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Protection of Human Rights
Fifty-sixth session
Agenda item 7

**DRAFT PROVISIONAL AGENDA AND ADOPTION
OF THE REPORT**

**Draft report of the Sub-Commission on the Promotion
and Protection of Human Rights***

Rapporteur: Mr. Paulo Sérgio Pinheiro

* Documents E/CN.4/Sub.2/2004/L.10 and addenda will contain the chapters of the report relating to the organization of the session and the various items on the agenda. Resolutions and decisions adopted by the Sub-Commission, as well as draft resolutions and decisions for action by, and other matters of concern to, the Commission on Human Rights, will be contained in documents E/CN.4/Sub.2/2004/L.11 and addenda.

CONTENTS

<i>Chapter</i>	<i>Page</i>
II. Resolutions and decisions adopted by the Sub-Commission at its fifty-sixth session	
A. Resolutions	
2004/16. The effects of the working methods and activities of transnational corporations on the enjoyment of human rights	
2004/17. Discrimination based on work and descent	
2004/18. World programme for human rights education	
2004/19. Report of the Working Group on Contemporary Forms of Slavery	
2004/20. United Nations Voluntary Trust Fund on Contemporary Forms of Slavery	
2004/21. Terrorism and human rights	
2004/22. Systematic rape, sexual slavery and slavery-like practices	
2004/23. Harmful traditional practices affecting the health of women and the girl child	
B. Decisions	
2004/109. Guidelines and principles for the promotion and protection of human rights when combating terrorism	
2004/110. Reservations to human rights treaties	
2004/111. Human rights and international solidarity	
2004/112. Preliminary report on the study on human rights and the human genome	
2004/113. Decision to postpone draft decision E/CN.4/Sub.2/2004/L.47	
2004/114. Human rights and non-State actors	

II. Resolutions and decisions adopted by the Sub-Commission at its fifty-sixth session

A. Resolutions

2004/16. The effects of the working methods and activities of transnational corporations on the enjoyment of human rights

The Sub-Commission on the Promotion and Protection of Human Rights,

Recalling that, under the Charter of the United Nations, 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 for all,

Reaffirming the Declaration on Social Progress and Development adopted by the General Assembly in its resolution 2542 (XXIV) of 11 December 1969, the Declaration and Programme of Action on the Establishment of a New International Economic Order adopted by the General Assembly in its resolutions 3201 (S-VI) and 3202 (S-VI) of 1 May 1974, the Charter of Economic Rights and Duties of States proclaimed by the General Assembly in its resolution 3281 (XXIX) of 12 December 1974, the Declaration of the Principles of International Cultural Cooperation adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization in 1966, General Assembly resolution 1803 (XVII) of 14 December 1962, entitled “Permanent sovereignty over natural resources”, and General Assembly resolution 2625 (XXV) of 24 October 1970, entitled “Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations”,

Mindful that, in the Vienna Declaration and Programme of Action, the World Conference on Human Rights reaffirmed the right to development as a universal and inalienable right and an integral part of all fundamental human rights, reaffirmed that the human person was the central subject of development and underlined the need for a concerted effort to ensure recognition of economic, social and cultural rights at the national, regional and international levels,

Noting that lasting progress towards the implementation of the right to development requires effective development policies at the national level, as well as equitable economic relations and a favourable economic environment at the international level,

Deeply concerned at the preponderance of the transnational corporations in all spheres of life and at the impact of their activities and working methods on human rights,

Bearing in mind the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy adopted by the Governing Body of the International Labour Organization in November 1977,

Recognizing that the activities of the various United Nations organizations should be closely interrelated and that it is necessary to draw on all the efforts made in the various disciplines relating to the human person in order to promote all human rights effectively,

Recalling in particular its resolutions 1998/8 of 20 August 1998, 2001/3 of 15 August 2001 and 2003/16 of 13 August 2003,

Recalling Commission on Human Rights resolutions 1989/15 of 2 March 1989, 1990/17 and 1990/18 of 23 February 1990, 1991/13 of 22 February 1991, 1992/9 of 21 February 1992, 1993/12 of 26 February 1993, 1994/11 of 25 February 1994, 1995/13 of 25 February 1995, 1996/15 of 11 April 1996, 1997/9 of 3 April 1997, 1998/24 of 17 April 1998, 1998/72 of 22 April 1998, 1999/22 of 23 April 1999, 1999/79 of 28 April 1999, 2000/5 of 13 April 2000, 2000/82 of 26 April 2000, 2001/25 and 2001/27 of 20 April 2001, and 2001/32, 2001/33 and 2001/35 of 23 April 2001 concerning the right to development and economic, social and cultural rights,

