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ORGANIZATIONAL AND PROCEDURAL MATTERS

Draft report of the Council*

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Addendum

CONTENTS

Chapter

Page

I. Resolutions and decisions adopted by the Council at its seventh session

A. Resolutions

- 7/21. Mandate of the Working Group on the use of mercenaries
as a means of violating human rights and impeding the
exercise of the right to peoples to self-determination
- 7/22. Human rights and access to safe drinking water and sanitation
- 7/23. Human rights and climate change

* Document A/HRC/7/L.10 will contain the chapters of the report relating to the organization of the session and the items on the agenda. Resolutions and decisions adopted by the Council will be contained in documents A/HRC/7/L.11 and addenda.

CONTENTS (*continued*)

<i>Chapter</i>	<i>Page</i>
I. A. (<i>continued</i>)	
7/24. Elimination of violence against women	
7/25. Prevention of genocide	
7/26. International Convention for the Protection of All Persons from Enforced Disappearance	
7/27. Human rights and extreme poverty	
7/28. Missing persons	
7/29. Rights of the child	
7/30. Human rights in the occupied Syrian Golan	
7/31. Situation of human rights in Myanmar	
7/32. Mandate of the Special Rapporteur on the situation of human rights in Myanmar	
7/33. From rhetoric to reality: a global call for concrete action against racism, racial discrimination, xenophobia and related intolerance	
7/34. Mandate of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance	
7/35. Assistance to Somalia in the field of human rights	
7/36. Mandate of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression	

I. Resolutions and decisions adopted by the Council at its seventh session

A. Resolutions

7/21. Mandate of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

The Human Rights Council,

Recalling all of the previous resolutions adopted by the General Assembly and the Commission on Human Rights on the subject, including Assembly resolution 62/145 of 18 December 2007 and Commission resolution 2005/2 of 7 April 2005,

Bearing in mind paragraph 6 of Assembly resolution 60/251 of 15 March 2006,

Recalling Council resolutions 5/1 entitled “Institution-building of the United Nations Human Rights Council” and 5/2 entitled “Code of Conduct for Special Procedures Mandate-holders of the Human Rights Council” of 18 June 2007, and stressing that the mandate-holder shall discharge his/her duties in accordance with these resolutions and the annexes thereto,

1. *Acknowledges with appreciation* the work and contributions made by the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, and takes note with appreciation of its latest report;¹

2. *Decides* to extend the mandate of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination for a period of three years:

(a) To elaborate and present concrete proposals on possible complementary and new standards aimed at filling existing gaps, as well as general guidelines or basic principles

¹ A/HRC/7/7.

encouraging the further protection of human rights, in particular the right of peoples to self-determination, while facing current and emergent threats posed by mercenaries or mercenary-related activities;

(b) To seek opinions and contributions from Governments and intergovernmental and non-governmental organizations on questions relating to its mandate;

(c) To monitor mercenaries and mercenary-related activities in all their forms and manifestations in different parts of the world;

(d) To study and identify sources and causes, emerging issues, manifestations and trends regarding mercenaries or mercenary-related activities and their impact on human rights, particularly on the right of peoples to self-determination;

(e) To monitor and study the effects on the enjoyment of human rights, particularly the right of peoples to self-determination, of the activities of private companies offering military assistance, consultancy and security services on the international market and to prepare a draft of international basic principles that encourage respect for human rights by those companies in their activities;

3. *Also decides* to authorize the Working Group to hold three sessions per year of five working days each, two in Geneva and one in New York, in fulfilment of the mandate outlined in the present resolution;

4. *Requests* the Working Group to continue the work already done by the previous Special Rapporteurs on the strengthening of the international legal framework for the prevention and sanction of the recruitment, use, financing and training of mercenaries, taking into account the proposal for a new legal definition of a mercenary drafted by the Special Rapporteur in his report to the Commission on Human Rights at its sixtieth session;²

² E/CN.4/2004/15, para. 47.

