



**Economic and Social
Council**

Distr.
LIMITED

E/CN.4/2003/L.11/Add.4
24 April 2003

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-ninth session
Agenda item 21 (b)

**REPORT TO THE ECONOMIC AND SOCIAL COUNCIL ON THE
FIFTY-NINTH SESSION OF THE COMMISSION**

Draft report of the Commission

Rapporteur: Mr. Branko SOCANAC (Croatia)

CONTENTS*

<i>Chapter</i>	<i>Page</i>
II. Resolutions and decisions adopted by the Commission at its fifty-ninth session	
<i>A. Resolutions</i>	
2003/30. 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	

* Documents E/CN.4/2003/L.10 and addenda will contain the chapters of the report relating to the organization of the session and the various items on the agenda. Resolutions and decisions adopted by the Commission, as well as draft resolutions and decisions for action by, and other matters of concern to, the Economic and Social Council will be contained in documents E/CN.4/2003/L.11 and addenda.

CONTENTS (*continued*)

<i>Chapter</i>		<i>Page</i>
II. A. <i>Resolutions (continued)</i>		
	2003/31. Question of arbitrary detention	
	2003/32. Torture and other cruel, inhuman or degrading treatment or punishment	
	2003/33. Human rights and forensic science	
	2003/34. The right to restitution, compensation and rehabilitation for victims of grave violations of human rights and fundamental freedoms	
	2003/35. Strengthening of popular participation, equity, social justice and non-discrimination as essential foundations of democracy	
	2003/36. Interdependence between democracy and human rights	
	2003/37. Human rights and terrorism	
	2003/38. Question of enforced or involuntary disappearances	
	2003/39. Integrity of the judicial system	
	2003/40. Hostage-taking	
	2003/41. The incompatibility between democracy and racism	
	2003/42. The right to freedom of opinion and expression	
	2003/43. Independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers	
	2003/44. Integrating the human rights of women throughout the United Nations system	
	2003/45. Elimination of violence against women	
	2003/46. Human rights of migrants	

CONTENTS (*continued*)

<i>Chapter</i>		<i>Page</i>
II. A. <i>Resolutions (continued)</i>		
	2003/47. The protection of human rights in the context of human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS)	
	2003/48. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	
	2003/49. Human rights of persons with disabilities	
	2003/50. Rights of persons belonging to national or ethnic, religious and linguistic minorities	
	2003/51. Internally displaced persons	

2003/30. 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 and those of the General Assembly on this subject, in particular its resolution 2002/68 and General Assembly resolution 57/195,

Reaffirming the views of the World Conference on Human Rights, held at Vienna in 1993, on the urgency of eliminating denials and violations of human rights,

Convinced that the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance made an important contribution to achieving the goal of eradicating racism, racial discrimination, xenophobia and related intolerance and that the results of the Conference have to be fully implemented without delay through effective action,

Recognizing that racism, racial discrimination, xenophobia and related intolerance occur on the grounds of race, colour, descent or national or ethnic origin and that victims can suffer multiple or aggravated forms of discrimination based on other related grounds such as sex, language, religion, political and other opinion, social origin, property, birth or other status,

Reaffirming its commitment to a global drive for the total elimination of racism, racial discrimination, xenophobia and related intolerance,

Recognizing that the successful implementation of the Programme of Action requires political will and adequate funding at the national, regional and international levels and international cooperation,

Underlining the importance of urgently eliminating continuing and violent trends involving racism and racial discrimination, and conscious that any form of impunity for crimes motivated by racist and xenophobic attitudes plays a role in weakening the rule of law and democracy, tends to encourage the recurrence of such crimes and requires resolute action and cooperation for its eradication,

Emphasizing that poverty, underdevelopment, marginalization, social exclusion and economic disparities are closely associated with racism, racial discrimination, xenophobia and related intolerance and contribute to the persistence of racist attitudes and practices which in turn generate more poverty,

Welcoming the outcomes of the recent sessions of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action and the Working Group of Experts on People of African Descent contained in documents E/CN.4/2003/20 and E/CN.4/2003/21, respectively,

Convinced that racism, racial discrimination, xenophobia and related intolerance reveal themselves in a differentiated manner for women and girls and may 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 against racism, racial discrimination, xenophobia and related intolerance in order to address multiple forms of discrimination,

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. *Expresses its profound concern about and its unequivocal condemnation* of all forms of racism and racial discrimination, including related acts of racially motivated violence, xenophobia and intolerance, as well as propaganda activities and organizations that attempt to justify or promote racism, racial discrimination, xenophobia and related intolerance in any form;
3. *Affirms* that racism and racial discrimination, and xenophobia and related intolerance, where they amount to racism and racial discrimination, constitute serious violations of and obstacles to the full enjoyment of all human rights;
4. *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;
5. *Encourages* Governments to implement and enforce existing legislation, or where it does not exist, to enact, implement and enforce such legislation in consistency with their systems of law to prevent acts of racism, racial discrimination, xenophobia and related intolerance, thereby contributing to the prevention of human rights violations;

6. *Urges* all Governments to take all other necessary measures to combat racism, racial discrimination, xenophobia and related intolerance, including new and contemporary forms of racism, through specific measures and programmes, in particular in the legislative, judicial, administrative, educational and information fields;

7. *Urges* all States to review and, when necessary, revise their immigration laws, policies and practices so that they are free of racial discrimination and compatible with their obligations under international human rights instruments;

8. *Urges* States to adopt effective measures to combat criminal acts motivated by racism, racial discrimination, xenophobia and related intolerance, including measures to ensure that such motivations are considered an aggravating factor for the purposes of sentencing, to prevent those crimes from going unpunished and to ensure the rule of law;

9. *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, racial discrimination, xenophobia and related intolerance as incompatible with democracy and transparent and accountable governance;

10. *Encourages* all States to include in their educational curricula and social programmes at all levels, as appropriate, knowledge of and tolerance and respect for foreign cultures, peoples and countries;

11. *Urges* States to mainstream a gender perspective in the design and development of prevention, education 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

12. *Urges* States that have not yet done so to consider ratifying or acceding to the international human rights instruments that combat racism, racial discrimination, xenophobia and related intolerance, in particular to accede to the International Convention on the Elimination of All Forms of Racial Discrimination as a matter of urgency, with a view to achieving universal ratification by 2005, and to consider making the declaration envisaged under article 14 thereof, to comply with their reporting obligations, to publish and act upon the concluding observations of the Committee on the Elimination of Racial Discrimination, to withdraw reservations contrary to the object and purpose of the Convention and to consider withdrawing other reservations;

13. *Invites* States parties to ratify the amendment to article 8 of the Convention, on the financing of the Committee on the Elimination of Racial Discrimination, and calls for adequate additional resources from the United Nations regular budget to enable the Committee to discharge its mandate fully;

14. *Urges* all States parties to the Convention to intensify their efforts to implement the obligations that they have accepted under article 4 of the Convention, with due regard to the principles of the Universal Declaration of Human Rights and article 5 of the Convention;

15. *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;

16. *Welcomes* 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

17. *Welcomes* the report of the inaugural session of the Working Group on the Effective Implementation of the Durban Declaration and Programme of Action held from 21 to 31 January 2003, in particular its recommendations, contained in document E/CN.4/2003/20, adopted by consensus on 21 March 2003, and calls for the full and effective implementation of these recommendations by all stakeholders;

18. *Requests* the Office of the High Commissioner for Human Rights to pay special attention to the implementation of the recommendations of the Working Group on the Effective Implementation of the Durban Declaration and Programme of Action;

19. *Also requests*, in the above context, the Office of the High Commissioner for Human Rights to submit an analytical report, to the next session of the Working Group on the Effective Implementation of the Durban Declaration and Programme of Action assessing the effectiveness of the current regional and international standards and instruments to combat

racism, racial discrimination, xenophobia and related intolerance and identifying possible areas where complementary international standards might be needed, in order to assist the Working Group to fulfil its mandate of preparing complementary international standards;

20. *Welcomes* the thematic approach to the future sessions of the Working Group, focusing on the critical areas affecting the well-being of the victims of racism, and to this end, notes that the next session of the Working Group will analyse the themes relating to poverty and education;

21. *Also welcomes* progress achieved towards the appointment of the independent eminent experts and acknowledges the level of eminence of the proposed candidates and, bearing in mind the terms of reference entrusted to these experts, as well as the need to keep their mandate under constant review, decides on the following readjustment of their terms of reference:

(a) To follow the implementation of the provisions of the Durban Declaration and Programme of Action in cooperation with the United Nations High Commissioner for Human Rights and assist the High Commissioner in preparing his annual progress report to the Commission and to the General Assembly based on information and views provided by States, relevant human rights treaty bodies, special procedures and other mechanisms of the Commission, international, regional and non-governmental organizations and national human rights institutions;

(b) Bearing in mind the recommendations of the Working Group, requests the independent eminent experts to assist the High Commissioner for Human Rights in the assessment and evaluation of the existing international standards and instruments to combat racism, racial discrimination, xenophobia and related intolerance with a view to preparing complementary standards;

22. *Decides* that the Working Group shall convene its future sessions for an initial period of three years and encourages the Working Group to work effectively towards the fulfilment of its mandate;

23. *Requests* the Working Group to convene its second session of 10 working days and to focus on areas decided upon in its recommendations, namely, poverty, education and complementary standards, and to report on progress in this regard at the sixtieth session of the Commission on Human Rights;

24. *Welcomes* the report of the Working Group of Experts on People of African Descent, in particular its recommendations contained in document E/CN.4/2003/21, and encourages the continuation of its work, and bearing in mind the existing mandate of this Working Group, decides on the following additional mandates:

- (i) To make proposals on the elimination of racial discrimination against Africans and people of African descent in all parts of the world;
- (ii) To address all the issues concerning the well-being of Africans and people of African descent contained in the Durban Declaration and Programme of Action;

25. *Recognizes* in the above context, the importance of reformulating paragraph 8 (d) of its resolution 2002/68 on the mandate of the Working Group of Experts on People of African Descent as follows:

(a) To elaborate short-, medium- and long-term proposals for the elimination of racial discrimination against people of African descent, bearing in mind the need for close collaboration with international and development institutions and the specialized agencies of the United Nations system to promote the human rights of people of African descent, inter alia through:

- (i) Improving the human rights situation of people of African descent by devoting special attention to their needs, inter alia through the preparation of specific programmes of action;
- (ii) Designing special projects, in collaboration with people of African descent, to support their initiatives at the community level and to facilitate the exchange of information and technical know-how between these populations and experts in these areas;
- (iii) Developing programmes intended for people of African descent allocating additional investments to health systems, education, housing, electricity, drinking water and environmental control measures and promoting equal opportunities in employment, as well as other affirmative or positive action initiatives, within the human rights framework;

26. *Decides* that the Working Group of Experts on People of African Descent shall convene its future sessions for an initial period of three years and encourages the Working Group to work effectively towards the fulfilment of its mandate, and also requests the Working Group to convene its second session of 10 working days and to report on progress in the elaboration of its mandate at the sixtieth session of the Commission on Human Rights;

27. *Emphasizes* that the basic responsibility for effectively combating racism, racial discrimination, xenophobia and related intolerance lies with States, and to this end stresses that States have the primary responsibility to ensure full and effective implementation of all commitments and recommendations contained in the Durban Declaration and Programme of Action;

28. *Also emphasizes*, in that context, the fundamental and complementary role of the national human rights institutions, regional bodies or centres and civil society, working jointly with States towards the achievement of the objectives of the Durban Declaration and Programme of Action;

29. *Calls upon* all States to formulate and implement without delay at the national, regional and international levels policies and plans of action to combat racism, racial discrimination, xenophobia and related intolerance, including their gender-based manifestations;

30. *Invites* States to assist the Office of the High Commissioner for Human Rights in developing and funding, upon the request of States, specific technical cooperation projects aimed at combating racism, racial discrimination, xenophobia and related intolerance, and when necessary and appropriate, to assist States in enhancing the development and implementation of their national action plans to combat racism, racial discrimination, xenophobia and related intolerance;

31. *Urges* States to support the activities of regional bodies or centres that combat racism, racial discrimination, xenophobia and related intolerance where they exist in their region, and recommends the establishment of such bodies or centres in all regions where they do not exist;

32. *Acknowledges* that the outcome of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance is on an equal footing with those of all the major United Nations conferences, summits and special sessions in the human rights and social fields;

33. *Emphasizes* that, in accordance with the Durban Declaration and Programme of Action, States have a shared responsibility, at the international level and within the framework of the United Nations system, to determine modalities for the overall review of the implementation of the Durban Declaration and Programme of Action;