Taking into account background document E/CN.4/Sub.2/1995/11, the report submitted by the Secretary-General in accordance with its resolution 1995/31 of 24 August 1995 (E/CN.4/Sub.2/1996/12 and Corr.1), the background document prepared by Mr. El Hadji Guissé in accordance with its resolution 1997/11 concerning transnational corporations (E/CN.4/Sub.2/1998/6) and the 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),

1. *Thanks* the Chairman of the sessional working group on the working methods and activities of transnational corporations, Mr. El Hadji Guissé, for his report on the sixth session of the working group (E/CN.4/Sub.2/2004/21);
2. *Supports* the Declaration on the Right to Development adopted by the General Assembly in its resolution 41/128 of 4 December 1986 and underlines the multidimensional, integrated and dynamic character of this right which favours a partnership for development and constitutes a relevant framework for international cooperation and national action aiming at universal and effective respect for all human rights in their universality, indivisibility and interdependence;
3. *Decides* to extend, for a three-year period, the mandate of the sessional working group of the Sub-Commission on the working methods and activities of transnational corporations, so that it can fulfil its mandate;
4. *Requests* the working group to submit a report on its seventh session to the Sub-Commission at its fifty-seventh session.

23rd meeting
12 August 2004
[Adopted without a vote. See chap. VI.]

2004/17. Discrimination based on work and descent

The Sub-Commission on the Promotion and Protection of Human Rights,

Reaffirming its resolution 2000/4 of 11 August 2000, in which it declared that discrimination based on work and descent is a form of discrimination prohibited by international human rights law,

Acknowledging the constitutional, legislative and administrative measures taken by some States to abolish practices of discrimination based on work and descent, as outlined in the expanded working paper on this topic submitted by Mr. Asbjørn Eide and Mr. Yozo Yokota (E/CN.4/Sub.2/2004/31),

Concerned that discrimination based on work and descent affects communities in many regions of the world,

Noting the need for further study on this topic, and for the formulation of principles and guidelines for the elimination of discrimination based on work and descent,

1. *Urges* concerned States to ensure that all necessary constitutional, legislative and administrative measures, including appropriate forms of affirmative action and public education programmes, are in place to prevent and redress discrimination based on work and descent, and that such measures are respected and implemented by all State authorities at all levels;

2. *Welcomes* the expanded working paper on discrimination based on work and descent submitted by Mr. Asbjørn Eide and Mr. Yozo Yokota (E/CN.4/Sub.2/2004/31) and endorses the conclusions and recommendations contained therein, including with regard to the importance of undertaking a study on the issue of discrimination based on work and descent and the preparation of a draft set of principles and guidelines for the elimination of discrimination based on work and descent;

3. *Decides* to appoint Mr. Yokota and Ms. Chin-Sung Chung as Special Rapporteurs with the task of preparing a comprehensive study on discrimination based on work and descent on the basis of the three working papers submitted on this issue (E/CN.4/Sub.2/2001/16, E/CN.4/Sub.2/2003/24 and E/CN.4/Sub.2/2004/31) as well as the comments made and the discussions that took place during the sessions of the Sub-Commission to which those working papers were submitted, and requests the Special Rapporteur to submit a preliminary report to the Sub-Commission at its fifty-seventh session, a progress report at its fifty-eighth session and a final report at its fifty-ninth session;

4. *Requests* the Special Rapporteurs to focus on the finalization of a draft set of principles and guidelines for the effective elimination of discrimination based on work and descent, addressing all relevant actors, including Governments, local authorities, private sector entities, schools, religious institutions and the media, based on existing applicable standards and best practices and taking into account the framework proposed in the third working paper and the contents of general recommendation XXIX (2002) of the Committee on the Elimination of Racial Discrimination;

5. *Also requests* the Special Rapporteurs, for the purpose of identifying best practices, to obtain more comprehensive information on constitutional, legislative, judicial,

administrative and educational measures taken to address discrimination based on work and descent, including through the elaboration and submission of a questionnaire to Governments, national human rights institutions, relevant organs and agencies of the United Nations system and non-governmental organizations;

6. *Encourages* the Special Rapporteurs to undertake this study in cooperation and collaboration with relevant treaty bodies and United Nations organs, agencies and mandates, including the Committee on the Elimination of Racial Discrimination, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, the International Labour Organization and the United Nations Educational, Scientific and Cultural Organization, and in consultation with representatives of affected communities;

7. *Requests* the Secretary-General and the United Nations High Commissioner for Human Rights to provide the Special Rapporteurs with all the assistance necessary to enable them to accomplish this task;

8. *Recommends* the following draft decision to the Commission on Human Rights for adoption:

“The Commission on Human Rights, taking note of resolution 2004/17 of 12 August 2004 of the Sub-Commission on the Promotion and Protection of Human Rights, approves the decision of the Sub-Commission to appoint Mr. Yozo Yokota and Ms. Chin-Sung Chung as Special Rapporteurs with the task of preparing a comprehensive study on discrimination based on work and descent, on the basis of the three working papers submitted to the Sub-Commission on this topic (E/CN.4/Sub.2/2001/16, E/CN.4/Sub.2/2003/24 and E/CN.4/Sub.2/2004/31), the comments made during the sessions of the Sub-Commission at which those working papers were submitted and the provisions of the above-mentioned resolution, and of responses from Governments, national human rights institutions, relevant organs and agencies of the United Nations system and non-governmental organizations to a questionnaire to be elaborated and circulated by the Special Rapporteurs. The Commission also approves the request to the Special Rapporteur to submit a preliminary report to the Sub-Commission at its fifty-seventh session, a progress report at its fifty-eighth session and a final report at its

fifty-ninth session, and the request to the Secretary-General and the United Nations High Commissioner for Human Rights to provide the Special Rapporteurs with all the assistance necessary to enable them to accomplish this task.”

9. *Decides* to continue consideration of this question at its fifty-seventh session under the same agenda item.

23rd meeting
12 August 2004
[Adopted without a vote. See chap. VII.]

2004/18. World programme for human rights education

The Sub-Commission on the Promotion and Protection of Human Rights,

Recalling its resolution 2003/5 of 13 August 2003,

Reaffirming article 26 of the Universal Declaration of Human Rights, in accordance with which education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms,

Convinced that human rights education is a key to changing attitudes and behaviour based on racism, racial discrimination, xenophobia and related intolerance and to promoting tolerance and respect for diversity in societies,

Convinced that human rights education is a long-term and life-long process by which all people at all levels of development and in all strata of society learn respect for the dignity of others, 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,

Reaffirming the need for continued actions at the international level to support national efforts to achieve the Millennium Development Goals by the year 2015, in particular universal

access to basic education for all, including human rights education, and for human rights education as a means of empowering groups suffering discrimination, particularly women and the poor,

Recognizing the invaluable and creative role that non-governmental and community-based organizations play in the promotion and protection of human rights by disseminating public information and engaging in human rights education, especially at the grass-roots level and in remote and rural communities, and taking into account their concern regarding the continuation of activities undertaken during the United Nations Decade for Human Rights Education, 1995-2004,

Recalling the views expressed in the report of the United Nations High Commissioner for Human Rights to the Commission on Human Rights on the achievements and shortcomings of the Decade and on future activities in this area (E/CN.4/2004/93), and the views expressed in the report of the High Commissioner to the Commission on the follow-up to the Decade (E/CN.4/2003/101) as to 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,

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 Decade and to discuss possible future activities for the enhancement of human rights education,

1. *Welcomes* Commission on Human Rights resolution 2004/71 of 15 April 2004 and Economic and Social Council decision 2004/268 of 22 July 2004 recommending that the General Assembly proclaim at its fifty-ninth session a world programme for human rights education to begin on 1 January 2005, structured in consecutive phases, the first phase of which will focus on primary and secondary school systems on the basis of a plan of action to be

prepared by the Office of the High Commissioner for Human Rights, in cooperation with the United Nations Educational, Scientific and Cultural Organization and other relevant governmental and non-governmental actors;

2. *Recommends* to the General Assembly, should it decide to follow up on the recommendations of the Commission on Human Rights and the Economic and Social Council, to launch the world programme officially on the occasion of Human Rights Day, 10 December 2004, and consider proposing that Human Rights Day be commemorated every year worldwide in all educational and training institutions, including primary and secondary schools, as well as in tertiary institutions and universities, as of 2005;

3. *Notes with appreciation* that the overall objective of the world programme, as stated in paragraph 3 of Commission resolution 2004/71, is to maintain and develop the implementation of human rights education programmes in all sectors, and draws attention to the fact that the development of innovative human rights education strategies in the formal education sector, with, as requested by the Commission, an indication of at least minimum action, should not preclude lasting support for activities carried out in other sectors, in particular programmes developed at grass-roots level and aimed at promoting human rights education for vulnerable groups such as populations involved in post-conflict reconstruction, women and other groups suffering discrimination, and the poor as actors of development and social change;

4. *Recommends* that the human rights treaty bodies, when examining reports of States parties, devote attention specifically to human rights education and that human rights education be included in the agenda of the annual meeting of the persons chairing the treaty bodies so that they can make recommendations on how human rights education can contribute to national capacity-building aimed at strengthening national human rights protection mechanisms;

5. *Decides* to consider the issue of human rights education at its fifty-seventh session under the same agenda item.

