effective in strengthening good governance practices for the promotion of human rights at the national level, including activities in the context of development cooperation between States;

5. *Also welcomes* the offer by the Government of the Republic of Korea to host the seminar requested in Commission resolutions 2002/76 of 25 April 2002 and 2003/65 of 24 April 2003, in Seoul in August 2004 in cooperation with the Office of the United Nations High Commissioner for Human Rights working jointly with the United Nations Development Programme;

6. *Further welcomes* the seminar's focus on essential elements of good governance, including the promotion of the rule of law, strengthening the delivery of services contributing to the realization of human rights as well as democratic institutions and participation, combating corruption in the public and private sectors, including the judiciary, as well as international cooperation, bilateral and multilateral, in support of national good governance practices;

7. *Notes with appreciation* the voluntary contributions provided by donors to date in support of the seminar and encourages additional donors to consider providing further support to the seminar;

8. *Requests* the United Nations High Commissioner for Human Rights to invite States, national human rights institutions, relevant organs and bodies of the United Nations, other relevant international bodies and relevant national and international non-governmental organizations to attend the seminar and to report to the sixty-first session of the Commission on the outcomes of the seminar;

9. *Also requests* the High Commissioner to compile indicative ideas and practices arising from the seminar and the material provided by States, intergovernmental organizations and non-governmental organizations that could be consulted by interested States when required;

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

*57th meeting  
21 April 2004*

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

#### **2004/71. Follow-up to the United Nations Decade for Human Rights Education**

*The Commission on Human Rights,*

*Recalling* its resolution 2003/70 of 25 April 2003,

*Taking note* of resolution 2003/5 of 13 August 2003 of the Sub-Commission on the Promotion and Protection of Human Rights,

*Reaffirming* the need for continued actions at the international level to support national efforts to achieve the Millennium Development Goals, in particular universal access to basic education for all, including human rights education, by the year 2015,

*Convinced* that human rights education is a long-term and lifelong process by which all people at all levels of development and in all strata of society learn respect for the dignity of others and the means and methods of ensuring that respect in all societies, and that human rights education significantly contributes to promoting equality and sustainable development, preventing conflict and human rights violations and enhancing participation and democratic processes, with a view to developing societies in which all human rights of all are valued and respected,

*Taking note* of General Assembly resolution 58/181 of 22 December 2003, in which the Assembly decided to dedicate a plenary meeting during its fifty-ninth session on the occasion of Human Rights Day, 10 December 2004, to review the achievements of the United Nations Decade for Human Rights Education, 1995-2004, and to discuss possible future activities for the enhancement of human rights education,

1. *Takes note* of the report of the United Nations High Commissioner for Human Rights on the achievements and shortcomings of the Decade, and on future United Nations activities in this area (E/CN.4/2004/93), of the report of the High Commissioner to the General Assembly on the mid-term global evaluation of the progress made towards the achievement of the objectives of the Decade (see A/55/360) and recalls the study of the High Commissioner on the follow-up to the Decade (E/CN.4/2003/101), which indicated achievements and shortcomings of the Decade as well as suggestions for its follow-up;

2. *Takes note also* of the view expressed in those reports concerning the need to continue a global framework for human rights education beyond the Decade in order to ensure a priority focus on human rights education within the international agenda, provide a common collective framework for action for all relevant actors, support existing programmes and provide an incentive for the development of new ones, as well as enhance partnership and cooperation at all levels;

3. *Recommends* to the Economic and Social Council at its substantive session of 2004 to recommend to the General Assembly that it proclaim at its fifty-ninth session a world programme for human rights education, to begin on 1 January 2005, structured in consecutive phases, in order to maintain and develop the implementation of human rights education programmes in all sectors;

4. *Requests* the Office of the United Nations High Commissioner for Human Rights to prepare, in cooperation with the United Nations Educational, Scientific and Cultural Organization and other relevant governmental and non-governmental actors, and submit for consideration and adoption to the General Assembly at its fifty-ninth session, a plan of action for the first phase (2005-2007) of the proposed world programme, focusing on the primary and secondary school systems;

5. *Also requests* the Office of the High Commissioner to keep in mind that the plan of action of each phase of the world programme shall be properly structured, shall be formulated in realistic terms, with an indication of at least minimum action, shall be funded by voluntary means, shall include provisions to support activities undertaken by all actors, in particular non-governmental organizations, and shall be evaluated by the Office;

6. *Recommends* that the Secretary-General ensure that an adequate component of United Nations assistance, provided at the request of Member States to develop their national systems of promotion and protection of human rights, supports human rights education;
7. *Requests* the Office of the High Commissioner to report to the Commission at its sixty-first session on progress made towards the implementation of the present resolution;
8. *Decides* to consider this issue at its sixty-first session under the same agenda item.

*57th meeting  
21 April 2004*

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

## **2004/72. Impunity**

*The Commission on Human Rights,*

*Guided* by the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights, the Convention on the Prevention and Punishment of the Crime of Genocide, the Geneva Conventions of 12 August 1949, and the Additional Protocols thereto of 8 June 1977, and other relevant human rights and international humanitarian law instruments, including the Vienna Declaration and Programme of Action,

*Recalling* its resolution 2003/72 of 25 April 2003,

*Reaffirming* the duty of all States to put an end to impunity and to prosecute, in accordance with their obligations under international law, those responsible for all violations of human rights and international humanitarian law that constitute crimes, including genocide, crimes against humanity and war crimes, in order to promote accountability, respect for international law and justice for the victims, deter the commission of such crimes and fulfil the responsibility of States to protect all persons from such crimes,

*Convinced* that impunity for violations of human rights and international humanitarian law that constitute crimes encourages such violations and is a fundamental obstacle to the observance and full implementation of human rights and international humanitarian law,

*Convinced also* that exposing violations of human rights and international humanitarian law that constitute crimes, holding their perpetrators, including their accomplices, accountable, obtaining justice and an effective remedy for their victims, as well as preserving historical records of such violations and restoring the dignity of victims through acknowledgement and commemoration of their suffering, are integral to the promotion and implementation of human rights and international humanitarian law and to the prevention of future violations and a key factor in ensuring a fair and equitable justice system and, ultimately, reconciliation and stability within a State,

*Welcoming* the Stockholm International Forum - "Preventing Genocide: Threats and Responsibilities", which took place from 26 to 28 January 2004, and the declaration of the Forum, as well as the decision by the Secretary-General to create a new post of Special Rapporteur on the prevention of genocide,

*Acknowledging* the importance of the work of the International Criminal Tribunal for the Former Yugoslavia and the International Tribunal for Rwanda in combating impunity,

*Recognizing* the establishment of the International Criminal Court as an important contribution to ending impunity, and noting the first referral by a State of a situation to the Court,

*Recognizing also*, as measures to combat impunity, the establishment of special regional and national tribunals, and judicial proceedings, often with international support, which are bringing to justice the perpetrators of violations of human rights and international humanitarian law that constitute crimes,

*Welcoming* cooperation between international criminal tribunals, including sharing lessons learned and devising effective approaches to meet challenges faced, to advance the common goal of strengthening the international criminal justice system,

1. *Emphasizes* the importance of combating impunity to the prevention of violations of human rights and international humanitarian law and urges States to end impunity for such crimes by bringing the perpetrators, including accomplices, to justice in accordance with international law;

2. *Recognizes* that States must prosecute or extradite perpetrators of international crimes such as genocide, crimes against humanity, war crimes and torture in accordance with their international obligations, and urges all States to take effective measures to implement these obligations;

3. *Also recognizes* that amnesties should not be granted to those who commit violations of human rights and international humanitarian law that constitute crimes, urges States to take action in accordance with their obligations under international law and welcomes the lifting, waiving, or nullification of amnesties and other immunities;