34. *Acknowledges with appreciation* the upcoming 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 invites all States that have not yet done so to consider acceding to this important instrument;

35. *Notes with satisfaction* the progress made during the first session of the Ad Hoc Committee on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities, held in New York from 29 July to 9 August 2002, and invites States, intergovernmental and non-governmental organizations, human rights treaty bodies and mechanisms, as well as independent experts with an interest in this matter and national disability and human rights institutions to contribute to the work of the Ad Hoc Committee;

36. *Reaffirms* that the Commission on Human Rights has a central role in the monitoring of the implementation of the Durban Declaration and Programme of Action within the United Nations system;

37. *Stresses* the need to ensure adequate financial and human resources, including through the regular budget of the United Nations, for the Office of the High Commissioner for Human Rights to carry out its responsibilities efficiently in the implementation of the Durban Declaration and Programme of Action;

IV. IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION AND COORDINATION OF ACTIVITIES

38. *Recalls* the proclamation by the General Assembly in its resolution 48/91 of 20 December 1993, of the Third Decade to Combat Racism and Racial Discrimination, which began in 1993 and will end in 2003;

39. *Notes with great concern* that, despite the many efforts of the international community, the objectives of the Programme of Action for the Third Decade have largely not been achieved, welcomes, therefore, the adoption of the Durban Declaration and Programme of Action, and calls for its full implementation at the national, regional and international levels;

40. *Recommends* that the General Assembly, after considering the analytical report of the Secretary-General on the extent of implementation of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination to be submitted pursuant to Assembly resolution 57/195, consider the closure of the Third Decade;

41. *Also recommends* that the General Assembly, in the coming decade of activities to combat racism, racial discrimination, xenophobia and related intolerance, place emphasis on the concrete implementation of the Durban Declaration and Programme of Action on the basis of a broad-based consensus on the importance of the anti-discrimination struggle worldwide;

V. SPECIAL RAPPORTEUR ON CONTEMPORARY FORMS OF RACISM,
RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED
INTOLERANCE AND FOLLOW-UP TO HIS VISITS

42. *Welcomes with satisfaction* the reports of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, contained in documents E/CN.4/2003/23 and E/CN.4/2003/24 and encourages the continuation of his work;

43. *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;

44. *Requests* the Special Rapporteur to continue his exchange of views with Member States and relevant mechanisms and treaty bodies within the United Nations system in order to further enhance their effectiveness and mutual cooperation;

45. *Calls upon* Governments which have not yet issued standing invitations to give serious consideration to inviting the Special Rapporteur to visit their countries so as to enable him to fulfil his mandate fully and effectively;

46. *Urges* Member States to consider implementing the recommendations contained in the reports of the Special Rapporteur;

47. *Encourages* closer collaboration between the Special Rapporteur and the Office of the High Commissioner for Human Rights, in particular the newly formed Anti-Discrimination Unit;

48. *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-eighth session;

VI. GENERAL

49. *Decides* to consider this matter at its sixtieth session under the sub-item entitled “Comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action”.

*57th meeting
23 April 2003*

[Adopted by a recorded vote of 38 to 1,
with 13 abstentions. See chap. VI.]

2003/31. Question of 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 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 2002/42 of 23 April 2002,

1. *Takes note of:*

(a) The report of the Working Group on Arbitrary Detention E/CN.4/2003/8 and addenda);

(b) The work of the Working Group and underlines the positive initiatives it has taken to strengthen cooperation and dialogue with States and the establishment of cooperation with all those concerned by the cases submitted to it for consideration, in accordance with its mandate;

(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 implement the recommendations of the Working Group concerning persons mentioned in its report who have been detained for a number of years;

(b) To take appropriate measures in order to ensure that their legislation, regulations and practices in these fields are in conformity with the relevant international standards and the relevant international legal instruments applicable to the States concerned;

(c) 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;

(d) 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 invite the Working Group to visit their countries 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 which 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. *Takes note* of the recommendations made by the Working Group in its report;
9. *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;
10. *Decides* to extend for three years the mandate of the Working Group in accordance with resolutions 1991/42 of 5 March 1991 and 1997/50 of 15 April 1997;
11. *Requests* the Working Group to submit to the Commission, at its sixtieth 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;
12. *Decides* to continue its consideration of this question at its sixtieth session under the relevant agenda item.

*57th meeting
23 April 2003*

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

2003/32. 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 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,

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 the Commission on Human Rights, in particular Commission resolution 2002/38 of 22 April 2002 and Assembly resolution 57/200 of 18 December 2002,

Mindful of the proclamation by the General Assembly, in its resolution 52/149 of 12 December 1997, of 26 June as United Nations International Day in Support of Victims of Torture,

Commending the persistent efforts by 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 which 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 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.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. *Also urges* Governments to take effective measures to provide redress and to prevent torture and other cruel, inhuman or degrading treatment or punishment, including their gender-based manifestations;

5. *Reminds* Governments that corporal punishment, including of children, can amount to cruel, inhuman or degrading punishment or even to torture;

6. *Also reminds* Governments that intimidation and coercion, as described in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 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;

7. *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 humanitarian law and that the perpetrators are liable to prosecution and punishment;

8. *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 and General Assembly resolution 55/89 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;

9. *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;

10. *Also stresses* that national legal systems should ensure that the victims of torture or other cruel, inhuman or degrading treatment or punishment obtain redress and 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;

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 which is specifically designed to inflict torture or other cruel, inhuman or degrading treatment;

13. *Takes note with appreciation* of the Special Rapporteur's study (E/CN.4/2003/69) on the situation of trade and production in such equipment, its origin, destination and forms, calls upon 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. *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;

15. *Urges* all States to consider becoming parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as a matter of priority, with a view to achieving universal ratification, and welcomes the ratifications and accessions since the fifty-eighth session of the Commission;

16. *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, to ensure that no reservation is incompatible with the object and purpose of the Convention and to review regularly any reservations made in respect of the provisions of the Convention, with a view to withdrawing them;

17. *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 and to avoid making, or consider the possibility of withdrawing, reservations to article 20;

18. *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;
19. *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;
20. *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;
21. *Invites* donor countries, recipient countries and relevant United Nations organizations, funds and programmes, in particular the Office of the High Commissioner for Human Rights, to consider, where appropriate, including in their respective bilateral programmes and technical cooperation projects relating to the training of armed forces, security forces, 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;
22. *Calls upon* States parties to consider signing and ratifying the Optional Protocol to the Convention, providing further measures for the 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;
23. *Takes note* that ratifications from 20 States parties are required for the Optional Protocol to enter into force;
24. *Welcomes* the report of the Committee against Torture on its twenty-seventh and twenty-eighth sessions (A/57/44);
25. *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 which have made a 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;

26. *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.4/2003/60) and requests the Secretary-General to continue to submit an annual report to the Commission;

27. *Also takes note with appreciation* of the work of the Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment or punishment and notes the recommendations contained in the report of the Special Rapporteur (E/CN.4/2002/68 and Addenda), as well as the recommendations made in previous years, 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;

28. *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;

29. *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 for Human Rights, 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;

30. *Reiterates* the need for the Special Rapporteur to be able to respond effectively, in particular through urgent appeals, to credible and reliable information that comes before him, invites the Special Rapporteur to continue to seek the views and comments of all concerned, in particular Governments, and underlines that the facts forming the basis for the urgent appeals should be clearly set out;

31. *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;

32. *Urges* those Governments that have not yet responded to communications transmitted to them by the Special Rapporteur to answer without further delay;

33. *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;

34. *Invites* the Special Rapporteur to submit an interim report to the General Assembly at its fifty-eighth session on the overall trends and developments with regard to his mandate and a full report to the Commission at its sixtieth session, including as addenda all replies sent by Governments that are received in any of the official languages of the United Nations;

35. *Takes note* of the reports of the Secretary-General on the United Nations Voluntary Fund for Victims of Torture (A/57/268 and E/CN.4/2003/61 and Add.1);

36. *Recognizes* the global need for international assistance to victims of torture, expresses its gratitude and appreciation to those Governments, organizations and individuals that have contributed to the Fund and encourages them to continue to do so;

37. *Stresses* the importance of the work of the Board of Trustees of the Fund and appeals to all Governments, organizations and individuals to contribute annually to the Fund and preferably by 1 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 sixtieth session, and requests an independent evaluation, in accordance with United Nations rules and regulations, of the functioning of the Fund, including in particular the lessons and best practices learned from the Fund's activities, with a view to further enhancing its effectiveness; the independent evaluation should be initiated before the next session of the Commission using extrabudgetary funding;

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;

42. *Decides* to continue to consider this matter at its sixtieth session, as a matter of priority.

*57th meeting
23 April 2003*

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

2003/33. Human rights and forensic science

The Commission on Human Rights,

Recalling its resolutions 1993/33 of 5 March 1993, 1994/31 of 4 March 1994, 1996/31 of 19 April 1996, 1998/36 of 17 April 1998 and 2000/32 of 20 April 2000,

Welcoming the report of the Office of the United Nations High Commissioner for Human Rights on human rights and forensic science (E/CN.4/2002/67), submitted pursuant to Commission resolution 2000/32,

Recognizing that forensic science is an important tool in detecting evidence of torture and other cruel, inhuman or degrading treatment or punishment and extrajudicial, summary or arbitrary executions, and recalling in this context the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions adopted by the Economic and Social Council in its resolution 1989/65 of 24 May 1989, as well as the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment annexed to Commission resolution 2000/43 and General Assembly resolution 55/89 of 4 December 2000,

Recognizing also that forensic investigations can play an important role in combating impunity by providing the evidentiary basis on which prosecutions can successfully be brought against persons responsible for grave violations of human rights and international humanitarian law,

Noting that the practice of forensic science includes examinations of both dead and living persons, and also includes identification procedures,

Noting also the need of Governments, intergovernmental organizations and non-governmental organizations for forensic scientific expertise in investigating deaths and clarifying disappearances,

Aware that several special rapporteurs have used or referred to the need for the assistance of experts in various forensic disciplines in the context of the implementation of their mandates,

1. *Welcomes* the increased use of forensic investigations in situations where grave violations of human rights and international humanitarian law have occurred, and encourages further coordination concerning, inter alia, the planning and realization of such investigations, as well as the protection of forensic and related experts, between Governments, intergovernmental organizations and non-governmental organizations;

2. *Notes* the progress made by the Office of the United Nations High Commissioner for Human Rights in the use of forensic experts, including the revised Cooperation Service Agreement (E/CN.4/1998/32, annex II) regulating the use of forensic experts provided either by a Member State or by a non-governmental organization;

3. *Welcomes* the publication by the Office of the High Commissioner for Human Rights of the Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Professional Training Series No. 8);

4. *Welcomes* the establishment of a consolidated database of forensic experts at the Office of the High Commissioner, and requests the High Commissioner to keep the database continuously updated in consultation with Governments, relevant United Nations bodies and professional organizations of forensic and related experts;

5. *Recommends* that the Office of the High Commissioner encourage forensic experts to coordinate further and produce additional manuals on examinations of living persons;

6. *Also recommends* that the Office of the High Commissioner encourage, as appropriate, the dissemination and use of the manuals referred to in the present resolution and the setting up of courses aimed at providing training in forensic activities relating to victims of human rights violations, particularly in countries without sufficient expertise in forensic science and related fields, for example through the training of local teams;

7. *Further recommends* that the Secretary-General, with a view to promoting quality and consistency, establish procedures to evaluate the use of forensic expertise and the results of those efforts;

8. *Encourages* Governments to establish thorough, prompt and impartial investigation and documentation procedures, such as those reflected in the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Execution and in the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

9. *Requests* the Secretary-General to provide appropriate resources, from within existing overall United Nations resources, to fund the activities of the Office of the High Commissioner in implementing the present resolution, including a revision of the Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions;

10. *Requests* the Office of the High Commissioner to report to the Commission at its sixty-first session on progress made in this matter;

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

*57th meeting
23 April 2003*

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

**2003/34. 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 (A/CONF.157/23),

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 and 2002/44 of 23 April 2002, as well as its decision 2001/105 of 23 April 2001,

Recalling also the report of the independent expert, Mr. Cherif Bassiouni, appointed by the Commission (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. *Requests* the Secretary-General to circulate to all Member States and intergovernmental and non-governmental organizations in consultative status with the Economic and Social Council 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 the report of the independent expert, and to request those that have not yet done so to send their comments thereon to the Office of the United Nations High Commissioner for Human Rights;

3. *Takes note* of the report of the Chairperson-Rapporteur of the consultative meeting, held on 30 September and 1 October 2002, 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” (E/CN.4/2003/63);

4. *Requests* the Chairperson-Rapporteur of the consultative meeting, 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 consultative meeting;

5. *Requests* the United Nations High Commissioner for Human Rights to hold, with the cooperation of interested Governments, a second 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 options for the adoption of these principles and guidelines; the second consultative meeting should have, as a basis for its work, the comments submitted, the report of the Chairperson-Rapporteur of the first consultative meeting and the revised version of the principles and guidelines to be prepared by the Chairperson-Rapporteur of the first consultative meeting in consultation with the independent experts, Mr. Theo van Boven and Mr. Cherif Bassiouni;

6. *Encourages* the Chairperson-Rapporteur of the first consultative meeting to conduct informal consultations with all interested parties, to further contribute to the process 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”;

7. *Requests* the High Commissioner for Human Rights to transmit to the Commission at its sixtieth session the final outcome of the second consultative meeting for its consideration;

8. *Decides* to continue its consideration of this question, as a matter of priority, at its sixtieth session under the sub-item entitled “Independence of the judiciary, administration of justice, impunity” of the relevant agenda item.