23rd meeting
12 August 2004
[Adopted without a vote. See chap. VIII.]

2004/19. Report of the Working Group on Contemporary Forms of Slavery

The Sub-Commission on the Promotion and Protection of Human Rights,

Taking note of the report of the Working Group on Contemporary Forms of Slavery on its twenty-ninth session (E/CN.4/Sub.2/2004/36 and Corr.1) and in particular the recommendations contained in chapter VII,

Deeply concerned at the information it contains relating to forced labour, the exploitation of children, the traffic in persons, the exploitation of domestic and migrant workers, child labour, the sexual exploitation of children, the abusive use of the Internet for the purpose of sexual exploitation, and the role of corruption in the perpetuation of slavery and related practices,

Noting with concern that the treaties forbidding slavery and slavery-like practices, as well as other instruments relevant to the work of the Working Group, have not been universally ratified,

Noting that poverty, social exclusion, illiteracy, ignorance, rapid population growth, HIV/AIDS, poor governance, corruption, impunity, gender and all other forms of discrimination and armed conflicts are the main causes of contemporary forms of slavery,

1. *Recommends* that States ratify treaties on slavery-related issues, such as the Slavery Conventions of 1926, the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 1956, the Convention on the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of 1949, the Forced Labour Convention, 1930 (No. 29), the Abolition of Forced Labour Convention, 1957 (No. 105), and the Worst Forms of Child Labour Convention, 1999 (No. 182) of the International Labour Organization, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children supplementing the United Nations Convention against Transnational Organized Crime, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;

2. *Calls upon* the United Nations Children's Fund, the World Health Organization, the International Labour Organization, the United Nations Development Programme and other competent United Nations organs, specialized agencies, development banks and

intergovernmental agencies to develop programmes, including joint ones, in order to break the cycle of poverty, social exclusion and discrimination which makes people vulnerable to exploitation through forced labour and to contribute to the elimination of debt bondage, in particular by the provision of access to education, land reform, alternative sources of credit, access to justice, provision of stable employment, etc.;

3. *Recalls* that at its thirtieth session in 2005 the Working Group decided to assess its activities since its creation and will focus on a review of the status of ratification of the relevant treaties and the identification of crucial gaps and challenges remaining in areas covered by its mandate;

4. *Notes* the decision of the Working Group to devote priority attention at its thirty-first session in 2006 to the issue of the impact of the media and the Internet on contemporary forms of slavery;

5. *Recommends* closer international cooperation for the prevention, punishment and suppression of corruption, as well as money laundering resulting from trafficking and from sexual exploitation, particularly of women and children;

6. *Urges* Governments, as a matter of priority, to act more forcefully to prevent the misuse of the Internet for trafficking for the purposes of sexual exploitation of women and children, including reviewing, amending and enforcing existing laws, or enacting new laws, especially criminal laws, and urges Governments to set up monitoring systems aimed at preventing use of the Internet for criminal purposes;

7. *Expresses grave concern* at the increasing evidence of trafficking in human beings for the purpose of exploitation presented to the Working Group, notes that trafficking in human beings is a global phenomenon affecting every continent and stresses that countries of origin, transit and destination all have a responsibility to address this problem;

8. *Calls upon* all States to ensure that protection and support of the victims are at the centre of any anti-trafficking policy and to provide protection and assistance to victims based on

humanitarian considerations and not contingent on their cooperation with the prosecution of their exploiters, including the provision of free legal services to pursue compensation, reparation and other relief;

9. *Calls upon* United Nations human rights bodies to address, as a matter of urgent priority, situations of human rights violations relating to sexual exploitation and trafficking in persons, calls upon United Nations bodies and agencies to develop and implement codes of conduct that prohibit all forms of sexual exploitation by United Nations employees and contract workers and humanitarian aid workers, and invites non-governmental organizations to do the same in their sphere of competence;

10. *Recalls* that poverty, illiteracy, gender inequality, misuse of some ritual practices and, above all, the low status of women and girls in society contribute to their being trafficked and exploited;

11. *Calls upon* States to ensure that the best interests of the child are at all times paramount in any programme or policy relating to children subject to exploitation and encourages States to cooperate on a bilateral, regional and international basis, with the assistance of non-governmental organizations, in order to address the problems associated with trafficking in children and the worst forms of child labour and to profit from good practices in other countries;

12. *Urges* States to take urgent action to implement the provisions of international law and their own constitutions that prohibit the practice of forced labour by enacting or amending legislation, accompanied by implementation mechanisms that facilitate the identification of forced labour in its various manifestations;

13. *Urges* concerned States to ensure that forced labour is criminalized and punished in accordance with the gravity of the offence and to establish special machinery to facilitate the prosecution of those who subject others to forced labour and the confiscation of the property and assets of those convicted of such offences;