4. *Reaffirms* that States should not grant asylum to any person with respect to whom there are serious grounds for considering that he or she has committed genocide, crimes against humanity, or war crimes;

5. *Urges* all States to ensure that all military commanders and other superiors are aware of their criminal responsibility under international law for genocide, crimes against humanity and war crimes, including, under certain circumstances, for those committed by subordinates under their effective authority and control;

6. *Urges* States to bring to justice those responsible for gender-related crimes and crimes of sexual violence that constitute, in defined circumstances, genocide, crimes against humanity, or war crimes;

7. *Also urges* States to assist each other, in accordance with their international obligations and domestic law, in detecting, arresting and bringing to justice persons suspected of having committed international crimes including genocide, crimes against humanity and war crimes;



8. *Acknowledges* the historic significance of the entry into force of the Rome Statute of the International Criminal Court (A/CONF.183/9) on 1 July 2002, recognizes that to date 92 States have ratified or acceded to the Rome Statute and calls upon all States that have not yet done so to consider ratifying or acceding to it;

9. *Recognizes* the fundamental importance of the principle of complementarity in the Rome Statute and stresses the importance of the implementation by States parties of their obligations under the Statute;

10. *Calls upon* States to continue to support the work of the International Criminal Tribunal for the Former Yugoslavia and the International Tribunal for Rwanda, and to consider supporting other initiatives to establish judicial mechanisms in cooperation with the United Nations, in accordance with international standards of justice, fairness and due process of law, including at the regional and national levels;

11. *Urges* States to provide the victims of violations of human rights and international humanitarian law that constitute crimes, with a fair and equitable process through which these violations can be investigated and made public in the interest of the victims and to encourage victims to participate in such a process, including by taking measures to ensure the protection of, and support and assistance to, victims and witnesses, that are appropriate and sensitive to their needs, including contact points and child- and gender-sensitive procedures and attention to crimes of sexual violence, in judicial and truth and reconciliation processes;

12. *Welcomes* in this regard the establishment in some States of judicial proceedings and commissions of truth and reconciliation, including those with international participation, to address violations of human rights and international humanitarian law, welcomes the publication in those States of the reports of such investigations and commissions, urges all States to make their reports accessible to the public and to implement, and monitor implementation of, their recommendations, and encourages other States where such violations have occurred in the past to establish appropriate processes to address them, consistent with international standards of justice, fairness, and due process of law;

13. *Calls upon* all States to ensure that criminal proceedings are conducted in accordance with the right to a fair and public hearing by a competent, independent, impartial and duly constituted tribunal in accordance with applicable international law, and to ensure that penalties are appropriate and proportionate to the gravity of the crime committed;

14. *Recognizes* the important role of civil society in combating impunity and encourages States to involve, as appropriate, civil society, including victims and human rights defenders, in efforts to combat impunity, including judicial processes and the design of truth commissions, the selection of commissioners and the drafting of relevant legislation;

15. *Encourages* States to strengthen training of police, investigative, prosecutorial and judicial personnel in human rights and international humanitarian law;

16. *Recalls* the Set of Principles for the protection and promotion of human rights through action to combat impunity (E/CN.4/Sub.2/1997/20/Rev.1, annex II), takes note that the Principles have already been applied at the regional and national levels, and invites other States, intergovernmental organizations and non-governmental organizations to consider the Principles in efforts to combat impunity;

17. *Takes note with appreciation* of the independent study on impunity (E/CN.4/2004/88), commissioned by the Secretary-General pursuant to Commission resolution 2003/72 as well as the expert workshop on best practices to combat impunity held in Geneva on 8 and 9 December 2003, organized by the Office of the United Nations High Commissioner for Human Rights;

18. *Encourages* States in their efforts to strengthen their domestic capacity to combat impunity and to consider the recommendations and best practices identified in the independent study on impunity, and requests the United Nations High Commissioner for Human Rights to provide, upon request, technical and legal assistance in developing national legislation and institutions to combat impunity in accordance with international standards of justice, fairness and due process of law;

19. *Requests* the Secretary-General again to invite States and intergovernmental and non-governmental organizations to provide information, including best practices, on any legislative, administrative or other steps they have taken to combat impunity for human rights violations in their territory and to provide information on remedies available to the victims of such violations, as well as views on the Set of Principles;

20. *Also requests* the Secretary-General to appoint an independent expert, from within existing resources and for a period of one year, to update the Set of Principles to reflect recent developments in international law and practice, including international jurisprudence and State practice, and taking into account the independent study and comments received pursuant to the present resolution, for consideration by the Commission no later than at its sixty-first session;

21. *Invites* the special rapporteurs and other mechanisms of the Commission to continue to give due consideration to the issue of impunity in the discharge of their mandates;

22. *Decides* to continue its consideration of this matter at its sixty-first session under the same agenda item.

*57th meeting  
21 April 2004*

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

### **2004/73. Composition of the staff of the Office of the United Nations High Commissioner for Human Rights**

*The Commission on Human Rights,*

*Recalling* that, in its report to the Special Commission of the Economic and Social Council (E/CN.4/1988/85 and Corr.1), the Commission reaffirmed that the paramount consideration for employing staff at every level was the need for the highest standards of

efficiency, competence and integrity and was convinced that this objective was compatible with the principle of equitable geographical distribution and took into account Article 101, paragraph 3, of the Charter of the United Nations,

*Recalling also* Part II, paragraphs 11 and 17, of the Vienna Declaration and Programme of Action (A/CONF.157/23), in which the World Conference on Human Rights requested the Secretary-General and the General Assembly to provide sufficient human, financial and other resources to the Centre for Human Rights to enable it effectively, efficiently and expeditiously to carry out its activities, while recognizing the necessity for restructuring United Nations human rights machinery, in accordance with its real needs,

*Reaffirming* the significance of national and regional particularities and various historical, cultural and religious backgrounds, as well as of different political, economic and legal systems,

*Recognizing* that the United Nations pursues multilingualism as a means of promoting, protecting and preserving diversity of languages and cultures globally and that genuine multilingualism promotes unity in diversity and international understanding,

*Taking into account* the need to pay particular attention to the recruitment of personnel for the Office of the United Nations High Commissioner for Human Rights from unrepresented and underrepresented Member States, particularly from developing countries and countries with economies in transition, thus improving the present staff composition, based on a more equitable geographical distribution,

*Reiterating its deep concern* that the report of the United Nations High Commissioner for Human Rights, submitted pursuant to Commission resolution 2003/74 of 25 April 2003 (E/CN.4/2004/100) concerning the geographical composition and the functions of the Office staff clearly reflects that one region is unequivocally overrepresented in the staff composition and that the imbalance still remains (see the annexes to the present resolution),

*Expressing again its concern* over the non-representation and underrepresentation of several Member States, especially developing countries and countries with economies in transition, on the staff of the Office of the High Commissioner, many of them also non-represented or underrepresented at the level of the whole Secretariat, particularly bearing in mind the criteria of equitable geographical distribution,

*Expressing its concern also* that the prevalence of project personnel has skewed the geographical distribution of the staff of the Office towards Western Europe and North America, compared to the Secretariat-wide pattern, as has the geographical distribution of consultants,

*Noting with grave concern* that the dependency of the Office on extrabudgetary resources is at the heart of the imbalance in the composition of its staff,

1. *Takes note* of the report of the High Commissioner on the composition of the staff of the Office of the High Commissioner and the measures implemented by the Office, as described therein, although they have not improved the situation;

2. *Welcomes* the report of the Joint Inspection Unit entitled “Management review of the Office of the United Nations High Commissioner for Human Rights” (JIU/REP/2003/6) - transmitted to the General Assembly in a note by the Secretary-General (A/59/65-E/2004/48 and Add.1) - with its particular emphasis on recruitment policies and the composition of the staff, submitted pursuant to Commission resolutions 2002/80 of 25 April 2002 and 2003/74;