*57th meeting
23 April 2003*

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

**2003/35. Strengthening of popular participation, equity, social justice
and non-discrimination as essential foundations of democracy**

The Commission on Human Rights,

Recalling its resolutions 2001/36 of 23 April 2001 and 2002/34 of 22 April 2002 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 of 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,

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,

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 inequitable political, economic, cultural and social conditions can breed and foster racism, racial discrimination, xenophobia and related intolerance, which in turn exacerbate inequity;
12. *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;
13. *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;

14. *Requests* all States and the international community further to endeavour to promote effective measures to eradicate poverty and promote just, equitable and inclusive societies;

15. *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;

16. *Requests* the Secretary-General and the United Nations High Commissioner for Human Rights to bring the present resolution to the attention of Member States, the relevant United Nations organs and intergovernmental and non-governmental organizations and to disseminate it on the widest possible basis;

17. *Decides* to continue its consideration of this issue at its sixtieth session, under the same agenda item.

*57th meeting
23 April 2003*

[Adopted by a recorded vote of 29 votes to 12,
with 12 abstentions. See chap. XI.]

2003/36. Interdependence between democracy and human rights

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”, and 2002/46 entitled “Further measures to promote and consolidate democracy”,

Recalling also the universal validity of the values of freedom, respect for human rights and the principle of the holding of periodic and genuine elections by universal suffrage and by secret ballot which are embodied in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and various regional instruments for the promotion and protection of human rights,

Reaffirming commitments undertaken by Member States, within the framework of the United Nations and other international organizations, for the promotion of human rights, democracy and the rule of law,

Taking note of the Second Ministerial Conference of the Community of Democracies, held in Seoul from 10 to 12 November 2002, under the overall theme of “Democracy: Investing for Peace and Prosperity”, and the Seoul Plan of Action, which provides specific guidelines for the promotion, consolidation and protection of democracy worldwide, of the Warsaw Declaration adopted by the First Conference of the Community of Democracies, as well as of the convening of Fifth International Conference of New or Restored Democracies, to be held in Ulaanbataar, from 18 to 20 June 2003,

Noting the Human Development Report 2002 issued by the United Nations Development Programme, which illustrates the close link between democracy and good governance on the one hand, and economic development and poverty alleviation, on the other hand,

Recognizing the need continuously to promote respect for democratic values and principles, and to improve the functioning of democratic institutions and mechanisms,

Recognizing also that the effective application of the rule of law and the fair administration of justice are vital to the good functioning of democracy,

Welcoming the expert seminar on the interdependence between democracy and human rights that took place from 25 to 26 November 2002 in Geneva,

Taking note of the chairperson’s summary of key points emerging from the seminar,

Noting with interest the report of the United Nations High Commissioner for Human Rights on the expert seminar (E/CN.4/2003/59),

1. *Declares* that the essential elements of democracy include respect for human rights and fundamental freedoms, inter alia freedom of association, freedom of expression and opinion, and also include access to power and its exercise in accordance with the rule of law, the

holding of periodic free and fair elections by universal suffrage and by secret ballot as the expression of the will of the people, a pluralistic system of political parties and organizations, the separation of powers, the independence of the judiciary, transparency and accountability in public administration, and free, independent and pluralistic media;

2. *Reaffirms* its conviction that democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing; 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;

3. *Also reaffirms* that democracy facilitates the progressive realization of all economic, social and cultural rights;

4. *Recognizes* the comprehensive nature of democracy as a system of governance that encompasses procedures and substance, formal institutions and informal processes, majorities and minorities, mechanisms and mentalities, laws and their enforcement, government and civil society;

5. *Stresses* the need for equal opportunities for men and women to participate in political and public life;

6. *Acknowledges* the role played by non-governmental organizations and civil society in promoting democracy;

7. *Notes* that international human rights instruments enshrine many of the principles, norms, standards and values of democracy and may guide the development of domestic democratic traditions and institutions;

8. *Acknowledges* that democracy is an always-perfectible process that should be measured by the degree to which its principles, norms, standards and values are given effect and contributes to the full realization of all human rights;

9. *Takes note with satisfaction* that the advance, in many countries of the world, in building democratic societies led to a better realization of the civil, political, economic, social and cultural rights in those countries;

10. *Takes note* that democratic processes are not always irreversible and that there is a constant need continuously to protect, promote and consolidate democracy;

11. *Calls* on national parliaments to make continuous efforts aimed at strengthening the rule of law and democratic institutions, as well as at implementing democratic principles and values, and encourages the Inter-parliamentary Union actively to continue its contributions to that effect;

12. *Underlines* the need to further clarify basic concepts that define democracy and are of universal relevance and use;

13. *Calls upon* the Office of the United Nations High Commissioner for Human Rights:

(a) To pay increased attention to the work done with respect to the promotion and consolidation of democracy by the United Nations system, other regional and international intergovernmental organizations and relevant non-governmental organizations;

(b) To engage in coordination efforts with the Department of Political Affairs and the Department of Economic and Social Affairs of the Secretariat, the United Nations Development Programme and other relevant United Nations bodies that undertake activities aimed at promoting and consolidating democracy;

(c) To use the work of special procedures of the Commission on Human Rights in order to collect and analyse data on relevant cases where protection of human rights was served by democratic practices or where lack of democracy or setbacks in democratization processes triggered violations of human rights;

(d) To invite the views of various regional, subregional and other organizations and arrangements on the role they play in promoting and consolidating democracy, and to report to the Commission on the contributions resulting therefrom at its sixtieth session;

14. *Requests* the Office of the High Commissioner for Human Rights to prepare a compilation of documents or texts adopted and used by various intergovernmental, international, regional and subregional organizations aimed at promoting and consolidating democracy and to report to the Commission at its sixty-first session;

15. *Invites* all Governments, relevant intergovernmental organizations and interested non-governmental organizations to continue and deepen debates aimed at identifying ways and means to promote and consolidate democracy, in particular on issues identified by the expert seminar as being in need of further attention;

16. *Calls upon* the Office of the High Commissioner for Human Rights to organize to that purpose a second expert seminar, in 2004, to examine further the interdependence between democracy and human rights, with the topic of “Democracy and the rule of law”, to be funded by voluntary contributions, and to include observers from interested Governments, experts of the United Nations specialized agencies, funds and programmes, other relevant intergovernmental organizations and interested non-governmental organizations;

17. *Requests* the Office of the High Commissioner for Human Rights to report on the conclusions of the expert seminar to the Commission at its sixty-first session;

18. *Decides* to continue consideration of the matter at its sixtieth session.

*57th meeting
23 April 2003*

[Adopted by a recorded vote of 36 votes to none,
with 17 abstentions. See chap. XI.]

2003/37. 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, 52/133 of 12 December 1997 and 56/160 of 19 December 2001, as well as its own resolutions 2000/30 of 20 April 2000, 2001/37 of 23 April 2001 and 2002/35 of 22 April 2002,

Recalling also General Assembly resolutions 54/164 of 17 December 1999 and 54/110 of 9 December 1999, in which it decided that the Ad Hoc Committee established by Assembly resolution 51/210 of 17 December 1996 should continue to elaborate a draft international convention for the suppression of acts of nuclear terrorism with a view to completing the instrument, should address means of further developing a comprehensive legal framework of conventions dealing with international terrorism, including considering the elaboration of a comprehensive convention on international terrorism, and should address the question of convening a high-level conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations,

Reaffirming the need for the implementation of General Assembly resolution 54/109 of 9 December 1999, in which the Assembly adopted the International Convention for the Suppression of the Financing of Terrorism,

Noting the importance of General Assembly resolution 55/158 of 12 December 2000, in which the Assembly stressed the need to strengthen further international cooperation between States and between international organizations and agencies, regional organizations and arrangements and the United Nations in order to prevent, combat and eliminate terrorism in all its forms and manifestations, wherever and by whomever committed, in accordance with the principles of the Charter of the United Nations, international law and relevant international conventions,

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,

Recalling in this regard the horrific events of 11 September 2001 in the United States of America, which led to the loss of the lives of several thousand civilians,

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 deploring 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,

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 the previous session of the Commission on Human Rights and at the General Assembly on the question of human rights and terrorism,

Noting also the final document of the XIII Conference of the Heads of State and Government of the Non-Aligned Movement, held in Kuala Lumpur on 24 and 25 February 2003,

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. *Strongly condemns* the violations of the right to life, liberty and security;

3. *Expresses its solidarity* with the victims of terrorism;

4. *Condemns* incitement of ethnic hatred, violence and terrorism;

5. *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;

6. *Strongly condemns* all terrorist acts on individual property, national monuments and historical relics;

7. *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 further strengthen cooperation with a view to bringing terrorists to justice;

8. *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;

9. *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;

10. *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;

11. *Welcomes* the report of the Secretary General (A/56/190), and invites him to continue to seek the views of Member States on the implications of terrorism in all its forms and manifestations for the full enjoyment of all human rights and fundamental freedoms and on how the needs and concerns of victims of terrorism might be addressed, including through the possible establishment of a voluntary fund for the victims of terrorism, as well as on ways and means to rehabilitate the victims of terrorism and to reintegrate them into society, with a view to incorporating his findings in his reports to the Commission and the General Assembly;

12. *Endorses* decision 2002/24 of 14 August 2002 of the Sub-Commission on the Promotion and Protection of Human Rights requesting the Secretary-General to give the Special Rapporteur on terrorism and human rights of the Sub-Commission all the assistance necessary 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, to complement and expand her essential research and to collect all the needed and up-to-date information and data for the preparation of her additional progress report;

13. *Requests* the Special Rapporteur to give attention in her next report on human rights and terrorism to the questions raised in the present resolution;

14. *Decides* to remain seized of the matter at its sixtieth session.

*58th meeting
23 April 2003*

[Adopted by a recorded vote of 30 votes to 12,
with 11 abstentions. See chap. XI.]