14. *Recalls* that compulsory and free primary education of boys and girls is an essential tool to combat child labour and the phenomenon of street children and calls upon States to ensure that all boys and girls can take advantage of free compulsory education;

15. *Urges* all States, while attempting ultimately to eliminate child labour, to adopt measures and regulations to protect child labourers, to ensure that they are not exploited and to prohibit their labour in hazardous occupations;

16. *Invites* States to incorporate into their plans of action measures such as the systematic issuance of birth certificates, the establishment of mechanisms to identify victims of trafficking, comprehensive rehabilitation measures, including access to education and vocational training, measures to fight corruption and provision of support to non-governmental organizations in their efforts to include employers as active partners in ending the worst forms of child labour;

17. *Urges* States, in particular receiving States, to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, in order to ensure its effective implementation;

18. *Calls upon* organizations such as the International Labour Organization, the International Organization for Migration and other relevant United Nation bodies to assist States in their efforts to protect migrants from abuses;

19. *Welcomes* the active participation of the International Labour Organization in the twenty-ninth session of the Working Group and decides to continue to invite Governments, international organizations, national institutions and non-governmental organizations that have information relating to the agenda of the Working Group to assist the Working Group by providing it with relevant information, preferably in advance of the session.

*23rd meeting
12 August 2004*
[Adopted without a vote. See chap. VIII.]

**2004/20. United Nations Voluntary Trust Fund on
Contemporary Forms of Slavery**

The Sub-Commission on the Promotion and Protection of Human Rights,

Recalling General Assembly resolution 46/122 of 17 December 1991, by which the Assembly established the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery,

Recalling also its resolution 2003/27 of 14 August 2003,

Recalling further the close relationship between the mandate and the activities of the Working Group and those of the Board of Trustees of the Fund and the necessary cooperation between them, and stressing the need for continued and strengthened cooperation,

Expressing its gratitude to Governments, organizations, trade unions and individuals, including young students, who have contributed to the Fund and strongly encouraging them to continue doing so, especially in light of the thirtieth anniversary of the Working Group on Contemporary Forms of Slavery,

1. *Considers* that the participation at the twenty-ninth session of the Working Group of eight representatives of non-governmental organizations working in different countries in Africa, America and Asia financed by the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery, including victims of contemporary forms of slavery, is a valuable contribution to the work of the Working Group on Contemporary Forms of Slavery;
2. *Invites* the Board of Trustees of the Fund to continue to promote the participation at the annual sessions of the Working Group of individuals and organizations from as large a number of countries as possible, in accordance with the priorities established in the agenda of the Working Group;
3. *Welcomes* the participation of a member of the Board of Trustees of the Fund at the twenty-ninth session of the Working Group and encourages the members of the Board to attend the next session of the Working Group;

4. *Invites* the Board of Trustees to continue to contribute to projects implemented at the grass-roots level and that directly assist victims of contemporary forms of slavery.

5. *Recalls* the appeal made by the General Assembly in its resolution 46/122 of 17 December 1991 to all Governments to respond favourably to requests for contributions to the Fund, urges them and non-governmental organizations, other private or public entities and individuals to contribute to the Fund and encourages them to do so if possible by September 2004, in order to enable the Fund to fulfil its mandate effectively in the year 2005.

*23rd meeting
12 August 2004*
[Adopted without a vote. See chap. VIII.]

2004/21. Terrorism and human rights

The Sub-Commission on the Promotion and Protection of 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, the International Covenants on Human Rights and other international and regional instruments relating to human rights and international humanitarian law,

Recalling the Vienna Declaration and Programme of Action adopted on 25 June 1993 by the World Conference on Human Rights, in which the Conference reaffirmed 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, 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,

Recalling also the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations and the United Nations Millennium Declaration adopted by the General Assembly at its fiftieth and fifty-fifth sessions, respectively,

Recalling further all previous relevant and other General Assembly resolutions on the issue of terrorism, Security Council resolutions 1373 (2001) of 28 September 2001, 1377 (2001) of 12 November 2001, and 1535 (2004) of 26 March 2004, Commission on Human Rights resolutions 2004/44 of 19 April 2004 and 2004/87 of 21 April 2004, as well as its own resolutions 2003/6 and 2003/15 of 13 August 2003,

Regretting that the negative impact of terrorism, in all its dimensions, on human rights continues to remain alarming despite national and international efforts to combat it,

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 of promoting and protecting human rights,

Bearing in mind that the most essential and basic human right is the right to life,

Bearing in mind also that terrorism creates an environment that destroys the freedom from fear of the people,