3. *Recalls* that the General Assembly has requested the Secretary-General to hold accountable the heads of the relevant departments for the human resources action plans and to ensure that they in turn take due account of equitable geographical representation when considering candidates on the lists endorsed by the central review bodies, as well as candidates on the rosters, and to report to the General Assembly annually on progress made by departments in the implementation of their respective human resources action plans;

4. *Expresses its grave concern* at the conclusion contained in the report of the Joint Inspection Unit that the unbalanced geographical distribution of staff is a serious, endemic problem in the Office of the High Commissioner;

5. *Regrets* that, despite the repeated requests by the Commission to correct the unbalanced geographical distribution of the staff, the situation remains, that one region accounts for more than half of the posts of the Office of the High Commissioner and for more posts than the four remaining regional groups combined, and that there has been a bigger increase in the number of posts not subject to geographical distribution than for those subject to geographical distribution, which account for little more than one third of the total staff;

6. *Recognizes* that the establishment of the Advisory Panel on Personnel Issues is a reasonable initiative, but also that the current composition of the Panel is very inequitable, with only one member of the six being from a developing country, and therefore requests that the High Commissioner review its composition and mandate with a view to reflecting a balanced geographical distribution in the membership of the Panel and ensuring that it contributes to the improvement of the composition of the staff of the Office in general;

7. *Takes note* of the recommendation of the High Commissioner that the Office of Human Resources Management establish a human rights occupational group to attract to the area of human rights qualified junior professionals from unrepresented and underrepresented countries, while stressing that it would be more effective for the Office of the High Commissioner to provide the Office of Human Resources Management with a list of countries unrepresented or underrepresented within the Office, and therefore requests that the Office of the High Commissioner compile annually such a list and that the Office of Human Resources Management take that list into consideration when organizing competitive examinations;

8. *Welcomes* the fact that the Office of the High Commissioner has instituted measures to apply the Organization’s principles of geographical distribution with particular regard to unrepresented and underrepresented developing countries when filling extrabudgetary posts and that in the last year there has been an increase in the number of staff not subject to geographical distribution from developing-country regional groups and from countries with economies in transition, and requests the High Commissioner to continue using the policy of new recruitment to correct the current imbalance in the composition of the staff of the Office;

9. *Expresses its concern* that half of the newly recruited staff for posts not subject to geographical distribution come from one region, which accounts for slightly more newly recruited staff than the four remaining regions combined, thereby keeping the existing gap almost intact;

10. *Also expresses its concern* about the widespread assignment of technical advisers (staff holding appointments under the 200 series of the Staff Rules of the United Nations) to carry out line functions, which should be performed by 100-series staff, and to supervise staff under the 100 series of the Staff Rules, a practice against established policies that should be discontinued;

11. *Stresses* that the proposal of the Office of the High Commissioner to the Office of Human Resources Management to reduce the number of 200-series contracts of staff performing core functions by converting their 200-series contracts into 100-series contracts, limited to service with the Office of the High Commissioner, is against United Nations human resources policies, regulations and rules and, therefore, unacceptable;

12. *Requests* the Office of the High Commissioner to observe fully United Nations human resources policies, regulations, rules and practices and, therefore, to align without further delay its human resources practices and procedures, in particular its recruitment and contractual policies, with Secretariat human resources policies, rules, regulations and practices and, furthermore, to check and align its post-classification criteria with those of the Secretariat before any post is advertised and to discontinue the practice of advertising extrabudgetary posts without first checking the classification criteria with the United Nations Office in Geneva;

13. *Reiterates* the need for the High Commissioner to observe the provisions contained in section X, paragraph 3, of General Assembly resolution 55/258 of 14 June 2001 on human resources management, which reiterates its request to the Secretary-General to increase further his efforts to improve the composition of the Secretariat by ensuring a wide and equitable geographical distribution of staff in all departments;

14. *Considers* that it is necessary to take urgent, concrete and immediate action to change the currently prevailing geographical distribution of staff of the Office in favour of a more equitable distribution of posts, in accordance with Article 101 of the Charter, particularly by recruiting personnel from developing countries and countries with economies in transition, including to senior posts;

15. *Requests once again* the Secretary-General to take the necessary measures to ensure that particular attention is paid to recruiting personnel from unrepresented and underrepresented Member States, in particular from developing countries and countries with economies in transition, for the existing vacancies and for additional posts in the Office of the High Commissioner to ensure an equitable geographical distribution and a better gender balance, giving particular priority in this regard to recruitment for high-level and Professional posts;

16. *Urges* donors to make their voluntary contributions unearmarked, as much as possible, to enable the High Commissioner flexibility in the allocation of staff and resources between the different activities and projects;

17. *Requests once again* the Secretary-General, in signing agreements with countries as a result of which Junior Professional Officers are provided to the Office of the High Commissioner, to urge those countries to ensure the allocation of additional financial resources to guarantee that personnel from developing countries are able to work as Junior Professional Officers, with a view to conforming with the principle of equitable geographical distribution; furthermore, a permanent mechanism must be established, by virtue of which every Junior Professional Officer from a donor country who joins the Office will be matched by another Junior Professional Officer from a developing country;

18. *Emphasizes* the importance of openly advertising all posts, including ad hoc appointments for field operations, including the dissemination of detailed job descriptions among all States prior to the filling of those posts;

19. *Requests* the High Commissioner to ensure that Junior Professional Officers are not given either sensitive political or core assignments where their impartiality may be questioned;

20. *Reiterates* the standing rule that consultants shall not perform functions of staff members of the Organization nor have any representative or supervisory responsibility, and calls upon the High Commissioner to:

(a) Refrain from using consultants to carry out functions assigned to established posts;

(b) Strictly observe the existing rules and relevant resolutions of the General Assembly in hiring consultants, in particular to ensure and certify that expertise is not available within the Organization before deciding to hire them;

(c) Make greater efforts to ensure geographical balance among qualified consultants and individual contractors;

21. *Reaffirms* the importance of ensuring universality, objectivity and non-selectivity in the consideration of human rights issues and requests the High Commissioner to continue to ensure that the fulfilment of his mandate and that of the Office is guided by these principles;

22. *Stresses* that the staff of the Office of the High Commissioner need to maintain their neutrality and fully respect the independence of the work of all mechanisms of the Commission and the treaty bodies, while providing support to their functioning;

23. *Requests* the High Commissioner:

(a) To prepare a comprehensive action plan aimed at reducing the current imbalance in the staff, indicating specific targets and deadlines to be achieved;

(b) To avoid overlapping and duplication of functions and to work towards the goal of increased effectiveness and improved management, taking into account the relevant resolutions and decisions, including the request of the General Assembly for streamlined management, as well as the recommendations made in that regard, when proposing new structures, posts and reclassifications of posts, including those of senior management, with a view to ensuring optimal leadership and consistency of structures;

(c) To submit a comprehensive report on the implementation of the present resolution to the Commission at its sixty-first session, which should include:

- (i) The composition of the staff of the Office, organized by the five United Nations regional groups established by the General Assembly (African States, Asian States, Latin American and Caribbean States, Western European and Other States and Eastern European States) and reflecting, inter alia, grade, nationality and gender, including with regard to non-regular staff;
- (ii) The action plan, as well as the measures adopted to implement it, concrete achievements and their results;
- (iii) The measures taken to implement other actions requested by the present resolution and their achievements;
- (iv) Any further recommendations to improve the current situation;

24. *Draws the attention* of the General Assembly to the present resolution in the context of the consideration of the agenda item on human resources management;

25. *Invites* the General Assembly and its appropriate subsidiary bodies, inter alia, the Advisory Committee on Administrative and Budgetary Questions, the Committee for Programme and Coordination and the Fifth Committee of the Assembly, to give due consideration to the present resolution and to the report of the Joint Inspection Unit entitled “Management review of the Office of the United Nations High Commissioner for Human Rights”, in particular to any other organization, management, executive direction, structure, administrative, financial and more technical human resources management issues and recommendations contained therein and not addressed in this resolution;

26. *Requests* the Joint Inspection Unit to assist the Commission on Human Rights to monitor systematically the implementation of the present resolution and to submit a follow-up comprehensive review of the implementation of the decisions of the Commission and other United Nations intergovernmental bodies regarding the management, programmes and administration of the Office of the High Commissioner, in particular, with regard to their impact on the recruitment policies and the composition of the staff, to the Commission at its sixty-third session and to the General Assembly at its sixty-first session, containing any concrete proposals for corrective action, if required, for the implementation of the relevant intergovernmental bodies’ resolutions, including the present resolution;

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

*57th meeting  
21 April 2004*

[Adopted by a recorded vote of 35 votes to 14,  
with 4 abstentions. See chap. XVIII.]