2003/38. Question of 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 consisting of five of its members, to serve as experts in their individual capacity, to examine questions relevant to enforced or involuntary disappearances, its resolution 1995/75 of 8 March 1995 on cooperation with representatives of United Nations human rights organs, and its resolutions 2001/46 of 23 April 2001 and 2002/41 of 23 April 2002,

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, and Assembly resolution 57/215 of 18 December 2002,

Recalling further Economic and Social Council decision 2001/221 of 4 June 2001 in which the Council endorsed the decision of the Commission to establish an intersessional open-ended working group of the Commission, with the mandate to elaborate a draft legally binding normative instrument for the protection of all persons from enforced disappearance,

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.4/2003/70) pursuant to Commission resolution 2002/41;

2. *Stresses* the importance of the work of the Working Group and encourages it in the execution of its mandate:

(a) To continue to promote communication between families of disappeared persons and the Governments concerned 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 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 sixtieth session;

3. *Deplores* the fact that some Governments have never provided substantive replies concerning the cases of enforced disappearance in their countries or acted on the recommendations concerning them made in the reports of the Working Group;

4. *Urges* the Governments concerned:

(a) To cooperate with the Working Group and help it to carry out its mandate effectively, in particular by inviting it freely to visit their countries;

(b) To intensify their cooperation with the Working Group on any action taken pursuant to recommendations addressed to them by the Working Group;

(c) To take steps to protect witnesses of enforced or involuntary disappearances and the lawyers and families of disappeared persons against any intimidation or ill-treatment to which they might be subjected;

(d) That have long had many unresolved cases of disappearances, to continue their efforts to shed light on the fate of the individuals concerned and to set appropriate settlement machinery in train with the families of those individuals;

(e) 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;

5. *Reminds* Governments:

(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 on the Protection of All Persons from Enforced Disappearance, 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 to exercise their rights are assured;

6. *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 invited the Working Group to visit 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, 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;

7. *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;

8. *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;

9. *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;

10. *Requests* the Working Group to report on its activities to the Commission at its sixtieth session;

11. *Takes note* of the presentation by the independent expert charged with examining the existing international criminal and human rights framework for the protection of persons from enforced or involuntary disappearances of his report (E/CN.4/2002/71) to the intersessional working group with the mandate to elaborate a draft legally binding normative instrument for the protection of all persons from enforced disappearance, in accordance with Commission on Human Rights resolutions 2001/46 and 2002/41, as well as the contribution of the Chairman-Rapporteur of the working group on the administration of justice of the Sub-Commission on the Promotion and Protection of Human Rights to the work of the intersessional working group in his capacity as Rapporteur of the draft international convention on the protection of all persons from enforced disappearance (E/CN.4/Sub.2/1998/19, annex) transmitted by the Sub-Commission in its resolution 1998/25 of 26 August 1998;

12. *Also takes note* of the report of the intersessional open-ended working group of the Commission with the mandate to elaborate a draft legally binding normative instrument for the protection of all persons from enforced disappearance (E/CN.4/2003/71) and welcomes the substantial progress made during the first session of the working group and, in that context, welcomes the participation of non-governmental organizations;

13. *Requests* the intersessional open-ended working group to meet for a period of 10 working days before the sixtieth session of the Commission in order to continue its work, in accordance with Commission on Human Rights resolutions 2001/46 and 2002/41, and to report to the Commission at its sixtieth session;

14. *Requests* the Chairperson-Rapporteur of the intersessional open-ended working group to undertake informal consultations with all interested parties in order to prepare the next session of the working group;
15. *Requests* the United Nations High Commissioner for Human Rights to invite the experts mentioned in paragraph 11 above to participate in the activities of the working group;
16. *Decides* to consider this matter at its sixtieth session under the same agenda item.

*58th meeting
23 April 2003*

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

2003/39. 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 judiciary 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 resolution 2002/37 of 22 April 2003 on the subject,

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. *Reiterates* that every person is entitled, in full equality, to a fair and public hearing by an independent and impartial tribunal, in the determination of his/her rights and obligations and of any criminal charge against him/her;

2. *Also reiterates* that everyone has the right to be tried by ordinary courts or tribunals using established legal procedures and that tribunals that do not use such duly established procedures of the legal process shall not be created to displace the jurisdiction belonging to the ordinary courts or judicial tribunals;

3. *Further reiterates* that everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law;

4. *Stresses* the importance that everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he/she has had all the guarantees necessary for the defence;

5. *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 and to defend themselves in person or through legal assistance of their own choosing;

6. *Underlines* that any court trying a person charged with a criminal offence should be based on the principles of independence and impartiality;

7. *Calls upon* States to ensure the principle 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;

8. *Reaffirms* that every convicted person should have the right to have his/her conviction and sentence reviewed by a tribunal according to law;

9. *Calls upon* States that have military courts for trying criminal offenders to ensure that such courts are an integral part of the general judicial system and use the duly established legal proceedings;

10. *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;

11. *Takes note* of the report of the Special Rapporteur on the independence of judges and lawyers (E/CN.4/2003/65 and Add.1-4) as well as of the report on the issue of the administration of justice through military tribunals (E/CN.4/Sub.2/2002/4) submitted by Mr. Louis Joinet to the Sub-Commission on the Promotion and Protection of Human Rights at its fifty-fourth session;

12. *Also takes note* of the efforts of the Special Rapporteur on the independence of judges and lawyers to make use of resolution 2002/37 in his communications with States;

13. *Requests* the Special Rapporteur to take full account of the present resolution in the discharge of his mandate and in his report to the sixtieth session of the Commission.

58th meeting

23 April 2003

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

2003/40. Hostage-taking

The Commission on Human Rights,

Recalling the Universal Declaration of Human Rights, which guarantees the right to life, liberty and security of person, freedom from torture or degrading treatment, freedom of movement and protection from arbitrary detention,

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

Taking into account the International Convention against the Taking of Hostages, adopted by the General Assembly in its resolution 34/146 of 17 December 1979, which also recognizes that everyone has the right to life, liberty and security of person and that the taking of hostages is an offence of grave concern to the international community, as well as the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly in its resolution 3166 (XXVIII) of 14 December 1973,

Bearing in mind the relevant Security Council resolutions condemning all acts of terrorism, including those of hostage-taking, in particular, resolution 1440 (2002) of 24 October 2002,

Mindful of the fact that hostage-taking constitutes a war crime under the Rome Statute of the International Criminal Court and is also a grave breach of the Geneva Conventions of 12 August 1949,

Recalling its previous resolutions on the subject, including its most recent resolution, 2001/38 of 23 April 2001, in which it condemned the taking of any person as a hostage, as well as General Assembly resolution 57/220 of 18 December 2002 on the same subject,

Concerned that, despite the efforts of the international community, acts of hostage taking in different forms and manifestations, inter alia those committed by terrorists and armed groups, continue to take place and have even increased in many regions of the world,

Appealing for the humanitarian action of humanitarian organizations, in particular of the International Committee of the Red Cross and its delegates, to be respected, in accordance with the Geneva Conventions of 12 August 1949 and the Additional Protocols of 1977 thereto,

Recognizing that hostage-taking calls for resolute, firm and concerted efforts on the part of the international community in order, in strict conformity with international human rights standards, to bring such abhorrent practices to an end,

1. *Reaffirms* that hostage-taking, wherever and by whomever committed, is a serious crime aimed at the destruction of human rights and is, under any circumstances, unjustifiable, including as a means to promote and protect human rights;
2. *Condemns* all acts of hostage-taking anywhere in the world;
3. *Demands* that all hostages be released immediately and without any preconditions, and expresses its solidarity with the victims of hostage-taking;
4. *Calls upon* States to take all necessary measures, in accordance with relevant provisions of international law and international human rights standards, to prevent, combat and punish acts of hostage-taking, including by strengthening international cooperation in this field;
5. *Urges* all thematic special rapporteurs and working groups to continue to address, as appropriate, the consequences of hostage-taking in their forthcoming reports to the Commission;
6. *Decides* to remain seized of this matter.

*58th meeting
23 April 2003*

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

2003/41. 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 and 2002/39 of 23 April 2002,

Taking note 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),

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. *Remains convinced* that political platforms and organizations based on racism, xenophobia or doctrines of racial superiority and related discrimination must be condemned as incompatible with democracy and transparent and accountable governance;
2. *Condemns* legislation and practices based on racism, racial discrimination, xenophobia and related intolerance as incompatible with democracy and transparent and accountable governance;
3. *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;
4. *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;

5. *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;

6. *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;

7. *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;

8. *Invites* the mechanisms of the Commission and the 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;

9. *Takes note* of the report of the United Nations High Commissioner for Human Rights (E/CN.4/2003/62 and Add.1);

10. *Also takes note* of the outcome of the expert seminar held by the Office of the High Commissioner for Human Rights in Geneva in November 2002 on the interdependence between democracy and human rights, as contained in document E/CN.4/2003/59;

11. *Invites* the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance to update and expand the study on the issue of political platforms which promote or incite racial discrimination (A/CONF.189/PC.2/21 and Corr.1 and 2) and to submit it to the Commission at its sixtieth session;

12. *Decides* to continue consideration of the matter at its sixtieth session under the same agenda item.

58th meeting
23 April 2003
[Adopted without a vote. See chap. XI.]

2003/42. The right to freedom of opinion and expression

The Commission on Human Rights,

Guided by the Universal Declaration of Human Rights, which affirms the right to freedom of opinion and expression and mindful of the International Covenant on Civil and Political Rights, which reaffirms, in article 19, 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 noting that these rights and freedoms are among those which give meaning to the right to participate effectively in a free and democratic society,

Considering that the effective promotion and protection of the human rights of persons who exercise the right to freedom of opinion and expression are of fundamental importance to the safeguarding of human dignity,

Noting that restrictions on the exercise of the right to freedom of opinion and expression could indicate a deterioration in the protection, respect for and enjoyment of other human rights and freedoms, bearing in mind that all human rights are universal, indivisible and interdependent and interrelated,

Mindful of the need to ensure that unjustified invocation of national security, including counter-terrorism, to restrict the right to freedom of expression and information does not take place,

Recalling the Johannesburg Principles on National Security, Freedom of Expression and Access to Information adopted by a group of experts meeting in South Africa on 1 October 1995 (E/CN.4/1996/39, annex), as well as the Principles on Freedom of Information Legislation (The Public's Right to Know) (E/CN.4/2000/63, annex II),

Reaffirming the need to raise awareness about all aspects of the interrelationship between the use and availability of new media of communication, including modern telecommunications technology, and the right to freedom of expression and information, and noting the efforts made in this regard in a number of international and regional forums, and mindful of provisions of relevant instruments,

Reaffirming the important role of women in the prevention and resolution of conflicts and in peace-building, stressing the importance of their equal participation and full involvement in all efforts for the maintenance and promotion of peace and security, and recognizing that their contributions to these efforts are often constrained by the lack of full and effective enjoyment of their right to freedom of expression,

1. *Reaffirms* the rights contained in the International Covenant on Civil and Political Rights;

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.4/2003/67 and Add.1 and 2) and welcomes in particular his ongoing and increasing cooperation with other mechanisms and with other organizations, and his efforts to promote respect for the right to freedom of opinion and expression;

3. *Expresses its continuing concern* at:

(a) The extensive occurrence of detention, extrajudicial killing, torture, intimidation, persecution and harassment, abuse of legal provisions on defamation and criminal libel as well as on surveillance, search and seizure, and censorship, threats and acts of violence and of discrimination, often undertaken with impunity, against persons, including professionals in the field of information, who exercise the right to freedom of opinion and expression, including the right to seek, receive and impart information, 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, as well as at persons who seek to promote or defend these rights and freedoms, including legal professionals and human rights defenders;

(b) The number of cases in which the violations referred to in paragraph 3 (a) are facilitated and aggravated by several factors such as abuse of states of emergency, exercise of the powers specific to states of emergency without formal declaration and too vague a definition of offences against State security;

(c) Killings of and attacks particularly directed against journalists in situations of armed conflict, as well as other threats and acts of violence, including terrorist acts, directed against media professionals;

(d) The lack of full and effective enjoyment of the right to freedom of expression by women, which contributes to inadequate action by Governments in the integration of the human rights of women into the mainstream of their human rights activities;

(e) High rates of illiteracy continuing to exist in the world, especially among women, and reaffirms that education is an integral component of the full and effective participation of persons in a free and democratic society, in particular for the full enjoyment of the right to freedom of opinion and expression;

4. *Calls upon States:*

(a) To ensure respect and support for the rights referred to in paragraph 3 (a), to put an end to the violations referred to in the same paragraph and to bring to justice those responsible;

(b) Where any persons have been detained and subjected to violence or threats of violence or to harassment, including persecution and intimidation, even after their release from detention, for exercising the rights referred to in paragraph 3 (a), to take the appropriate steps to ensure the immediate cessation of these acts and to create conditions under which these acts may be less liable to occur, including by ensuring that relevant national legislation complies with their international human rights obligations and is effectively implemented;

5. *Stresses* the importance of a diversity of sources of information, including mass media, at all levels, and the importance of the free flow of information, as a way to promote full enjoyment of the right to freedom of opinion and expression, and encourages the facilitation of access to the Internet, as well as international cooperation aimed at the development of media and information and communication facilities in all countries;

6. *Urges* all States:

(a) To respect freedom of expression in the media and broadcasting, and in particular, to respect the editorial independence of the media, and to encourage a diversity of ownership of media and of sources of information, including through transparent licensing systems and effective regulations on undue concentration of ownership of the media in the private sector;

(b) 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;

(c) 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;

(d) To take all measures to investigate all threats and acts of violence, including terrorist acts, against journalists, including in situations of armed conflict, and bring to justice perpetrators of such acts;

(e) To refrain from using counter-terrorism as a pretext to restrict the right to freedom of expression in ways which are contrary to their obligations under international law;

7. *Calls upon* all States to respect all human rights and fundamental freedoms and calls on all parties to armed conflict to respect international humanitarian law, including their obligations under the Geneva Conventions of 12 August 1949 and the two Additional Protocols thereto of 8 June 1977, whose provisions extend protection to journalists in situations of armed conflict;

8. *Recalls* that the International Covenant on Civil and Political Rights states that the exercise of the right to freedom of expression carries with it special duties and responsibilities and may therefore be subject to certain restrictions as set out in article 19 of the Covenant, and encourages States to review their procedures and legislation to ensure that any limitations on the right to freedom of 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;