Bearing in mind further that terrorism in many cases poses a serious challenge to democracy, civil society and the rule of law,

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 human rights and humanitarian law,

Reiterating also that all measures to counter terrorism must be in strict conformity with international law, including international human rights and humanitarian law standards and obligations,

Reiterating further 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,

Mindful of the complexity of the phenomenon of terrorism and the extraordinary range and quantity of developments at the international, regional and national levels since 11 September 2001,

Mindful also of the initiatives introduced on the question of human rights and terrorism at the General Assembly and the Commission on Human Rights since the previous session of the Sub-Commission,

Reaffirming the great importance of the study on terrorism and human rights,

Having considered the analytical and well-documented final report (E/CN.4/Sub.2/2004/40) prepared by the Special Rapporteur, Ms. Kalliopi Koufa, and having heard her comprehensive introductory and concluding statements,

1. *Expresses its deep appreciation and thanks* to the Special Rapporteur, Ms. Kalliopi Koufa, for her excellent final report and her introductory and concluding statements;
2. *Requests* the Office of the United Nations High Commissioner for Human Rights to transmit and ensure the distribution of the final report to the Commission on Human Rights at its sixty-first session;
3. *Requests* the Secretary-General to ensure that the final report and all previous reports and documents submitted by the Special Rapporteur can be accessed by those seeking information on the activities of the Economic and Social Council on the web site “UN action against terrorism”;
4. *Requests* the Special Rapporteur to compile all her reports and other documents submitted to the Sub-Commission in one study, reflecting all the important points, aspects and recommendations contained in these documents;
5. *Recommends* the following draft decision to the Commission on Human Rights for adoption:

“The Commission on Human Rights, taking note of resolution 2004/21 of 12 August 2004 of the Sub-Commission on the Promotion and Protection of Human Rights, decides:

(a) To express its deep appreciation to the Special Rapporteur, Ms. Kalliopi Koufa, for her excellent final report on the study entitled ‘Terrorism and human rights’ (E/CN.4/Sub.2/2004/40); and

(b) To recommend to the Economic and Social Council, mindful of the importance of the study of human rights and terrorism conducted over a number of years, that a compilation into a comprehensive document of all the reports and documents submitted to date by the Special Rapporteur be published as a United Nations publication as part of the Human Rights Study Series.”

23rd meeting
12 August 2004
[Adopted without a vote. See chap. VIII.]

2004/22. Systematic rape, sexual slavery and slavery-like practices

The Sub-Commission on the Promotion and Protection of Human Rights,

Recalling its resolution 2003/26 of 14 August 2003,

Recalling also Security Council resolution 1325 (2000) of 31 October 2000, which, inter alia, reaffirmed the need to implement fully international humanitarian and human rights law that protects the rights of women and girls during and after conflicts, as well as the report of the Secretary-General on the impact of armed conflict on women and girls, the role of women in peace-building and the gender dimensions of peace processes and conflict resolution (S/2002/1154) issued pursuant to that resolution,

Recalling the reports of the United Nations High Commissioner for Human Rights on systematic rape, sexual slavery and slavery-like practices during armed conflicts (E/CN.4/Sub.2/2000/20, E/CN.4/Sub.2/2001/29, E/CN.4/Sub.2/2002/28 and E/CN.4/Sub.2/2003/27),

Noting the working paper by Ms. Françoise Hampson on current and future issues on the criminalization, investigation and prosecution of acts of serious sexual violence (E/CN.4/Sub.2/2004/12) and the expanded working paper of Ms. Lalaina Rakotoarisoa on the difficulties of establishing guilt and/or responsibilities with regard to crimes of sexual violence (E/CN.4/Sub.2/2004/11),

Taking into consideration resolutions of the Commission on Human Rights on the elimination of violence against women, including its resolution 2004/46 of 20 April 2004, and the report of the Special Rapporteur on violence against women, its causes and consequences, to the Commission at its sixtieth session (E/CN.4/2004/66 and Add.1-2),

Conscious that, despite legal advances at the international level on the issues of systematic rape and sexual enslavement directed against civilian populations, women and girls continue to face widespread sexual gender-based violence during conflicts,