## ANNEX 1

### Staff of the Office of the United Nations High Commissioner for Human Rights

#### *Geographical distribution (by number of posts)\**

Regional groups	Posts subject to geographical distribution					Posts not subject to geographical distribution					Total				
	2000	2001	2002	2003	2004	2000	2001	2002	2003	2004	2000	2001	2002	2003	2004
African States	11	10	12	10	9	25	21	22	24	25	36	31	34	34	34
Asian States	15	13	17	16	16	1	6	9	8	11	16	19	26	24	27
Latin America and Caribbean States	8	9	9	9	9	8	10	13	15	19	16	19	22	24	28
Eastern Europe States	5	5	5	6	7	1	6	6	7	7	6	11	11	13	14
Western Europe and Other States**	36	41	48	45	46	61	69	85	96	104	97	110	133	141	150
Total of posts	75	78	91	86	87	96	112	135	150	166	171	190	226	236	253

\* Figures for 2004 were based on tables 1 and 2 of the report of the High Commissioner (E/CN.4/2004/100). The figures for the earlier years were based on the reports of the High Commissioner for those years.

\*\* Includes Switzerland and Israel.

## ANNEX II

### Staff of the Office of the United Nations High Commissioner for Human Rights

#### *Geographical distribution*

*(Percentage)\**

Regional groups	Posts subject to geographical distribution					Posts not subject to geographical distribution					Total				
	2000	2001	2002	2003	2004	2000	2001	2002	2003	2004	2000	2001	2002	2003	2004
African States	15	13	13	11.6	10.3	26	19	16	16	15.1	21	16	15	14.4	13.4
Asian States	20	17	19	18.6	18.4	1	5	7	5	6.6	9	10	11	10.1	10.7
Latin America and Caribbean States	11	11	10	10.5	10.3	8	9	10	10	11.4	9	10	10	10.1	11.1
Eastern Europe States	6	6	5	7	8.0	1	5	4	5	4.2	4	6	5	5.5	5.5
Western Europe and Other States**	48	53	53	52.3	52.9	64	62	63	64	62.7	57	58	59	59.8	59.3

\* Percentages for 2004 were calculated based on tables 1 and 2 of the report of the High Commissioner (E/CN.4/2004/100). The figures for the earlier years were calculated based on the reports of the High Commissioner for those years.

\*\* Includes Switzerland and Israel.



**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;
2. *Stresses* the importance of the linkages and mutually reinforcing aspects of all four areas of the Framework of the Regional Technical Cooperation Programme in the Asia and Pacific Region (E/CN.4/1998/50, annex II) adopted at the sixth Workshop on Regional Arrangements 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 of the Framework adopted in Beirut at the tenth Workshop;

3. *Commends* the contribution of the Government 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, Mr. 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 of the Regional Technical Cooperation Programme in the Asia 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 of the evaluation undertaken on the implementation of the Framework;

11. *Further takes note* of the call by the Acting United Nations 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 of the Regional Technical Cooperation Programme in the Asia 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. *Also welcomes* the efforts of the Office of the High Commissioner in developing partnerships for the implementation of its activities under the Framework 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 for the promotion and protection of human rights annexed to General Assembly resolution 48/134 (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 (A/CONF.157/23), 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,

*Also recalling* the Programme of Action (see A/CONF.157/NI/6) 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 twelfth Workshop on Regional Cooperation for the Promotion and Protection of Human Rights in the Asia and Pacific Region held in Doha from 2 to 4 March 2004 with regard to the role of national institutions (see E/CN.4/2004/89),

*Welcoming* the call of the Workshop for the Office of the United Nations 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 Paris Principles;

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 to elaborate a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities - 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 (see A/57/387 and Corr.1), 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 on Human Rights (E/CN.4/2000/112), 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, in the context of the need to safeguard their independence,

*Recalling also* the request of the General Assembly to the Commission 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,

*Noting* the establishment of the Special Procedures Branch, enabling the Office of the United Nations 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 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 High Commissioner;

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:

(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 High Commissioner;

(e) To work with special procedures to intensify their coordination and to enhance further 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 strengthen further 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, held in Geneva in June 2003, 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 8 June 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 President 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 71 Member States as at the present date, and mindful of the need to promote its universality,

*Welcoming also* 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 (A/CONF.183/9), 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 enhance further 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 adopted on 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 8 June 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, with a mandate to expand the scope of legal protection under the Convention, 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 of 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 of:*

(a) The report of the Secretary-General entitled “Strengthening of the United Nations: an agenda for further change” (A/57/387 and Corr.1) and his report on the status of implementation of actions described therein (A/58/351), and recalling 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) The note by the Office of the United Nations High Commissioner for Human Rights (E/CN.4/2004/98), submitted pursuant to Commission resolution 2002/85,

(c) The report of 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 (ibid., annex I),

(d) The report of the brainstorming meeting on reform of the human rights treaty body system, held in Malbun, Liechtenstein, in May 2003 (A/58/123, annex),

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 High Commissioner to strengthen the United Nations treaty body system inter alia through thematic workshops, including at the regional level, technical assistance, the creation of the Treaty Implementation 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 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 also* 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 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, 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 actively to 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. *Also 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 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 the Treaty Implementation 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 United Nations High Commissioner for Human Rights 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 extrabudgetary 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 on 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 on 6 June 2003 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 enhance further 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. *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 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 (S/2004/115 and Corr.1), Council resolutions 751 (1992) of 24 April 1992, 1407 (2002) of 3 May 2002, 1425 (2002) of 22 July 2002, 1474 (2003) of 8 April 2003 and 1519 (2003) of 16 December 2003, 1265 (1999) of 17 September 1999 on the 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 Declaration on Cessation of Hostilities and the Structures and Principles of the Somali National Reconciliation Process (Eldoret Declaration) of 27 October 2002, 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 Intergovernmental Authority's Facilitation Committee, including all States members of the Intergovernmental Authority;

(b) The signing, on 29 January 2004, of the Declaration on the Harmonization of the Various Issues by the Somali Delegates at the Consultative Meetings held from 9 to 29 January 2004 in Nairobi, 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 reconciliation 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, its 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 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 United Nations 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 United Nations 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 appointed by the Secretary-General on the situation of human rights in Somalia;

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) of 23 January 1992 and to continue to work closely with the mechanisms established to enforce the embargo pursuant to 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 Security 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 Security 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 Security 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 appointed by the Secretary-General on the situation of human rights in Somalia and welcomes his report (E/CN.4/2004/103);

16. *Decides*:

(a) To extend the mandate of the independent expert for a further year and requests him 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:

[For the text, see chap. I, draft decision 27.]

*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 (A/CONF.157/23), 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 High Commissioner;

2. *Notes* the completion of the global review of the technical cooperation programme of the Office of the High Commissioner;

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 develop effectively 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.