5. *Requests* the Office of the United Nations High Commissioner for Human Rights, as a matter of priority, to publicize the adverse effects of the activities of mercenaries on the right of peoples to self-determination and, when requested and where necessary, to render advisory services to States that are affected by those activities;

6. *Expresses its appreciation* to the Office of the High Commissioner for its support for convening in Panama the regional governmental consultation for Latin American and Caribbean States on traditional and new forms of mercenary activities as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, in particular regarding the effects of the activities of private military and security companies on the enjoyment of human rights;

7. *Requests* the Office of the High Commissioner to inform the Council, in a timely manner, of the dates and places for the convening of the other regional governmental consultations on this matter, in conformity with paragraph 15 of General Assembly resolution 62/145, bearing in mind that this process may lead to the holding of a high-level round table of States, under the auspices of the United Nations, to discuss the fundamental question of the role of the State as holder of the monopoly of the use of force, with the objective of facilitating a critical understanding of the responsibilities of the different actors, including private military and security companies, in the current context, and their respective obligations for the protection and promotion of human rights and in reaching a common understanding as to which additional regulations and controls are needed at the international level;

8. *Urges* all States to cooperate fully with the Working Group in the fulfilment of its mandate;

9. *Requests* the Secretary-General and the United Nations High Commissioner for Human Rights to provide the Working Group with all the necessary assistance and support for the fulfilment of its mandate, both professional and financial, including through the promotion of cooperation between the Working Group and other components of the United Nations system that deal with countering mercenary-related activities, in order to meet the demands of its current and future activities;

10. *Requests* the Working Group to consult States, intergovernmental organizations, non-governmental organizations and other relevant actors of civil society in the implementation of the present resolution and to report its findings on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination to the General Assembly at its sixty-third session and to the Council in 2009 in accordance with its annual programme of work;

11. *Decides* to continue its consideration of this matter under the same agenda item.

41st meeting

28 March 2008

[Adopted by a recorded vote of 32 to 11,
with 2 abstentions. See chap. III.]

7/22. Human rights and access to safe drinking water and sanitation

The Human Rights Council,

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

Recalling its resolution 6/8 of 28 September 2007 and decision 2/104 of 27 November 2006 on human rights and equitable access to safe drinking water and sanitation,

Bearing in mind paragraph 6 of General Assembly resolution 60/251 of 15 March 2006,

Recalling its resolutions 5/1 on institution-building of the Council and 5/2 on the Code of Conduct for Special Procedures Mandate-holders of the Council, of 18 June 2007, and stressing that the mandate-holder shall discharge his/her duties in accordance with those resolutions and the annexes thereto,

Recalling also the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child,

Recalling further relevant provisions of declarations and programmes with regard to access to safe drinking water and sanitation adopted at major United Nations conferences and summits and by the General Assembly at its special sessions and their follow-up meetings, inter alia the Mar del Plata Action Plan on Water Development and Administration, Agenda 21 adopted by the United Nations Conference on Environment and Development or the Habitat Agenda adopted by the Habitat II conference,

Noting general comment No. 15 (2002) of the Committee on Economic, Social and Cultural Rights on the right to water (articles 11 and 12 of the International Covenant on Economic, Social and Cultural Rights),

Recalling commitments made by the international community to fully implement the Millennium Development Goals and stressing, in that context, the resolve of the Heads of State and Government, as expressed in the United Nations Millennium Declaration, to halve by 2015 the proportion of people without sustainable access to safe drinking water and basic sanitation,

Recalling also General Assembly resolution 61/192 of 20 December 2006, in which the Assembly declared 2008 the International Year of Sanitation,

Deeply concerned that over one billion people lack access to safe drinking water and that 2.6 billion lack access to basic sanitation,

Emphasizing that international human rights law instruments, including the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child entail obligations in relation to access to safe drinking water and sanitation,

Mindful that certain aspects of human rights obligations related to the access to safe drinking water and sanitation have yet to be further studied, as pointed out in the report of the