1. *Welcomes* the work of the Secretary-General and recalls with appreciation his report on women, peace and security (S/2002/1154);
2. *Also welcomes* the work of the United Nations High Commissioner for Human Rights on systematic rape, sexual slavery and slavery-like practices and takes note with great appreciation of the report of the High Commissioner (E/CN.4/Sub.2/2004/35);
3. *Deeply concerned* that systematic rape, sexual slavery and slavery-like practices are still being used to humiliate civilians and military personnel, to destroy society and to diminish prospects for a peaceful resolution of conflicts and that the resulting severe physical and psychological trauma endangers not only personal recovery but post-conflict reconstruction of the whole society, as pointed out in the above-mentioned reports;
4. *Considers* that verdicts of the International Criminal Tribunal for the Former Yugoslavia, the International Tribunal for Rwanda and the Special Court for Sierra Leone acknowledging that rape and, more recently, sexual enslavement are crimes against humanity, and the special recognition in the Rome Statute of the International Criminal Court that sexual violence and sexual slavery committed in the context of either an internal or an international armed conflict may constitute crimes against humanity, war crimes and genocide falling within

the jurisdiction of the Court, represent a significant step in the protection of women's human rights as they challenge widespread acceptance that torture, rape and violence against women are an integral part of war and conflict and hold the perpetrators of such crimes accountable;

5. *Reiterates* that States should provide effective criminal penalties and compensation for unremedied violations in order to end the cycle of impunity with regard to sexual violence committed during armed conflicts;

6. *Encourages* States to promote human rights education on the issues of systematic rape, sexual slavery and slavery-like practices during armed conflicts, ensuring the accuracy of accounts of historical events in the educational curricula, in an effort to prevent the recurrence of such violations and to encourage better understanding among all peoples;

7. *Calls upon* the High Commissioner for Human Rights to submit an updated report to the Sub-Commission at its fifty-seventh session on the issues of systematic rape, sexual slavery and slavery-like practices during armed conflicts;

8. *Decides* to consider the issue at its fifty-seventh session under the same agenda item.

23rd meeting
12 August 2004
[Adopted without a vote. See chap. VIII.]

**2004/23. Harmful traditional practices affecting the health
of women and the girl child**

The Sub-Commission on the Promotion and Protection of Human Rights,

Recalling its resolution 2003/28 of 14 August 2003,

Also recalling Commission on Human Rights decision 2004/111 of 20 April 2004,

Emphasizing the importance of the Plan of Action for the Elimination of Harmful Traditional Practices affecting the Health of Women and Children (E/CN.4/Sub.2/1994/10/Add.1 and Corr.1) adopted by the Sub-Commission,

Noting the consideration given by the General Assembly to the issue of harmful traditional and customary practices,

Emphasizing that all harmful traditional practices affect women and girls first and foremost,

Noting that such practices are not exclusively based on specific traditions or cultures, but are also an expression of violence against women and girls,

1. *Takes note with satisfaction* of the eighth report of the Special Rapporteur, Ms. Halima Embarek Warzazi, and shares her concern at the damaging effects of harmful traditional practices and the need to put an end to them;
2. *Appeals* to all States concerned to intensify efforts to develop awareness of, and mobilize national public opinion concerning, the harmful effects of all forms of harmful traditional practices, in particular through education, information and training, in order to achieve the total eradication of these practices;
3. *Requests* all non-governmental organizations dealing with women's issues to continue to devote part of their activities to the study of the various harmful practices and ways and means of eradicating them, and to inform the Special Rapporteur of any situation which merits the attention of the international community;
4. *Requests* States, international and regional organizations, non-governmental organizations, United Nations bodies and all interested actors in the fight against harmful traditional practices to assist the Special Rapporteur in her compilation and identification of existing harmful practices affecting the health of women and girls;

5. *Welcomes* the progress made in combating harmful traditional practices, including female genital mutilation, through the impetus of non-governmental organizations, in particular the Inter-African Committee on Traditional Practices Affecting the Health of Women and Children, which should be given maximum encouragement;

6. *Appeals* to the international community to provide material, technical and financial support to the non-governmental organizations and groups working with dedication to achieve the total elimination of practices that are harmful to girl children and women;

7. *Calls upon* all Governments to give their full attention to the implementation of the Plan of Action for the Elimination of Harmful Traditional Practices affecting the Health of Women and Children, and requests the Secretary-General to invite them to submit information regularly to the Sub-Commission on the situation regarding harmful traditional practices in their countries;

8. *Reiterates* its proposal that three seminars be held in Africa, Asia and Europe in order to review progress achieved since 1985 and to explore ways and means of overcoming the obstacles encountered in the implementation of the Plan of Action, and appeals for funding for these activities;

9. *Requests* the United Nations High Commissioner for Human Rights to assist the mandate by raising funds for the organization of the seminars, especially the organization of a first seminar to be held in Europe, and also to facilitate the work of the Special Rapporteur;

10. *Also requests* the High Commissioner to assist the Special Rapporteur in every way to enable her to fully discharge the mandate that has been entrusted to her;

11. *Welcomes* the adoption by the African Union of the protocol to the African Charter on Human and Peoples' Rights relating to the rights of women, and urges Governments to ratify this instrument and incorporate it into their domestic legislation;

12. *Welcomes* the many activities carried out in Africa by Governments and non-governmental organizations, particularly in the context of the International Day of Zero Tolerance of Female Genital Mutilation;

13. *Also welcomes* the commitment of many States to efforts to combat all harmful traditional practices;

14. *Requests* the Special Rapporteur to submit a report to the Sub-Commission at its fifty-seventh session.