*28th 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 Government of Burundi and the Office in Burundi of the United Nations High Commissioner for Human Rights in the promotion and protection of human rights,

*Applauding* the Government of Burundi'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 Government of Burundi 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 between 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, United Republic of Tanzania, 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 Joint 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 Chairperson of the Regional Peace Initiative on Burundi, Mr. Yoweri K. Museveni, President of Uganda, and by the President of South Africa, Mr. Thabo Mbeki and his Vice-President, Mr. Jacob Zuma,

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

*Applauding* the constructive attitude of the Government of Burundi and its willingness to continue to cooperate with the Office of the High Commissioner 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 population of Burundi;

3. *Also encourages* the Transitional Government, with support from its partners, to continue the cantonment and disarmament process as part of the national disarmament, demobilization and reintegration programme;
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 de 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 the United Republic 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 of Burundi to ratify the Rome Statute of the International Criminal Court (A/CONF.183/9);
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, promote the rehabilitation of female victims of armed conflict and violence, and improve 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 High Commissioner 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 her programme of technical assistance in accordance with the cooperation framework agreement 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 the Commission 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:

[For the text, see chap. I, draft decision 28.]

*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 in 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 18 August 2003 in Accra;
- (d) The commitments undertaken at the International Reconstruction Conference for 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 at:*

- (a) The continued existence of paramilitary groups;
- (b) The serious violations of human rights and international humanitarian law that continue to be perpetrated against the civilian population, particularly women and children;
- (c) The extent of the sexual violence perpetrated against women and girls;
- (d) 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) 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 of national institutions for the promotion and protection 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 Reconstruction Conference for Liberia;

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 continue consideration of 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,

*Bearing in mind* 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/2004/2),

*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, northern 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 Government of National Unity and Transition 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 (see 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, northern 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, northern 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, harassment, unlawful arrest, widespread 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 (A/CONF.183/9);

(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 on the Transition in the Democratic Republic of the Congo, signed in Pretoria on 17 September 2002:

(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, which are 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 the age of 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 forms of violence;

5. *Calls upon* the Government of National Unity and Transition to take specific measures:

(a) To achieve the objectives of the period of transition as laid down in the Global and All-Inclusive Agreement, in particular the holding of free and transparent elections at all levels, enabling the establishment of a democratic constitutional 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 set up effectively 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 concerned, and to promote human rights and humanitarian issues 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 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 agenda item.

*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 a 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 High Commissioner 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 intercommunal 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 intercommunal 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 and United Nations Development Assistance Framework 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:

[For the text, see chap. I, draft decision 30.]

*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 to the General Assembly (see 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 helping to 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 National Association of Farmers of Sierra Leone 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 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 for Sierra Leone 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 Special 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 (A/CONF.157/23), 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 Human Rights Committee general comment No. 29 (2001) on derogations to the Covenant during a state of emergency,

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;
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 Council and its 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 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, 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.]

**2004/88. World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action**

*The Commission on Human Rights,*

*Recalling* all its previous resolutions on the elimination of racism, racial discrimination, xenophobia and related intolerance,

*Recalling in particular* its resolutions 2002/68 of 25 April 2002 and 2003/30 of 23 April 2003, in which the Commission established effective mechanisms for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/CONF.189/12 and Corr.1),

*Taking note* of General Assembly resolution 58/160 of 22 December 2003, and appreciating the growing momentum for enhanced effort by the international community towards the elimination of racism, racial discrimination, xenophobia and related intolerance,

*Taking note also* that in General Assembly resolutions 57/195 of 18 December 2002 and 58/160 the Assembly outlined the important roles and responsibilities of the various organs of the United Nations and other stakeholders at the international, regional and national levels, including, in particular, the Commission on Human Rights,

*Acknowledging* the entry into force of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families on 1 July 2003 and inviting all States that have not yet done so to consider signing, ratifying or acceding to this important instrument,

*Recognizing with deep concern* the increase in anti-Semitism, Christianophobia and Islamophobia in various parts of the world, as well as the emergence of racial and violent movements based on racism and discriminatory ideas directed against Arab, Christian, Jewish and Muslim communities, communities of people of African descent, communities of Asian descent and other communities,

*Underlining* that political will, international cooperation and adequate funding at all levels are indispensable prerequisites for the successful implementation of the Durban Declaration and Programme of Action,

*Underlining also* its commitment to a global drive for the total elimination of racism, racial discrimination, xenophobia and related intolerance, and encouraging all States to join this drive towards non-discrimination, human dignity and equality for all peoples worldwide,

## I. BASIC GENERAL PRINCIPLES

1. *Acknowledges* that no derogation from the prohibition of racial discrimination, genocide, the crime of apartheid or slavery is permitted, as defined in the obligations under the relevant human rights instruments;
2. *Stresses* that States and international organizations have a responsibility to ensure that measures taken in the struggle against terrorism do not discriminate in purpose or effect on grounds of race, colour, descent or national or ethnic origin, and urges all States to rescind or refrain from all forms of racial profiling;
3. *Regrets* that racially discriminatory immigration laws, policies and practices, including enforcement mechanisms, contribute to the persistence of racism, racial discrimination, xenophobia and related intolerance and in this context urges all States that have not yet done so to review and revise any racially discriminatory immigration laws, policies and practices so that they are free of racial discrimination and compatible with their obligations under international human rights instruments;
4. *Underlines* the importance of mainstreaming the values of non-discrimination, equality, human dignity and human solidarity in the United Nations system;
5. *Urges* States to mainstream a gender perspective in the design and development of prevention, education, promotion and protection measures aimed at the eradication of racism, racial discrimination, xenophobia and related intolerance at all levels, to ensure that they effectively target the distinct situations of women and men;

## II. INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION

6. *Reiterates* the call made by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in paragraph 75 of the Durban Plan of Action to achieve universal ratification of the International Convention on the Elimination of All Forms of Racial Discrimination by 2005 and for all States to consider making the declaration envisaged under article 14 of the Convention, and expresses grave concern that at the current pace, that is, 169 ratifications and only 45 declarations, the deadline for universal ratification decided by the Conference will regrettably not be realized;
7. *Calls upon* all States that have not yet complied with the recommendations of the Conference urgently to demonstrate will and commitment towards the fulfilment of these recommendations as a matter of priority;

8. *Notes* that the Committee on the Elimination of Racial Discrimination, in its general recommendation XV (42) of 17 March 1993 concerning article 4 of the Convention, holds that the prohibition of the dissemination of ideas based on racial superiority or racial hatred is compatible with the right to freedom of opinion and expression as outlined in article 19 of the Universal Declaration of Human Rights and in article 5 of the Convention;

9. *Welcomes and emphasizes* the importance of implementing general recommendation XXVIII, adopted on 19 March 2002 by the Committee on the Elimination of Racial Discrimination, in which the Committee emphasized the importance of follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and recommended measures to strengthen the implementation of the Convention as well as the functioning of the Committee;

### III. COMPREHENSIVE IMPLEMENTATION OF AND FOLLOW-UP TO THE DURBAN DECLARATION AND PROGRAMME OF ACTION

10. *Welcomes* the outcome of the intergovernmental working group established to make recommendations with a view to the effective implementation of the Durban Declaration and Programme of Action outlined in the report of the Working Group on the work of its second session (E/CN.4/2004/20), which focuses on the cross-cutting thematic issues of poverty eradication and education, and calls upon all States to implement the recommendations of the Working Group without delay, and notes with appreciation that at its next session the Working Group will undertake thematic discussions on the issues of health and the Internet, in the context of racism;

11. *Calls upon* the Office of the United Nations High Commissioner for Human Rights to implement all the relevant recommendations of the second session of the Working Group and to submit a progress report in that regard to the Commission at its sixty-first session;