9. *Calls upon* States to refrain from imposing restrictions which are not consistent with the provisions of article 19, paragraph 3, of the International Covenant on Civil and Political Rights, including on:

(a) Discussion of government policies and political debate, reporting on human rights, government activities and corruption in government, engaging in peaceful demonstrations or political activities, including for peace and democracy, or expression of opinion and dissent, religion or belief;

(b) The free flow of information and ideas, including practices such as the unjustifiable banning or closing of publications or other media and the abuse of administrative measures and censorship;

(c) Access to or use of modern telecommunications technologies, including radio, television and the Internet;

(d) Journalists in situations of armed conflict;

10. *Urges* Governments to implement effective measures to eliminate the atmosphere of fear which often prevents women who have been victims or who are living in fear of violence, either in domestic or community settings or as a result of armed conflict, from communicating freely on their own behalf or through intermediaries and to facilitate the effective participation of women at decision-making levels in national, regional and international institutions, including in mechanisms for the prevention, management and resolution of conflicts;

11. *Recognizes* the positive contribution that the exercise of the right to freedom of expression, particularly by the media, and new technologies, including 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 new information technologies such as the Internet for purposes contrary to respect for human values;

12. *Appeals* to all States to ensure that persons seeking to exercise these rights and freedoms are not discriminated against, particularly in such areas as employment, housing, social services, and education, and in this context to pay particular attention to the situation of women;

13. *Expresses* its appreciation to States which submitted to the Special Rapporteur comments on their programmes and policies with respect to access to information for the purposes of education on and prevention of human immunodeficiency virus (HIV) infection, and notes with interest the compilation of best practices prepared by the Special Rapporteur;

14. *Stressing* that the effective exercise of the right to freedom of opinion and expression, including the right to seek, receive and impart information, is of the utmost importance for ensuring effective education and information campaigns to prevent HIV/AIDS, *urges* Governments to adopt and implement policies and programmes to promote awareness of and disseminate information and education on prevention and treatment of HIV/AIDS, through all appropriate means, including the media, and targeting specific vulnerable groups;

15. *Invites once again* the working groups, representatives and special rapporteurs of the Commission to pay attention, within the framework of their mandates, to the situation of persons detained, subjected to violence, ill-treated, intimidated or discriminated against for having exercised the right to freedom of opinion and expression;

16. *Appeals* to all States to cooperate fully with and assist the Special Rapporteur in the performance of his tasks and to provide all information necessary in order to permit him fully to carry out his mandate, including giving serious consideration to requests from the Special Rapporteur for in-country visits, to follow up communications received and to consider implementing relevant recommendations of the Special Rapporteur;

17. *Invites* the Special Rapporteur, within the framework of his mandate:

(a) To draw the attention of the United Nations High Commissioner for Human Rights to those situations and cases regarding the right to freedom of opinion and expression which are of particularly serious concern, and encourages the High Commissioner, within his mandate, to take into account reports in this regard in the context of his activities to promote and protect human rights with a view to preventing the occurrence and recurrence of human rights violations;

(b) In cooperation with the Special Rapporteur on violence against women, its causes and consequences, to continue to pay particular attention to the situation of women and the relationship between the effective promotion and protection of the right to freedom of opinion and expression and incidents of discrimination based on sex, creating obstacles for women with regard to their right to seek, receive and impart information, to consider how these obstacles impede the ability of women to make informed choices in areas of particular importance to them, as well as in areas related to the general decision-making processes in the societies in which they live and to consider joint reports with the Special Rapporteur on violence against women;

(c) With a view to promoting greater efficiency and effectiveness, as well as enhancing his access to the information necessary for him to fulfil his duties, to continue his efforts to cooperate with other special rapporteurs, special representatives, independent experts, working groups, other United Nations mechanisms and procedures in the field of human rights, specialized agencies, including the United Nations Educational, Scientific and Cultural Organization, and regional intergovernmental organizations and their mechanisms and further to develop and extend his network of relevant non-governmental organizations, particularly at the local level, with a view to ensuring that he has the full benefit of all pertinent information from such non-governmental organizations;

(d) To consider approaches taken to access to information with a view to sharing best practices;

(e) To continue to provide his views, when appropriate, on the advantages and challenges of new information and communication technologies, including the Internet, for the exercise of the right to freedom of opinion and expression, including the right to seek, receive and impart information and the relevance of a wide diversity of sources, as well as access to the information society for all;

(f) To continue to seek the views and comments of the Governments and others concerned in the elaboration of his report, as well as to continue to carry out his work with discretion and independence;

(g) To seek to participate in the World Summit on the Information Society to provide information and expertise on matters relating to the right to freedom of opinion and expression;

18. *Expresses once again its concern* at the inadequate resources, both human and material, provided to the Special Rapporteur and accordingly reiterates its request to 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, including for the translation and dissemination of his reports;

19. *Requests* the Special Rapporteur to submit to the Commission at its sixtieth session a report covering activities relating to his mandate, including the issue of security and protection of media professionals, and decides to continue its consideration of this question at that session.

*59th meeting
23 April 2003*

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

**2003/43. 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 2000/42 of 20 April 2000, 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.4/2003/65 and Add.1-4);
2. *Notes* the Special Rapporteur's concern that the situation of the independence of the judiciary, 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. *Appreciates* the efforts in the work accomplished by the outgoing Special Rapporteur on the independence of judges and lawyers in carrying out his mandate;

6. *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;

7. *Invites* the United Nations High Commissioner for Human Rights to continue to provide technical assistance to train judges and lawyers;

8. *Welcomes* the completion of the training manual for judges 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 sixtieth session and decides to consider this question at that session;

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;

13. *Decides* to extend the mandate of the Special Rapporteur on the independence of judges and lawyers for a further three years;

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

“The Economic and Social Council, taking note of Commission on Human Rights resolution 2003/43 of 23 April 2003, endorses the Commission’s decision to extend the mandate of the Special Rapporteur on the independence of judges and lawyers for a further period of three years and its request to the Special Rapporteur to submit a report

on the activities relating to the mandate to the Commission at its sixtieth session. The Council also endorses the Commission's request to 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 the mandate."

*59th meeting
23 April 2003*

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

2003/44. Integrating the human rights of women throughout the United Nations system

The Commission on Human Rights,

Reaffirming that the equal rights of women and men are enshrined in 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,

Recalling all previous resolutions on this subject,

Recalling also the Vienna Declaration and Programme of Action adopted in June 1993 by the World Conference on Human Rights (A/CONF.157/23) which affirms that the human rights of women and of the girl child are an inalienable, integral and indivisible part of universal human rights and calls for action to integrate the equal status and human rights of women into the mainstream of United Nations activity system-wide,

Welcoming the increased integration of a gender perspective into the work of all entities of the United Nations and the major United Nations conferences, special sessions and summits and their follow-up processes, such as the special session of the General Assembly on human immunodeficiency virus/acquired immunodeficiency syndrome, the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the World Summit on Sustainable Development,

Welcoming the commitment of the Commission on the Status of Women at its forty-seventh session to improving the situation of women, in particular by recognizing the need to raise awareness of the responsibility and role of the media and information and communications technologies in empowering women and in eliminating all forms of discrimination against women,

Recalling the United Nations Millennium Declaration, in particular its call for the promotion of gender equality and the empowerment of women as effective ways to combat poverty, hunger and disease and to stimulate development that is truly sustainable,

Acknowledging the need to integrate further a gender perspective into all aspects of the work of the United Nations system, including the treaty bodies, the Commission on Human Rights, the Sub-Commission on the Promotion and Protection of Human Rights and all other subsidiary mechanisms,

Acknowledging the need for a comprehensive and integrated approach to the promotion and protection of the human rights of women, which includes the integration of the human rights of women into the mainstream of United Nations activities system-wide,

Bearing in mind that the Fourth World Conference on Women, held in Beijing in September 1995, in its Platform for Action (A/CONF.177/20, chap. I, annex II), and the General Assembly, in the outcome document of its twenty-third special session, entitled “Women 2000: gender equality, development and peace for the twenty-first century”, called upon all relevant organs, bodies and agencies of the United Nations system, all human rights bodies of the United Nations system, as well as the United Nations High Commissioner for Human Rights and the United Nations High Commissioner for Refugees, to give full, equal and sustained attention to the human rights of women in the exercise of their respective mandates,

Reaffirming the need to implement fully international humanitarian and human rights law in order to protect fully the human rights of women and girls,

Recalling the initiative of the Committee on Economic, Social and Cultural Rights to develop a general comment on article 3 of the International Covenant on Economic, Social and Cultural Rights regarding the equal right of women and men to the enjoyment of all economic, social and cultural rights set forth in the Covenant,

Emphasizing the pivotal role of the Commission on the Status of Women in promoting equality between women and men and welcoming its agreed conclusions over the years on the human rights of women and on the other critical areas of concern of the Platform for Action,

Recalling the entry into force of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women on 22 December 2000,

Welcoming General Assembly resolution 57/180 of 18 December 2002 on improvement of the status of women in the United Nations system,

Reaffirming the important role that women's groups and non-governmental organizations play in promoting and protecting the human rights of women,

1. *Welcomes* the report of the Secretary-General (E/CN.4/2003/72);
2. *Emphasizes* that the goal of mainstreaming a gender perspective is to achieve gender equality and that this includes ensuring that all United Nations activities, including United Nations conferences, special sessions and summits, integrate the human rights of women;
3. *Recognizes* the importance of examining the intersection of multiple forms of discrimination, including their root causes, from a gender perspective, and their impact on the advancement of women and the enjoyment by women of their human rights, in order to develop and implement strategies, policies and programmes aimed at the elimination of all forms of discrimination against women and to increase the role that women play in the design, implementation and monitoring of gender-sensitive anti-discrimination policies;
4. *Invites* the Economic and Social Council to continue to give attention to the implementation of its agreed conclusions 1997/2 on mainstreaming the gender perspective into all policies and programmes of the United Nations system and 1998/2 related to the coordinated follow-up and implementation of the Vienna Declaration and Programme of Action, in particular Part II, section B.3 on the equal status and human rights of women, inter alia through the conference reviews, in the promotion of an integrated and coordinated implementation of and follow-up to major United Nations conferences and summits in the economic, social and related fields;
5. *Invites* the Secretary-General to bring the present resolution to the attention of the World Summit on the Information Society, to be held in Geneva in December 2003 and in Tunis in 2005, in order to stress the need for integrating a gender perspective into the outcome of the summit;
6. *Recalls* the decision of the Economic and Social Council, in its resolution 2001/41 of 26 July 2001, to include a regular sub-item on gender mainstreaming in its substantive session and invites the Council to devote the coordination segment of its substantive session of 2004 to the review and appraisal of the system-wide implementation of agreed conclusions 1997/2, adopted by the Council on 18 July 1997, on mainstreaming a gender perspective into all policies and programmes in the United Nations system;

7. *Encourages* the continued commitment of the United Nations High Commissioner for Human Rights to integrating the human rights of women throughout the United Nations system, including through continued cooperation with the Special Adviser on Gender Issues and Advancement of Women and the Division for the Advancement of Women;
8. *Also encourages* the continued commitment of the High Commissioner to raise awareness and promote the implementation of the Convention on the Elimination of All Forms of Discrimination against Women, and welcomes his nomination of a Senior Adviser on gender issues;
9. *Welcomes* the continued cooperation between the Commission on the Status of Women and the Commission on Human Rights, including through joint bureau meetings and the participation of the Chair of the Commission on the Status of Women in the work of the Commission on Human Rights and, similarly, the participation of the Chair of the Commission on Human Rights in the sessions of the Commission on the Status of Women, and encourages the continuation of this reciprocal collaboration;
10. *Also welcomes* the cooperation and coordination between the Division for the Advancement of Women and the Office of the United Nations High Commissioner for Human Rights aimed at mainstreaming the human rights of women, including through their joint work plan;
11. *Further welcomes* the report of the Secretary-General on the joint work plan for the year 2003 of the Office of the Special Adviser on Gender Issues and Advancement of Women, the Division for the Advancement of Women and the Office of the High Commissioner (E/CN.4/2003/73-E/CN.6/2003/5), in particular the continued cooperation in the creation of a multi-media training package on international human rights instruments, starting with the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, and recalls the proposal to convene a meeting of national human rights institutions, national machineries for the advancement of women and the Committee on the Elimination of Discrimination against Women to discuss strategies to address the elimination of sex discrimination;

12. *Encourages* the Secretary-General to ensure implementation of the joint work plan, to continue to elaborate this plan, reflecting all aspects of work under way and the lessons learned, to identify obstacles/impediments and areas for further collaboration, and to make it available to the Commission on Human Rights at its sixtieth session and to the Commission on the Status of Women at its forty-eighth session;