23rd meeting
12 August 2004
[Adopted without a vote. See chap. VIII.]

B. Decisions

2004/109. Guidelines and principles for the promotion and protection of human rights when combating terrorism

At its 23rd meeting on 12 August 2004, the Sub-Commission on the Promotion and Protection of Human Rights, recalling its resolution 2003/15 of 13 August 2003 entitled “Effects of measures to combat terrorism on the enjoyment of human rights”, having considered the final report of the Special Rapporteur, Ms. Kalliopi K. Koufa, on terrorism and human rights (E/CN.4/Sub.2/2004/40), having also considered the working paper prepared by Ms. Koufa entitled “A preliminary framework draft of principles and guidelines concerning human rights and terrorism” (E/CN.4/Sub.2/2004/47), recalling the seriousness of the subject matter and mindful of the traditional standard-setting competence of the Sub-Commission, which contributes to the development and better understanding of human rights, their promotion and protection and which provides the Commission with the necessary assistance, intellectual support and expertise required from the Sub-Commission, decided, without a vote:

(a) To establish at its fifty-seventh session a sessional working group of the Sub-Commission with the mandate to elaborate detailed principles and guidelines, with relevant commentary, concerning the promotion and protection of human rights when combating terrorism, based, inter alia, on the preliminary framework draft of principles and guidelines contained in the working paper prepared by Ms. Koufa;

(b) To consider this question at its fifty-seventh session under the same agenda sub-item.

[See chap. VIII.]

2004/110. Reservations to human rights treaties

At its 23rd meeting, on 12 August 2004, the Sub-Commission on the Promotion and Protection of Human Rights decided, without a vote, to transmit Ms. Françoise Hampson’s final working paper on reservations to human rights treaties (E/CN.4/Sub.2/2004/42) to the

Commission on Human Rights, the Committee on the Elimination of Racial Discrimination, which originally requested the study, and other human rights treaty monitoring bodies and the International Law Commission.

[See chap. VIII.]

2004/111. Human rights and international solidarity

At its 23rd meeting, on 12 August 2004, the Sub-Commission on the Promotion and Protection of Human Rights, recalling its decision 2003/115 of 14 August 2003 and expressing its appreciation to Mr. Rui Baltazar Dos Santos Alves for his working paper on human rights and international solidarity (E/CN.4/Sub.2/2004/43), decided, without a vote, to request Mr. Dos Santos Alves to prepare, without financial implications, an expanded version of his working paper, taking into account the comments and suggestions made at the fifty-sixth session of the Sub-Commission, and to submit it to the Sub-Commission at its fifty-seventh session.

[See chap. VIII.]

2004/112. Preliminary report on the study on human rights and the human genome

At its 23rd meeting, on 12 August 2004, the Sub-Commission on the Promotion and Protection of Human Rights decided, without a vote:

- (a) To express its deep appreciation to the Special Rapporteur, Ms. Antoanella-Iulia Motoc, for her preliminary report on the study on human rights and the human genome (E/CN.4/Sub.2/2004/38), and welcomed the rich discussion that took place thereon;
- (b) To request the Special Rapporteur to submit an interim report to the fifty-seventh session and a final report to its fifty-eighth session;
- (c) To request the Secretary-General to provide the Special Rapporteur with all necessary assistance to enable her to carry out her mandate, inter alia by facilitating her contacts

with States and international governmental and non-governmental organizations and by enabling her to send them a questionnaire at the appropriate time to help in the preparation of her progress report.

[See chap. VIII.]

2004/113. Decision to postpone draft decision E/CN.4/Sub.2/2004/L.47

At its 23rd meeting, on 12 August 2004, the Sub-Commission on the Promotion and Protection of Human Rights decided, without a vote, to postpone consideration of draft decision E/CN.4/Sub.2/2004/L.47 until its fifty-seventh session.

[See Chap. VIII.]

2004/114. Human rights and non-State actors

At its 23rd meeting, on 12 August 2004, the Sub-Commission on the Promotion and Protection of Human Rights decided, without a vote, to request Mr. Gáspár Bíró and Ms. Antoanella-Iulia Motoc to prepare, without financial implications, a working paper on human rights and non-State actors, in order to approach in a systematic way the question of accountability under international human rights law, and submit it to the Sub-Commission at its fifty-seventh session.

[See chap. VIII.]