12. *Welcomes* the outcome of the third session of the Working Group of Experts on People of African Descent, which focused on the thematic issues of administration of justice, the media and access to education;

13. *Also welcomes* the inaugural meeting of the group of independent eminent experts, held at Geneva from 16 to 18 September 2003, with the participation of representatives of Member States, the United Nations system and civil society, takes note of its substantive outcome, and in this context requests the United Nations High Commissioner for Human Rights to examine the possibility of the development of a racial equality index, as proposed by the group, and to report thereon to the Commission at its next session;

14. *Recognizes* the centrality of resource mobilization, effective global partnership and international cooperation in the context of paragraphs 157 and 158 of the Durban Programme of Action for the successful realization of commitments undertaken at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and to this end emphasizes the central role to be played by the group of independent eminent experts in mobilizing the necessary political will required for the successful implementation of the Durban Declaration and Programme of Action;

15. *Welcomes with appreciation* the recommendation of the Intergovernmental Working Group on the effective implementation of the Durban Declaration and Programme of Action to undertake at its next session the process of preparation of complementary standards consistent with all the recommendations of the Working Group contained in paragraphs 19 to 27 of its report on the work of its second session, with a view to strengthening and updating international instruments against racism, racial discrimination, xenophobia and related intolerance;

#### IV. SPECIAL RAPPORTEUR ON CONTEMPORARY FORMS OF RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE, AND FOLLOW-UP TO HIS VISITS

16. *Expresses its full support and appreciation* for the work of the Special Rapporteur, welcomes his reports (E/CN.4/2004/18 and Add. 1-4 and E/CN.4/2004/19) and encourages the continuation of his work;

17. *Reiterates its call* to all Member States, intergovernmental organizations, relevant organizations of the United Nations and non-governmental organizations to cooperate fully with the Special Rapporteur;

18. *Urges* all Governments to consider favourably the requests for visits by the Special Rapporteur;

19. *Urges* Member States to consider implementing the recommendations contained in the reports of the Special Rapporteur;

20. *Invites* the High Commissioner to provide States, at their request, with advisory services and technical assistance to enable them to implement fully the recommendations of the Special Rapporteur;

21. *Requests* the Secretary-General to provide the Special Rapporteur with all the necessary human and financial assistance to carry out his mandate efficiently, effectively and expeditiously and to enable him to submit an interim report to the General Assembly at its fifty-ninth session and to the Commission at its sixty-first session;

#### V. GENERAL

22. *Decides* to consider this matter at its sixty-first session under the sub-item of the agenda entitled "Comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action".

*59th meeting  
22 April 2004*

[Adopted by a recorded vote of 38 votes to 1,  
with 14 abstentions. See chap. VI.]



## **B. Decisions**

### **2004/101. Organization of work**

At its 2nd meeting, on 15 March 2004, the Commission on Human Rights decided, without a vote, to invite the following persons to participate in its meetings:

(a) In connection with item 5: Mr. E. Bernales Ballesteros, Special Rapporteur on the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination;

(b) In connection with item 6: Mr. D. Diène, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance;

(c) In connection with item 6: Mr. P. L. Kasanda, Chairperson-Rapporteur of the Working Group of experts on people of African descent;

(d) In connection with item 6: Mr. J. Martabit, Chairperson-Rapporteur of the intergovernmental working group established to make recommendations with a view to the effective implementation of the Durban Declaration and Programme of Action;

(e) In connection with item 7: Mr. A. Sengupta, independent expert on the right to development;

(f) In connection with item 7: Mr. I. Salama, Chairperson-Rapporteur of the Working Group on the Right to Development;

(g) In connection with item 8: Mr. J. Dugard, Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967;

(h) In connection with item 9: Ms. M.T. Keita-Bocoum, Special Rapporteur on the situation of human rights in Burundi;

(i) In connection with item 9: Ms. C. Chanet, Personal Representative of the United Nations High Commissioner for Human Rights on the situation of human rights in Cuba;

(j) In connection with item 9: Ms. I. A. Motoc, Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo;

(k) In connection with item 9: Mr. A. Mavrommatis, Special Rapporteur on the situation of human rights in Iraq;

(l) In connection with item 9: Mr. P. S. Pinheiro, Special Rapporteur on the situation of human rights in Myanmar;

(m) In connection with item 9 (b): Mr. F. Yimer, Chairperson-Rapporteur of the Working Group on Communications of the Sub-Commission on the Promotion and Protection of Human Rights; representatives of States in respect of which situations were being considered under item 9 (b);

(n) In connection with item 10: Mr. B. A. Nyamwaya Mudho, independent expert on the effects of structural adjustment policies and foreign debt on the full enjoyment of all human rights, particularly economic, social and cultural rights;

(o) In connection with item 10: Mr. J. Ziegler, Special Rapporteur on the right to food;

(p) In connection with item 10: Ms. F. Z. Ouhachi-Vesely, Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights;

(q) In connection with item 10: Mr. M. Kothari, Special Rapporteur on adequate housing as a component of the right to an adequate standard of living;

(r) In connection with item 10: Ms. A.-M. Lizin, independent expert on the question of human rights and extreme poverty;

(s) In connection with item 10: Ms. K. Tomasevski, Special Rapporteur on the right to education;

(t) In connection with item 10: Mr. P. Hunt, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;

(u) In connection with item 10: Ms. C. Albuquerque, Chairperson-Rapporteur of the open-ended Working Group of the Commission with a view to considering options regarding the elaboration of an optional protocol to the International Covenant on Economic, Social and Cultural Rights;

(v) In connection with item 11 (a): Mr. T. van Boven, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment;

(w) In connection with item 11 (a): Ms. L. Zerrougui, Chairperson-Rapporteur of the Working Group on Arbitrary Detention;

(x) In connection with item 11 (a): Mr. I. Tosevski, member of the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture;

(y) In connection with item 11 (b): Ms. A. Jahangir, Special Rapporteur on extrajudicial, summary or arbitrary executions;

(z) In connection with item 11 (b): Mr. D. García Sayán, Chairperson-Rapporteur of the Working Group on Enforced or Involuntary Disappearances;

(aa) In connection with item 11 (b): Mr. B. Kessedjian, Chairperson-Rapporteur of the intersessional open-ended working group to elaborate a draft legally binding normative instrument for the protection of all persons from enforced disappearance;

(bb) In connection with item 11 (c): Mr. A. Ligabo, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression;

- (cc) In connection with item 11 (d): Mr. L. Despouy, Special Rapporteur on the independence of judges and lawyers;
- (dd) In connection with item 11 (e): Mr. A. Amor, Special Rapporteur on freedom of religion or belief;
- (ee) In connection with item 12: Ms. Kyung-wha Kang, Chairperson of the Commission on the Status of Women;
- (ff) In connection with item 12 (a): Ms. Y. Ertürk, Special Rapporteur on violence against women, its causes and consequences;
- (gg) In connection with item 13: Mr. J. M. Petit, Special Rapporteur on the sale of children, child prostitution and child pornography;
- (hh) In connection with item 13: Mr. O. A. Otunnu, Special Representative of the Secretary-General for children and armed conflict;
- (ii) In connection with item 13: Mr. P. S. Pinheiro, independent expert to direct an in-depth study of the question of violence against children;
- (jj) In connection with item 14 (a): Ms. G. Rodríguez Pizarro, Special Rapporteur on the human rights of migrants;
- (kk) In connection with item 14 (c): Mr. F. M. Deng, Representative of the Secretary-General on internally displaced persons;
- (ll) In connection with item 14 (d): Swami Agnivesh, Chairperson of the Board of Trustees of the United Nations Voluntary Fund on Contemporary Forms of Slavery;
- (mm) In connection with item 14 (d): Ms. S. H. Khalifa bin Ahmed al-Thani, Special Rapporteur on disability of the Commission for Social Development;
- (nn) In connection with item 15: Mr. L. E. Chávez, Chairperson-Rapporteur of the open-ended intersessional working group on the draft United Nations declaration on the rights of indigenous peoples;
- (oo) In connection with item 15: Mr. R. Stavenhagen, Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people;
- (pp) In connection with item 15: Ms. V. Tauli-Corpuz, Chairperson of the Board of Trustees of the United Nations Voluntary Fund for Indigenous Populations and member of the Advisory Group of the Voluntary Fund for the International Decade of the World's Indigenous People;
- (qq) In connection with item 16: Ms. H. E. Warzazi, Chairperson of the Sub-Commission on the Promotion and Protection of Human Rights at its fifty-fifth session;
- (rr) In connection with item 17 (b): Ms. H. Jilani, Special Representative of the Secretary-General on the situation of human rights defenders;