13. *Urges* the relevant organs, bodies and agencies of the United Nations system, including all human rights bodies, the Office of the High Commissioner for Human Rights and the Office of the United Nations High Commissioner for Refugees, to bear in mind, in the recruitment of staff, including for peacekeeping operations and humanitarian and human rights missions, the need for expertise in the enjoyment by women and girls of human rights;

14. *Emphasizes* the need for further activities in the United Nations system to strengthen expertise concerning the equal status and human rights of women through, inter alia, the provision of training on the human rights of women and on gender mainstreaming, including through gender impact analysis, to all United Nations personnel and officials at Headquarters and in the field, especially in field operations;

15. *Recognizes* the importance of the participation of women at all levels of decision-making, including at the higher levels within the United Nations system, for the achievement of gender equality and the realization of the human rights of women, and in this regard strongly encourages Member States to promote gender balance by, inter alia, regularly nominating more women candidates for election to the human rights treaty bodies and for appointment to United Nations bodies, including international courts and tribunals, the specialized agencies and other organs, and calls upon all relevant actors to implement General Assembly resolution 57/180 of 18 December 2002 on improvement of the status of women in the United Nations system;

16. *Encourages* United Nations bodies and agencies to increase cooperation with other organizations in developing activities to address, within their respective mandates, violations of the human rights of women and to promote the full enjoyment of all human rights and fundamental freedoms by women;

17. *Encourages* the Special Rapporteur on violence against women, its causes and consequences, 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 regional intergovernmental organizations and any of their mechanisms engaged in the promotion of human rights of women;

18. *Requests* all special procedures and other human rights mechanisms of the Commission on Human Rights and the Sub-Commission for the Promotion and Protection of Human Rights, and invites human rights treaty bodies regularly and systematically to integrate a gender perspective into the implementation of their mandates and to include in their reports information on and qualitative analysis of human rights of women and girls, and encourages the strengthening of cooperation and coordination between these procedures and mechanisms;

19. *Encourages* States to give particular consideration to the general comments of the treaty bodies that relate to the enjoyment by women of their human rights;

20. *Notes with appreciation* the request made by the Economic and Social Council in its agreed conclusions 1998/2 that the Commission make explicit the integration of a gender perspective when establishing or renewing human rights mandates;

21. *Urges* the use of gender-inclusive language in the formulation, interpretation and application of human rights instruments, as well as in reports, resolutions and/or decisions of the Commission, the Sub-Commission and the various human rights mechanisms, and requests the Office of the High Commissioner for Human Rights to utilize gender-inclusive language in the preparation of all of its communications, reports and publications, and to work with the United Nations conference services to ensure gender-inclusive language and interpretation in the proceedings of the Office;

22. *Encourages* the efforts of the treaty bodies to monitor more effectively the human rights of women in their activities, bearing in mind the workshops on gender integration, and reaffirms that it is the responsibility of all treaty bodies, in their work, to integrate a gender perspective, bearing in mind also the need:

(a) To develop gender-sensitive guidelines to be used in the review of reports of States parties;

(b) To develop, as a matter of priority, a common strategy towards mainstreaming the human rights of women into their work, so that each body, within its mandate, monitors the human rights of women;

(c) To incorporate a gender analysis and to exchange information regularly in the development of general comments and recommendations, with a view to the preparation of general comments which reflect a gender perspective;

(d) To incorporate a gender perspective in concluding observations so that the concluding observations of each treaty body delineate the strengths and weaknesses of each State party insofar as enjoyment by women of the rights guaranteed by a particular treaty is concerned;

23. *Encourages* all entities charged with the promotion and protection of human rights, especially United Nations human rights bodies and mechanisms, to identify, collect and use sex-disaggregated data and gender-specific information in their activities and to apply gender analysis in monitoring and reporting;

24. *Welcomes* the submission of reports by specialized agencies, at the invitation of the Committee on the Elimination of Discrimination against Women, on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women in areas falling within the scope of their activities and the contribution of non-governmental organizations to the work of the Committee;

25. *Encourages* all entities of the United Nations system to pay systematic, increased and sustained attention to the recommendations of the Committee, in order to ensure that its concluding observations and general recommendations are better utilized in their respective work;

26. *Reminds* Governments that their obligations under the Convention must be implemented fully and reaffirms their commitment to accelerate the achievement of universal ratification of the Convention, urges all States that have not yet ratified or acceded to the Convention to consider, as a matter of priority, doing so, and urges States parties to consider signing and ratifying the Optional Protocol to the Convention;

27. *Urges* States 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 and regularly to review them with a view to withdrawing them, and to withdraw reservations that are contrary to the object and purpose of the Convention;

28. *Urges* States that have ratified or acceded to the Convention to take action to implement the Convention fully, inter alia through national legislation, policies and practice, and to take account of the recommendations of the Committee on the Elimination of Discrimination against Women in this regard;

29. *Encourages* all relevant entities of the United Nations system, within their mandates, as well as Governments and intergovernmental and non-governmental organizations, in particular women's organizations, as appropriate, to continue to assist States parties, upon the request of those States, in implementing the Convention;

30. *Also encourages* all relevant entities of the United Nations system to continue to build women's knowledge and understanding of and capacity to utilize human rights instruments, in particular the Convention and the Optional Protocol thereto;

31. *Notes* the first resolution on women and peace and security adopted by the Security Council, resolution 1325 (2000) of 31 October 2000, which, inter alia, calls on actors involved, when negotiating and implementing peace agreements, to adopt a gender perspective, including, inter alia, measures that ensure the protection of and respect for the human rights of women and girls, particularly as they relate to the constitution, the electoral system, the police and the judiciary;

32. *Welcomes* the study of the Secretary-General entitled *Women, Peace and Security* submitted pursuant to Security Council resolution 1325 (2000), and the recent study of the United Nations Development Fund for Women, entitled *Women, War and Peace: The Independent Expert's Assessment of the Impact of Armed Conflict on Women and Women's Role in Peace-Building*;

33. *Recognizes* the important role of women in the prevention and resolution of conflicts and in peace-building, the importance of their equal participation and full involvement in all efforts for the maintenance and promotion of peace and security and the need to increase their role in decision-making with regard to conflict prevention and resolution, and urges the United Nations system and Governments to make further efforts in this regard and to take steps to ensure and support the full participation of women at all levels of decision-making and implementation in development activities and peace processes, including conflict prevention and resolution, post-conflict reconstruction, peacemaking, peacekeeping and peace-building, as well as through the integration of a gender perspective into those United Nations processes;

34. *Welcomes* the 1999 Inter-Agency Standing Committee policy statement for the integration of a gender perspective in humanitarian assistance, and requests the Secretary-General to provide information on the status of implementation and impact of that policy statement;

35. *Requests* the Secretary-General to report, at its sixtieth session, on the implementation of the present resolution including analysing the degree to which the promotion and protection of human rights of women are being integrated into the United Nations system, the work of the Commission and its subsidiary bodies, identifying obstacles and challenges to implementation of the resolution, to make concrete, comprehensive recommendations for action by States and/or by the United Nations system and to bring the report to the attention of the relevant organs, bodies and agencies of the United Nations system, including all human rights bodies;

36. *Decides* to integrate a gender perspective into all of its agenda items;

37. *Also decides* to continue its consideration of the question at its sixtieth session.

*59th meeting
23 April 2003*

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

2003/45. 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 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,

Noting all General Assembly resolutions relevant to elimination of violence against women,

Recalling the Beijing Declaration and Platform for Action adopted in September 1995 by the Fourth World Conference on Women (A/CONF.177/20, 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 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), and UNIFEM’s recent study entitled *Women, War and Peace: The Independent Experts’ Assessment of the Impact of Armed Conflict on Women and Women’s Role in Peace-Building*,

Welcoming the significant work throughout the world over the past decade to eliminate violence against women and girls as reflected in the final report submitted by the current Special Rapporteur on violence against women, its causes and consequences (E/CN.4/2003/75 and addenda), which gives an overview of the work done and is a possible reference for and valuable contribution to future work in this area,

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,

Expressing its appreciation of the initiatives of the United Nations Development Fund for Women to combat violence against women at the international, regional and national levels, as well as of the *World Report on Violence and Health* launched by the World Health Organization in 2002, particularly its consideration of gender-based violence,

1. *Welcomes* the work of the Special Rapporteur on violence against women, its causes and consequences, and takes note of her report, entitled “Developments in the area of violence against women (1994-2002)” (E/CN.4/2003/75 and Corr.1 and Add.1-2);
2. *Notes with interest* the conclusion of the Special Rapporteur that while at the normative level the needs of women are generally adequately addressed, the challenges lie in ensuring respect for and effective implementation of existing laws and standards, and urges States to consider the recommendations of the Special Rapporteur when formulating policies and programmes;
3. *Welcomes* the increasing attention given to violence against women at the national, regional and international levels since the adoption of the Declaration on the Elimination of Violence against Women, and through the treaty bodies as well as special mechanisms of the Commission;
4. *Affirms* 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;

5. *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 exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of 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 by armed groups or warring factions, and to provide access to just and effective remedies and specialized, including medical, assistance to victims;

6. *Affirms*, 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;

7. *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;

8. *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;

9. *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 services and programmes and to health-care providers who are knowledgeable and trained to meet the needs of patients who have been subjected to violence, in order to minimize the adverse physical and psychological consequences of violence;

10. *Also 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, can increase their vulnerability to the human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS) and aggravate the conditions fostering the spread of HIV/AIDS;

11. *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 19 adopted by the Committee on the Elimination of Discrimination against Women at its eleventh session, reaffirms the 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, as a matter of priority, doing so;

12. *Urges* States parties to consider signing and ratifying the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women;

13. *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;

14. *Stresses* that States have an affirmative duty to promote and protect the human rights of women and girls and must exercise due diligence to prevent, investigate and punish acts of all forms 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 in September 1995 by the Fourth World Conference on Women

(A/CONF.177/20, chap. I) 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 condemn violence against women and not invoke custom, tradition or practices in the name of religion or culture to avoid their obligations to eliminate such violence;

(e) To address the specific circumstances facing girls and young women in relation to violence, especially sexual violence, including its immediate and long-term consequences;

(f) To intensify efforts to develop and/or utilize legislative, educational, social and other measures aimed at the prevention of violence against women, including the adoption and implementation of laws, the dissemination of information, active involvement with community-based players, and the training of legal, judicial and health personnel, and, where possible, through developing and strengthening support services;

(g) 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 humanitarian law, and to take action to investigate and punish persons who perpetrate acts of violence against women;

(h) To formulate, implement and promote, at all appropriate levels, plans of action 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;

(i) 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;

(j) To intensify efforts to raise collective and individual awareness about violence against women, to highlight the role of men and boys 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;

(k) 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;

(l) 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;

15. *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 international human rights and humanitarian law;

16. *Acknowledges* the inclusion of gender-related crimes in the Rome Statute of the International Criminal Court and in the Elements of Crimes, and urges States to ratify or accede to the Rome Statute, which entered into force on 1 July 2002;

17. *Stresses the importance of* efforts to eliminate impunity for violence against women in situations of armed conflict, including by prosecuting gender-related crimes and crimes of sexual violence in the International Criminal Tribunal for the Former Yugoslavia and the International Tribunal for Rwanda;

18. *Welcomes* the establishment of the Special Court for Sierra Leone and in particular the inclusion of crimes against women and girls in its Statute, and the creation of a Victims and Witnesses Unit to provide protective measures, counselling and other appropriate assistance;

19. *Urges* the integration of a gender perspective into all efforts to eliminate impunity;
20. *Urges* States to integrate a gender perspective into commissions of inquiry and commissions for achieving truth and reconciliation, and invites the Special Rapporteur to report, as appropriate, on these mechanisms;
21. *Also 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;
22. *Further 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;
23. *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;
24. *Calls upon* States to include in reports submitted in accordance with the provisions of relevant United Nations human rights instruments sex- and age-disaggregated data and information 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;
25. *Calls upon* States 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;

26. *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;

27. *Invites* the Special Rapporteur to continue to cooperate with other special rapporteurs, special representatives, independent experts and chairpersons of the working groups of the special procedures of the Commission, including, where appropriate, undertaking joint missions, joint reports, urgent appeals and communications;

28. *Encourages* 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 regional intergovernmental organizations and any of their mechanisms engaged in the promotion of human rights of women;

29. *Welcomes* the increasing efforts and important contributions at the regional level to eliminate all forms of violence against women and encourages States to build upon these successful regional initiatives, including those mentioned in the report of the Special Rapporteur;

30. *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;

31. *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;

32. *Decides* that the mandate of the Special Rapporteur on violence against women, its causes and consequences, should be renewed for a period of three years;

33. *Requests* the Special Rapporteur to report annually to the Commission on Human Rights, beginning at its sixtieth session, on activities relating to her mandate;

34. *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-eighth session, as well as to the attention of the Committee on the Elimination of Discrimination against Women;

35. *Decides* to continue consideration of the question as a matter of high priority at its sixtieth session;

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

“The Economic and Social Council, taking note of Commission on Human Rights resolution 2003/45 of 23 April 2003, endorses the Commission’s decision to renew for a period of three years the mandate of the Special Rapporteur on violence against women, its causes and consequences.