(*ss*) In connection with item 19: Ms. C. Abaka, independent expert on technical cooperation and advisory services in Liberia;

(*tt*) In connection with item 19: Mr. L. Joinet, independent expert appointed by the Secretary-General on the situation of human rights in Haiti;

(*uu*) In connection with item 19: Mr. P. Leuprecht, Special Representative of the Secretary-General for human rights in Cambodia;

(*vv*) In connection with item 19: Mr. G. Alnajjar, independent expert on the situation of human rights in Somalia;

(*ww*) In connection with item 19: Mr. T. Hammarberg, member of the Board of Trustees of the United Nations Voluntary Fund for Technical Cooperation in the Field of Human Rights.

[See chap. III.]

### **2004/102. Special sitting of the Commission on Human Rights during its sixtieth session**

At its 17th meeting, on 23 March 2004, the Commission on Human Rights decided, by a recorded vote of 34 votes to 3, with 14 abstentions, to call for a special sitting of the Commission on an urgent basis to consider the situation in the Occupied Palestinian Territory resulting from the assassination of Sheikh Ahmed Yassin on the morning of 22 March 2004.

[See chap. III.]

### **2004/103. Decision relating to Paraguay under the procedure established in accordance with Economic and Social Council resolution 1503 (XLVIII)**

At its 31st (closed) meeting on 31 March 2004, the Commission on Human Rights decided, without a vote, to make public the resolution that it adopted [see annex below] relating to its consideration of the human rights situation in Paraguay under the procedure established in accordance with Economic and Social Council resolution 1503 (XLVIII) of 27 May 1970.

[See chap. IX.]

## **ANNEX**

### **Situation of human rights in Paraguay**

*The Commission on Human Rights,*

*Welcoming* the adoption by the Government of Paraguay of Act No. 2.225 of 16 October 2003, establishing a Truth and Justice Commission to investigate violations of human rights committed from May 1954 onwards and to report on the results of the investigations,

*Noting* the request made by the Government of Paraguay that the documentation relating to Paraguay which was examined by the Commission between 1978 and 1990 under Economic and Social Council resolution 1503 (XLVIII) of 27 May 1970 should be made public,

1. *Recommends* to the Economic and Social Council that the documentation relating to Paraguay which was examined by the Commission between 1978 and 1990 under Council resolution 1503 (XLVIII) should no longer be considered confidential in accordance with the request made by the Government of Paraguay,
2. *Decides* that the present resolution should be made public.

#### **2004/104. Extension of the time limit in decision 2003/118**

At its 49th meeting, on 15 April 2004, the Commission on Human Rights decided, without a vote, to defer consideration of the documents referred to in its decision 2003/118 of 25 April 2003 to its sixty-first session, under the same agenda item.

[See chap. XVII.]

#### **2004/105. Postponement of consideration of draft resolution E/CN.4/2004/L.9**

At its 50th meeting, on 15 April 2004, the Commission on Human Rights decided, without a vote, to defer consideration of draft resolution E/CN.4/2004/L.9, entitled “Human rights situation of the Lebanese detainees in Israel”, to its sixty-first session, under the same agenda item.

[See chap. IX.]

#### **2004/106 Corruption and its impact on the full enjoyment of human rights, in particular economic, social and cultural rights**

At its 52nd meeting, on 16 April 2004, the Commission on Human Rights, taking note of Sub-Commission on the Promotion and Protection of Human Rights resolution 2003/2 of 13 August 2003 and convinced of the destructive effects of all forms of corruption on the enjoyment of human rights, the rule of law and the implementation of the right to development, decided, without a vote, to endorse:

(a) The decision of the Sub-Commission to appoint Ms. Christy Mbonu as Special Rapporteur with the task of preparing a comprehensive study on corruption and its impact on the full enjoyment of human rights, in particular economic, social and cultural rights, based on her working paper (E/CN.4/Sub.2/2003/18) as well as the comments received and the useful discussions that took place at the fifty-fifth session of the Sub-Commission;

(b) The Sub-Commission's request to the Special Rapporteur to submit a preliminary report to the Sub-Commission at its fifty-sixth session, a progress report at its fifty-seventh session and a final report at its fifty-eighth session;

(c) The Sub-Commission's request to the Secretary-General to provide the Special Rapporteur with all the assistance necessary to enable her to accomplish her task.

[See chap. X.]

### **2004/107. Globalization and its impact on the full enjoyment of human rights**

At its 52nd meeting, on 16 April 2004, the Commission on Human Rights, taking note of Sub-Commission on the Promotion and Protection of Human Rights decision 2003/117 of 15 August 2003, decided, by a recorded vote of 51 votes to none, with 2 abstentions, to approve the Sub-Commission's request that the reports of the Special Rapporteurs on globalization and its impact on the full enjoyment of human rights (E/CN.4/Sub.2/2000/13, E/CN.4/Sub.2/2001/10 and E/CN.4/Sub.2/2003/14) be published in the official languages of the United Nations.

[See chap. X.]

### **2004/108. Integrating the human rights of women throughout the United Nations system**

At its 55th meeting, on 19 April 2004, the Commission on Human Rights, having regard to the recommendations of the Expanded Bureau at its fifty-eighth session (E/CN.4/2003/118 and Corr.1) to encourage the voluntary biennial or triennial presentation of a significant number of thematic resolutions, decided, without a vote, to consider the issue of integrating the human rights of women throughout the United Nations system on a biennial basis at its sixty-first session, taking into account the outcome of the review and appraisal of gender mainstreaming that will be undertaken at the coordination segment of the substantive session of the Economic and Social Council in July 2004, and, accordingly, decided to request the Secretary-General to update his report (E/CN.4/2004/64) submitted under Commission resolution 2003/44 of 23 April 2003.

[See chap. XII.]

### **2004/109. Terrorism and human rights**

At its 55th meeting, on 19 April 2004, the Commission on Human Rights, taking note of Sub-Commission on the Promotion and Protection of Human Rights resolution 2003/6 of 13 August 2003, decided, by a recorded vote of 38 votes to 15, to approve the Sub-Commission's request to the Secretary-General to give the Special Rapporteur to conduct

a comprehensive study on terrorism and human rights all the assistance necessary for the preparation of her final report, in particular by providing for visits to Vienna and New York in order to hold consultations with the competent services and bodies of the United Nations located there, to finalize her study.

[See chap. XI.]