“The Council approves the Commission’s 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 mission 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.”

*59th meeting
23 April 2003*

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

2003/46. 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,

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, chap. I), 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,

Taking note of the judgment of the International Court of Justice of 27 June 2001 and of the advisory opinion OC-16/99 issued by the Inter-American Court of Human Rights of 1 October 1999 on the right to information on consular assistance in the framework of the guarantees of due process of law, in the case of foreign nationals detained by the authorities of a receiving State,

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,

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 Conference;

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 endangers the lives of migrants or entails 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 the paramount 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. *Welcomes* the fourth report of the Special Rapporteur on the human rights of migrants (E/CN.4/2003/85 and Add.1-4) and her report to the General Assembly (A/57/292), both submitted pursuant to Commission resolution 2002/62 of 25 April 2002, especially regarding the work she has undertaken, 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-eighth session and to the Commission at its sixtieth 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. *Urges* States to consider ratifying or adhering to 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, and fully to implement those instruments;

32. *Decides* to examine this question further, as a matter of priority, at its sixtieth session under the same agenda item.

*59th meeting
23 April 2003*

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

2003/47. The protection of human rights in the context of human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS)

The Commission on Human Rights,

Recalling its resolutions 2001/51 of 24 April 2001 and 1999/49 of 27 April 1999 and other relevant resolutions and decisions adopted by organizations of the United Nations system, as well as by other competent forums,

Welcoming the Declaration of Commitment on HIV/AIDS “Global Crisis - Global Action”, adopted by the General Assembly at its special session on HIV/AIDS held in June 2001, and noting in particular that this Declaration affirms that realization and safeguarding of human rights and fundamental freedoms for all are essential to reduce vulnerability to HIV/AIDS,

Taking note with interest of the preliminary 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.4/2003/58,

Taking note also with interest of the report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (E/CN.4/2003/67) which addresses access to information in the context of HIV/AIDS prevention and care,

Taking note further with interest of General Comment No. 3, “HIV/AIDS and the rights of the child”, adopted by the Committee on the Rights of the Child at its thirty-second session in January 2003, the first-ever general comment on HIV/AIDS, adopted by a treaty monitoring mechanism,

Welcoming the fact that many positive steps in implementing its previous resolutions have been taken, including the enactment of legislation in some countries to promote human rights in the context of HIV/AIDS and to prohibit discrimination against persons infected or presumed to be infected and members of vulnerable groups,

Encouraging the continuation of national, regional and international consultations in the field of HIV/AIDS and human rights,

Noting with concern that, according to estimates by the Joint United Nations Programme on HIV/AIDS (UNAIDS) and the World Health Organization, by the end of 2002 the number of people living with HIV increased to 42 million, the number of people newly infected with HIV was 5 million and the number of people who died from AIDS was 3.1 million,

Noting with particular concern that more than 95 per cent of all people infected with HIV live in the developing world, mostly in conditions of poverty, underdevelopment, conflict and inadequate measures for the prevention, treatment and care of HIV/AIDS infection and noting that an increasing proportion of people living with HIV/AIDS are women,

Noting the devastating impact of HIV/AIDS, including increased mortality and morbidity among the working-age population, losses in family income, greater numbers of orphans, the disproportionate burden borne by women at the personal, family and community levels and higher health and social costs,

Welcoming the creation of and the progress made by the Global Fund to Fight AIDS, Tuberculosis and Malaria,

Emphasizing, in view of the increasing challenges presented by HIV/AIDS, the need for intensified efforts to ensure universal respect for and observance of human rights and fundamental freedoms for all so as to reduce vulnerability to HIV/AIDS and to prevent HIV/AIDS-related discrimination and stigma,

Concerned that lack of full enjoyment of human rights by persons suffering from economic, social or legal disadvantage heightens the vulnerability of such persons to the risk of HIV infection and to its impact, if infected,

Also concerned that, in many countries, many people infected and affected by HIV, as well as those presumed to be infected, continue to be discriminated against in law, policy and practice,

Welcoming the significant role of UNAIDS in cooperation with relevant bodies of the United Nations system, in particular the Office of the United Nations High Commissioner for Human Rights, and of national and international non-governmental organizations, in particular organizations of people living with HIV/AIDS, in promoting and protecting human rights in the context of HIV/AIDS, including fighting discrimination against people living with HIV/AIDS, and in the full range of prevention, treatment and care activities,

Noting that stigma and discrimination on the basis of HIV or AIDS status are obstacles to an effective HIV/AIDS response and reiterating that discrimination on the basis of HIV or AIDS status, actual or presumed, is prohibited by existing international human rights standards, and that the term “or other status” in non-discrimination provisions in international human rights texts should be interpreted to cover health status, including HIV/AIDS,

Recalling HIV/AIDS and Human Rights International Guidelines Revised Guideline 6: Access to prevention, treatment, care and support, an outcome of the Third International Consultation on HIV/AIDS and Human Rights, convened jointly by the Office of the High Commissioner for Human Rights and UNAIDS, which provides guidance to ensuring the respect, protection and fulfilment of human rights in the context of HIV/AIDS,

Welcoming the report of the Secretary-General on the protection of human rights in the context of HIV and AIDS (E/CN.4/2003/81), which provides an overview of action taken by Governments, specialized agencies and international and non-governmental organizations on the implementation of the Guidelines on HIV/AIDS and Human Rights (E/CN.4/1997/37, annex I) and their dissemination, and which addresses issues of technical cooperation for the promotion and protection of human rights in the context of HIV/AIDS,

1. *Invites* States, United Nations organs, programmes and specialized agencies and international and non-governmental organizations to continue to take all necessary steps to ensure the respect, protection and fulfilment of HIV-related human rights as contained in the Guidelines on HIV/AIDS and Human Rights;
2. *Invites* States, United Nations organs, programmes and specialized agencies and international and non-governmental organizations to contribute to international cooperation in the context of HIV/AIDS-related human rights through, inter alia, working on advancing HIV/AIDS prevention and care programmes, including facilitating access to treatment and care in the context of HIV/AIDS, and through sharing knowledge, experiences and achievements concerning HIV-related issues;

3. *Invites* States to strengthen national mechanisms for protecting HIV/AIDS-related human rights and to take all necessary measures to eliminate stigmatization of and discrimination against those infected and affected by HIV/AIDS, especially for women, children and vulnerable groups, so that infected persons who reveal their HIV status, those presumed to be infected and other affected persons are protected from violence, stigmatization and other negative consequences;

4. *Invites* States, United Nations organs, programmes and specialized agencies and international and non-governmental organizations to assist developing countries, in particular the least developed countries and those in Africa, in their efforts to prevent the spread of the epidemic, alleviate and control the detrimental impact of HIV/AIDS on the human rights of their populations and care for those infected;

5. *Urges* States to ensure that their laws, policies and practices respect human rights in the context of HIV/AIDS, prohibit HIV/AIDS-related discrimination, promote effective programmes for the prevention of HIV/AIDS, including through education and awareness-raising campaigns and improved access to high-quality goods and services for preventing transmission of the virus, and promote effective programmes for the care and support of persons infected and affected by HIV, including through improved and equitable access to safe and effective medication for the treatment of HIV infection and HIV/AIDS-related illnesses;

6. *Requests* States to establish coordinated, participatory, gender-sensitive, transparent and accountable national policies and programmes for HIV/AIDS response and to translate national policies to district level and local action, involving in all phases of development and implementation non-governmental and community-based organizations and people living with HIV/AIDS;

7. *Also requests* States to develop and support services, including legal aid where appropriate, to educate people infected and affected by HIV/AIDS about their rights and to assist them in realizing their rights;

8. *Further requests* States to take all the necessary steps, including appropriate education, training and media programmes, to combat discrimination, prejudice and stigma, and to ensure the full enjoyment of civil, political, economic, social and cultural rights by people infected and affected by HIV/AIDS;

9. *Requests* States, in consultation with the relevant national professional bodies, to ensure that codes of professional conduct, responsibility and practice respect human rights and dignity in the context of HIV/AIDS, including access to care for people infected and affected by HIV/AIDS;

10. *Also requests* States, in consultation with relevant national bodies, including national human rights institutions, to develop and support appropriate mechanisms to monitor and enforce HIV/AIDS-related human rights;

11. *Invites* the human rights treaty bodies, when considering reports submitted by States parties, to give particular attention to HIV/AIDS-related rights and invites States to include appropriate HIV/AIDS-related information in the reports they submit to the relevant treaty bodies;

12. *Invites* States when preparing their progress reports to the General Assembly on the implementation of the Declaration of Commitment on HIV/AIDS “Global Crisis - Global Action” to include information on human rights in the context of HIV/AIDS;

13. *Requests* all special representatives, special rapporteurs and working groups of the Commission, inter alia, the special rapporteurs on the right to education, on the promotion and protection of freedom of opinion and expression, on violence against women, its causes and consequences, and on the sale of children, child prostitution and child pornography, to integrate the protection of HIV-related human rights within their respective mandates and invites in particular the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health in the discharge of his mandate to pay appropriate attention to relevant issues concerning this resolution;

14. *Requests* the Secretary-General to invite the United Nations organs and programmes, as well as the specialized agencies and Member States, to integrate HIV-related human rights into their policies, programmes and activities, including those involving regional intergovernmental human rights and other bodies, and to involve non-governmental and community-based organizations in all phases of development and implementation, to help ensure a system-wide approach, stressing the coordinating and catalytic role of UNAIDS;

15. *Also 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 Guidelines on HIV/AIDS and Human Rights and the present resolution, and to submit, in consultation with interested parties, a progress report for consideration at its sixty-first session.

59th meeting
23 April 2003
[Adopted without a vote. See chap. XIV.]

**2003/48. 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 to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, contained in the annex to the resolution,

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 by some States and takes note of the report of the Secretary-General on the status of the Convention (E/CN.4/2003/80);
3. *Calls again upon* all States that have not yet done so to consider seriously signing and ratifying or acceding to the Convention as a matter of priority;
4. *Requests* the Secretary-General to take all necessary measures to convene the initial meeting of States parties to the Convention;
5. *Also requests* the Secretary-General to make all the necessary provisions for the timely establishment of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families referred to in article 72 of the Convention;

6. *Calls upon* States parties to the Convention to submit in due time their first periodic report requested by article 73 of the Convention;
7. *Requests* the Secretary-General to provide all facilities and assistance necessary for the active promotion of the Convention, through the World Public Information Campaign for Human Rights and the programme of advisory services and technical cooperation in the field of human rights;
8. *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;
9. *Also welcomes* the increasing activities of the global campaign for the entry into force of the Convention and invites organizations and agencies of the United Nations system, as well as intergovernmental and non-governmental organizations, to continue and intensify their efforts with a view to disseminating information on the Convention and promoting understanding of the importance of the Convention;
10. *Requests* the Secretary-General to report to the Commission at its sixtieth 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;
11. *Decides* to include in the provisional agenda of its sixtieth session the agenda sub-item entitled “Specific groups and individuals: migrant workers”.