**2004/110. Special Rapporteur on trafficking in persons,  
especially in women and children**

At its 55th meeting, on 19 April 2004, the Commission on Human Rights, recalling its resolution 2002/51 of 23 April 2002 and bearing in mind its resolution 2004/45 of 19 April 2004, decided, without a vote:

(a) To appoint, for a period of three years, a Special Rapporteur, whose mandate will focus on the human rights aspects of the victims of trafficking in persons, especially women and children;

(b) To request the Special Rapporteur to submit an annual report, commencing with the sixty-first session of the Commission, together with recommendations, on measures required to uphold and protect the human rights of the victims;

(c) That the Special Rapporteur may, as appropriate, and in line with current practice, respond effectively to reliable information on possible human rights violations with a view to protecting the human rights of actual or potential victims of trafficking;

(d) To request the Special Rapporteur to cooperate fully with other relevant special rapporteurs, in particular the Special Rapporteur on violence against women, its causes and consequences, and to take full account of their contributions to the issue;

(e) Also to request the Special Rapporteur to cooperate with relevant United Nations bodies, regional organizations and victims and their representatives;

(f) To invite Governments and international organizations to cooperate fully with the Special Rapporteur;

(g) To request the Secretary-General to provide all the necessary resources for the effective fulfilment of the mandate of the Special Rapporteur;

The Commission also decided to recommend the following draft decision to the Economic and Social Council for adoption:

[For the text, see chap. I, draft decision 37.]

[See chap. XII.]

### **2004/111. Traditional practices affecting the health of women and the girl child**

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 2003/28 of 14 August 2003, decided, without a vote, to approve the Sub-Commission's decision to renew the mandate of the Special Rapporteur on traditional practices affecting the health of women and the girl child for a further three years and its request to the Special Rapporteur to submit an updated report to the Sub-Commission at its fifty-sixth session.

[See chap. XII.]

### **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 on the rights of non-citizens, 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.2/2002/25 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 also decided to recommend the following draft decision to the Economic and Social Council for adoption:

[For the text, see chap. I, draft decision 39.]

[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 and decade for the world's minorities**

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 Sub-Commission's recommendation 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 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, calling for greater cooperation among the specialized agencies and other organizations of the United Nations system in order to contribute, within their respective competence, to the full realization of the rights and principles set forth in the Declaration.

[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 Sub-Commission on the Promotion and Protection of Human Rights resolution 2003/16 of 13 August 2003, taking note also of the Sub-Commission document on norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights (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 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 United Nations 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 the subject (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 on customary rules of international humanitarian law, and address the issues of securing implementation.

[See chap. XVII.]

### **2004/119. Science and the 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, 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 the agenda item entitled “Promotion and protection of human rights: Science and the 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. Follow-up to the 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 United Nations 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 (see 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 world programme 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 Sub-Commission on the Promotion and Protection of Human Rights resolution 2003/25 of 14 August 2003, 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 his 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 Sub-Commission on the Promotion and Protection of Human Rights decision 2003/105 of 13 August 2003 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, drawn up by the Special Rapporteur with the task of preparing a comprehensive study on the prevention of human rights violations committed with small arms and light weapons, 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 Economic and Social Council decision 1994/297 of 29 July 1994 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.]

### **2004/126. Question of human rights in Cyprus**

At its 57th meeting, on 21 April 2004, the Commission on Human Rights decided, without a vote, to retain on its agenda sub-item (a), entitled “Question of human rights in Cyprus”, of the item entitled “Question of the violation of human rights and fundamental freedoms in any part of the world” and to give it due priority at its sixty-first session, it being understood that action required by previous resolutions of the Commission on the subject would continue to remain operative, including the request to the Secretary-General to submit a report to the Commission regarding their implementation.

[See chap. IX.]

### **2004/127. Organization of work of the sixty-first session of the Commission on Human Rights**

At its 60th meeting, on 23 April 2004, the Commission on Human Rights, taking into account its heavy schedule of work as well as the need to give adequate consideration to all the items on its agenda, decided, without a vote:

(a) To recommend to the Economic and Social Council that it authorize six fully serviced additional meetings, including summary records, in accordance with rules 29 and 31 of the rules of procedure of the functional commissions of the Council, for the Commission’s sixty-first session;

(b) To request the Chairperson of the sixty-first session of the Commission to make every effort to organize the work of the session within the time normally allotted so that the additional meetings that the Council might authorize would be utilized only if they proved to be absolutely necessary.

[See chap. III.]

## **2004/128. Situation of human rights in the Sudan**

At its 61st meeting, on 23 April 2004, the Commission on Human Rights decided, by a recorded vote of 50 votes to 1, with 2 abstentions, to adopt a text on the situation of human rights in the Sudan (see annex below):

### **ANNEX**

#### **Situation of human rights in the Sudan**

1. The Commission on Human Rights is deeply concerned about the situation in the Sudan and in particular in Darfur, Western Sudan. The Commission welcomes the conclusion of the N'Djamena peace talks on 8 April 2004 between the Government of the Sudan and the armed groups under the auspices of Mr. Idriss Deby, President of Chad, in the presence of international and regional representatives, including the African Union, United Nations agencies, the European Union, the United States of America and international non-governmental organizations.

2. The Commission welcomes:

(a) The full involvement of the Commission of the African Union in the peaceful resolution to the conflict in Darfur and calls upon the African Union and its member States to continue their pivotal role in ensuring the effective and speedy implementation of the N'Djamena agreement;

(b) The visit by the African Union team to the Sudan, at the invitation of the Government, with a view to assessing the situation and ensuring respect for human rights and humanitarian law, and the positive response of the Government of the Sudan to the request of the African Commission on Human and Peoples' Rights to dispatch to Darfur a delegation from the Commission which includes the Commissioner in charge of refugees and internally displaced persons.

3. The Commission on Human Rights welcomes the ongoing peace talks at Naivasha, Kenya, aiming at the conclusion of a comprehensive and lasting peace agreement and expresses its firm belief that human rights should be an integral part of such an agreement. The Commission expresses its firm belief that a peaceful settlement to the conflict in the Sudan, which is a responsibility of all parties to the peace talks, will greatly contribute to respect for human rights in the Sudan.

4. The Commission shares the grave concern of the Secretary-General of the United Nations, Mr. Kofi Annan, concerning the scale of reported human rights abuses and the humanitarian situation in Darfur, and welcomes his decision to send a high-level team to Darfur, at the invitation of the Government of the Sudan, to gain a fuller understanding and to establish the facts of the situation in the area.

5. The Commission calls on all parties to the N'Djamena ceasefire agreement to respect the agreement fully and to ensure that all armed groups under their control comply with the agreement. The Government of the Sudan shall commit itself to neutralizing the armed militias.

6. The Commission calls upon the parties to the conflict in Darfur to observe the humanitarian ceasefire and to grant immediate, full, safe and unhindered access to Darfur and elsewhere in the Sudan aimed at delivering humanitarian assistance to all civilians in need and to cooperate closely with the Office for the Coordination of Humanitarian Affairs of the Secretariat and Operation Lifeline Sudan as a further sign of consolidation of the progress already achieved in many regions.

7. The Commission expresses its solidarity with the Sudan in overcoming the current situation. The Commission reiterates the important role played by the African Union and its various mechanisms in helping to reach a peaceful settlement of this question. The Commission further appreciates the leadership of Mr. Idriss Deby, President of Chad, in hosting and chairing the N'Djamena peace talks and expresses its confidence that his sincerity and integrity will enable him to bring this process to a satisfactory conclusion.

8. The Commission calls upon the international community to continue providing relief assistance to the affected population in Darfur and to enhance the efforts of the Government of the Sudan, supported by the African Union, in the peace process.

9. The Commission calls upon the Government of the Sudan actively to promote and protect human rights and international humanitarian law throughout the country; the Commission also calls on the international community to expand its support for these activities and to continue its support for the peace process in the Sudan.

10. The Commission requests its Chairman to appoint an independent expert on the situation of human rights in the Sudan for a period of one year and requests the independent expert to submit an interim report to the General Assembly at its fifty-ninth session and to report to the Commission at its sixty-first session on the situation of human rights in the Sudan. The Commission requests the Secretary-General to provide all necessary assistance to the independent expert to enable him/her to discharge his/her mandate fully.

11. The Commission recommends the following draft decision to the Economic and Social Council for adoption:

[For the text, see chap. I, draft decision 47.]

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