*59th meeting
23 April 2003*

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

2003/49. 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 their 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 1983 Convention concerning vocational rehabilitation and employment (disabled persons) (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,

Recalling General Assembly resolutions 48/96 of 20 December 1993, by which it adopted the Standard Rules on the Equalization of Opportunities for Persons with Disabilities, and 56/115 of 19 December 2001 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 an Ad Hoc Committee to consider proposals for a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities, and resolution 57/229 of 18 December 2002, in which the Assembly took note with appreciation of the report of the Ad Hoc Committee on its first session and reaffirmed the need to promote and protect the equal and effective enjoyment of all human rights and fundamental freedoms of persons with disabilities, aware of the contribution that a convention could make in that regard,

Reaffirming its resolution 2002/61 of 25 April 2002 on human rights of persons with disabilities,

Noting the resolution adopted by the Commission for Social Development on 21 February 2003 on a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities,

Recalling the study on human rights and disability presented at the fifty-eighth session of the Commission on Human Rights,

Recognizing the considerable contribution of civil society, including non-governmental organizations, especially organizations of persons with disabilities, to the global effort to bring about full participation and equality for persons with disabilities,

Welcoming in this regard General Assembly resolution 56/510 of 23 July 2002 on accreditation and participation of non-governmental organizations in the Ad Hoc Committee and the decision on the modalities for the participation of accredited non-governmental organizations taken by the Ad Hoc Committee at its first session,

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. *Recognizes* that any violation of the fundamental principle of equality or any discrimination or other unjustified differential treatment of persons with disabilities inconsistent with the Standard Rules on the Equalization of Opportunities for Persons with Disabilities infringes or nullifies and impairs the enjoyment of human rights by persons with disabilities;

2. *Urges* Governments to take active measures to ensure the full enjoyment by persons with disabilities of all human rights and fundamental freedoms, including by removing or facilitating the removal of barriers and obstacles to the equal and effective enjoyment of these rights, as well as by developing national policies;

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 report of the United Nations High Commissioner for Human Rights on progress in the implementation of the recommendations in the study on the human rights of persons with disabilities (E/CN.4/2003/88) and requests the Secretary-General to make it available to the Ad Hoc Committee established by the General Assembly in resolution 56/168;

4. *Notes with interest* the elaboration by the Office of the United Nations High Commissioner for Human Rights of a long-term plan in the field of the promotion and protection of human rights of persons with disabilities, in keeping with its multi-track approach, as well as the objectives of the plan set forth in the study, and looks forward to its further implementation;

5. *Calls upon* the Office of the 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, as well as to continue to strengthen collaboration with other United Nations agencies and bodies;

6. *Underlines* in this regard the importance of strengthening the cooperation and coordination between the Office of the High Commissioner for Human Rights and the Department of Economic and Social Affairs of the United Nations in order to support the work of the Ad Hoc Committee established by the General Assembly in resolution 56/168;

7. *Calls upon* the Office of the High Commissioner for Human Rights to report to the Commission on Human Rights at its sixtieth session on progress in the implementation of the recommendations contained in the study on human rights and disability presented at the fifty-eighth session of the Commission and on the programme of work of the Office in relation to the human rights of persons with disabilities;

8. *Invites* all special rapporteurs, in carrying out their mandates, to take into account the human rights of persons with disabilities;

9. *Invites* the Special Rapporteur on disability of the Commission for Social Development to address the Commission on Human Rights at its sixtieth session on his/her experience of the human rights dimension gained by him/her and the panel of experts through monitoring the Standard Rules on the Equalization of Opportunities for Persons with Disabilities, 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;

10. *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;

11. *Urges* Governments to cover 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;

12. *Urges* Governments to consider nominating persons with disabilities for election to the treaty monitoring bodies, bearing in mind relevant existing considerations for nominations to treaty monitoring bodies;

13. *Invites* national human rights institutions and non-governmental organizations to strengthen their work on human rights and disability, including by participating actively in the Ad Hoc Committee, and to enhance their level of contributions to the work of the treaty monitoring bodies;

14. *Encourages* Governments and relevant intergovernmental institutions to develop programmes for persons with disabilities to enable them to develop their potential to participate fully in all aspects of society and thus achieve the enjoyment of all their human rights;

15. *Reaffirms* its commitment to continue to contribute to the process established by the General Assembly in resolution 56/168 by, inter alia, providing its recommendations on the full and effective enjoyment of all human rights of persons with disabilities;

16. *Acknowledges* the contributions and support of the Office of the High Commissioner for Human Rights to the process established by the General Assembly in resolution 56/168 on a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities, and encourages the Office to continue to do so in accordance with Assembly resolutions 56/168 and 57/229;

17. *Recalls* the invitation by the Ad Hoc Committee to States, as well as regional commissions, intergovernmental organizations and relevant human rights treaty bodies, within their respective mandates, and non-governmental organizations, national disability and human rights institutions and independent experts with an interest in the matter, to make available to the Ad Hoc Committee suggestions and possible elements to be considered for a convention;

18. *Invites* Governments, civil society and the private sector to contribute to the United Nations Voluntary Fund on Disability, as well as to the voluntary fund established by the General Assembly in resolution 57/229, 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;

19. *Calls upon* all United Nations organizations and specialized agencies and all intergovernmental institutions for development cooperation to integrate disability measures 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;

20. *Requests* the Secretary-General to include in relevant reports to the General Assembly information on the progress of efforts to ensure the full recognition and enjoyment of the human rights of persons with disabilities;

21. *Decides* to continue its consideration of this question at its sixtieth session under the same agenda item.

*59th meeting
23 April 2003*

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

**2003/50. 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, as well as subsequent resolutions of the General Assembly on the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, as well as its own resolution 2002/57 of 25 April 2002 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 2002/16 of 14 August 2002 on the rights of minorities,

Recalling the report of the International Seminar on Cooperation for the Better Protection of the Rights of Minorities (E/CN.4/2002/92) held in the framework of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance on 1, 2 and 5 September 2001 in Durban, South Africa,

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,

Concerned at the growing 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 that minority rights promote tolerance within societies and recognizing that the promotion of a culture of tolerance through education, in particular human rights education, shall be advanced by all States,

Acknowledging also that the United Nations has an increasingly important role to play regarding the protection of minorities by, inter alia, taking due account of and giving effect to the Declaration,

Welcoming the work of the Working Group on Minorities in promoting regional and local initiatives for the protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities, including by organizing regional expert seminars,

Noting with satisfaction the emphasis by the Working Group on Minorities on the participation of minority representatives in its work,

1. *Takes note* of the report of the Secretary-General on the rights of persons belonging to national or ethnic, religious and linguistic minorities (E/CN.4/2003/82), of the report of the Working Group on Minorities on its eighth session (E/CN.4/Sub.2/2002/19 and Corr.1), in particular the conclusions and recommendations contained therein, and of the Report of the United Nations High Commissioner for Human Rights submitted in accordance with Commission on Human Rights resolution 2002/57 on the situation of national or ethnic, religious and linguistic minorities, in particular with respect to conflict prevention (E/CN.4/2003/87);

2. *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;

3. *Urges* States to take, as appropriate, all the necessary constitutional, legislative, administrative and other measures to promote and give effect to the Declaration;

4. *Urges* States and the international community to promote and protect the rights of persons belonging to national or ethnic, religious and linguistic minorities, as set out in the Declaration, including through equal access to education and the facilitation of their full participation in the economic progress and development of their country, and to apply a gender perspective while doing so;

5. *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, chap. I), including the provisions on forms of multiple discrimination;

6. *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;

7. *Also calls upon* States to take all appropriate measures to protect the cultural and religious sites of national or ethnic, religious and linguistic minorities;

8. *Welcomes* the publication by the Office of the United Nations High Commissioner for Human Rights of the *United Nations Guide for Minorities* containing an overview of relevant procedures and mechanisms of regional and international organizations and encourages its broad dissemination;

9. *Calls upon* the United Nations High Commissioner for Human Rights to continue to promote, within his mandate, the implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities and to engage in a dialogue with Governments concerned for that purpose;

10. *Invites* the High Commissioner to continue his efforts to improve the coordination and cooperation of 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;

11. *Invites* the human rights treaty monitoring bodies when considering reports submitted by States parties, as well as special representatives, special rapporteurs, working groups 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;

12. *Encourages* the Working Group on Minorities, as requested by the Sub-Commission, within its mandate, to take due account of activities undertaken and reports prepared by intergovernmental regional organizations on human rights problems and situations involving minorities;

13. *Calls upon* States, intergovernmental organizations, United Nations bodies and non-governmental organizations to participate actively in the work of the Working Group, including through written contributions;

14. *Further calls upon* States to facilitate the effective participation of representatives of non-governmental organizations and persons belonging to minorities in the work of the Working Group and invites the High Commissioner to seek voluntary contributions in this regard;

15. *Requests* the Secretary-General and the High Commissioner to provide the Working Group with all the necessary assistance, in particular the staff and resources required, to fulfil its mandate;

16. *Requests* the High Commissioner to invite Governments and relevant intergovernmental and non-governmental organizations to submit their views on how best to protect the rights of persons belonging to minorities;

17. *Also requests* the High Commissioner to examine existing mechanisms with a view to enhancing their cooperation and effectiveness and to identify possible gaps in the protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities and to report thereon to the Commission at its sixtieth session;

18. *Calls upon* the Secretary-General to make available, at the request of Governments concerned, qualified expertise on minority issues, including the prevention and resolution of conflicts, to assist in existing or potential situations involving minorities and to report to the Commission at its sixtieth session on concrete projects and activities in this regard;

19. *Requests* the Secretary-General to report to the Commission at its sixtieth session on the implementation of the present resolution;

20. *Decides* to continue its consideration of this question at its sixtieth session under the same agenda item.

*59th meeting
23 April 2003*

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

2003/51. 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), 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),

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,

Recalling its previous relevant resolutions, in particular resolution 2002/56 of 25 April 2002 and General Assembly resolution 56/164 of 19 December 2001, and taking note of Economic and Social Council resolution 2002/32 of 26 July 2002, resolutions 2002/7 and 2002/30 of 14 and 15 August 2002 of the Sub-Commission on the Promotion and Protection of Human Rights and of the statement by the President of the Security Council of 20 December 2002 (S/PRST/2002/41),

1. *Takes note with appreciation* of the report of the Representative of the Secretary-General on internally displaced persons (E/CN.4/2003/86 and Add.1-6) 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 welcomes the commitment of the Representative of the Secretary-General 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;

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. *Expresses its appreciation* for the catalytic role the Representative of the Secretary-General continues to play in raising the level of awareness about the plight of internally displaced persons, and for his work in developing normative and institutional frameworks for the protection and assistance of internally displaced persons, in particular the compilation and analysis of legal norms and the development of guiding principles, in undertaking country missions to engage in dialogue with Governments and other pertinent actors, as well as in conducting research and issuing reports on the causes and specific aspects of internal displacement and on particular country situations, together with proposals for preventive or remedial measures, and encourages him to continue his efforts in this regard;

6. *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, and encourages further strengthening of this collaboration in order to promote better protection, assistance and development strategies for internally displaced persons;

7. *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;

8. *Welcomes* the dissemination, promotion and application of the Guiding Principles on Internal Displacement and the fact that the Representative of the Secretary-General continues to use the Guiding Principles in his dialogues with Governments, intergovernmental and

non-governmental organizations and other pertinent actors, and requests him to continue his efforts in disseminating and promoting them, inter alia through supporting and initiating their publication and translation, participation in training, and, in consultation with governments, regional organizations, intergovernmental and non-governmental organizations and other relevant institutions, the holding of national, regional and international seminars on displacement, as well as in providing support for efforts to promote capacity-building and the use of the Guiding Principles;

9. *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;

10. *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;

11. *Encourages* all Governments, in particular Governments of countries with situations of internal displacement, to facilitate the activities of the Representative of the Secretary-General and to respond favourably to his 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 the recommendations of the Representative of the Secretary-General and to make available information on measures taken in this regard;

12. *Stresses* the need to further strengthen 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, welcomes the establishment of the Unit on Internal Displacement within the Office for the Coordination of Humanitarian Affairs, and encourages them to further strengthen their collaboration with the Representative of the Secretary-General, in line with the memorandum of understanding between the Representative and the Emergency Relief Coordinator of 17 April 2002;

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 further enhance their collaboration and coordination with regard to internally displaced persons, especially through the Inter-Agency Standing Committee;

15. *Encourages* the Emergency Relief Coordinator, the Representative of the Secretary-General and the Unit on Internal Displacement to further promote 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, bearing in mind the role of resident or humanitarian coordinators;

16. *Notes with appreciation* the increased attention paid to internally displaced persons in the consolidated inter-agency 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 Council of Europe 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 and their cooperation with the Representative of the Secretary-General;

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 and make them available to the Representative of the Secretary-General;

21. *Calls upon* the United Nations High Commissioner for Human Rights, in cooperation with Governments and national human rights institutions, the Representative of the Secretary-General 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 to the Representative for inclusion in his report to the Commission;

22. *Notes* the relevance of the global internally displaced persons database, 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 to provide his Representative, from within existing resources, with all necessary assistance to carry out his mandate effectively, and encourages the Representative of the Secretary-General to continue to seek the contribution of States, relevant organizations and institutions in order to put his work on a more stable basis;

24. *Requests* the Representative of the Secretary-General to continue to report on his activities to the General Assembly and to the Commission;

25. *Decides* to continue its consideration of the question of internal displacement at its sixtieth session.

59th meeting
23 April 2003
[Adopted without a vote. See chap. XIV.]