United Nations High Commissioner for Human Rights on the scope and content of the relevant human rights obligations related to equitable access to safe drinking water and sanitation under international human rights instruments,¹

Affirming the need to focus on local and national perspectives in considering the issue, leaving aside questions of international watercourse law and all transboundary water issues,

1. *Recalls* the report of the United Nations High Commissioner for Human Rights on the scope and content of the relevant human rights obligations related to equitable access to safe drinking water and sanitation under international human rights instruments, submitted pursuant to Council decision 2/104 of 27 November 2006;

2. *Decides* to appoint, for a period of three years, an independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation, whose tasks will be:

(a) To develop a dialogue with Governments, the relevant United Nations bodies, the private sector, local authorities, national human rights institutions, civil society organizations and academic institutions, to identify, promote and exchange views on best practices related to access to safe drinking water and sanitation, and, in that regard, to prepare a compendium of best practices;

(b) To advance the work by undertaking a study, in cooperation with and reflecting the views of Governments and relevant United Nations bodies, and in further cooperation with the private sector, local authorities, national human rights institutions, civil society organizations and academic institutions, on the further clarification of the content of human rights obligations, including non-discrimination obligations, in relation to access to safe drinking water and sanitation;

(c) To make recommendations that could help the realization of the Millennium Development Goals, in particular of Goal 7;

¹ A/HRC/6/3.

(d) To apply a gender perspective, including through the identification of gender-specific vulnerabilities;

(e) To work in close coordination, while avoiding unnecessary duplication, with other special procedures and subsidiary organs of the Council, relevant United Nations bodies and the treaty bodies, and taking into account the views of other stakeholders, including relevant regional human rights mechanisms, national human rights institutions, civil society organizations and academic institutions;

(f) To submit a report, including conclusions and recommendations, to the Council at its tenth session;

3. *Requests* the United Nations High Commissioner for Human Rights to ensure that the independent expert receives the necessary resources to enable him/her to discharge the mandate fully;

4. *Calls upon* all Governments to cooperate with the independent expert and invites them to share best practices with the independent expert, and to provide him/her with all the necessary information related to the mandate to enable him/her to fulfil the mandate;

5. *Decides* to continue its consideration of this matter under the same agenda item at its tenth session.

*41st meeting
28 March 2008*

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

7/23. Human rights and climate change

The Human Rights Council,

Concerned that climate change poses an immediate and far-reaching threat to people and communities around the world and has implications for the full enjoyment of human rights,

Recognizing that climate change is a global problem and that it requires a global solution,

Reaffirming the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Vienna Declaration and Programme of Action,

Noting the findings of the fourth assessment report of the Intergovernmental Panel on Climate Change, including, that the warming of the climate system is unequivocal and that most of the observed increase in global average temperatures since the mid-twentieth century is likely to have been human-induced,

Recognizing that the United Nations Framework Convention on Climate Change¹ remains the comprehensive global framework to deal with climate-change issues, reaffirming the principles of the Framework Convention as contained in article 3 thereof, and welcoming the decisions of the United Nations Climate Change Conference, held in Bali, Indonesia, in December 2007, and in particular the adoption of the Bali Action Plan,

Recalling that the right to development was reaffirmed in the Vienna Declaration and Programme of Action, as established in the Declaration on the Right to Development, as a universal and inalienable right and as an integral part of fundamental human rights,

Recognizing that human beings are at the centre of concerns for sustainable development and that the right to development must be fulfilled so as to equitably meet the development and environmental needs of present and future generations,

Recognizing also that the world's poor are especially vulnerable to the effects of climate change, in particular those concentrated in high-risk areas, and also tend to have more limited adaptation capacities,

Recognizing further that low-lying and other small island countries, countries with low-lying coastal, arid and semi-arid areas or areas liable to floods, drought and desertification, and developing countries with fragile mountainous ecosystems are particularly vulnerable to the adverse effects of climate change,

¹ A/62/276, annex 1.

Recalling the relevant provisions of declarations, resolutions and programmes of action adopted by major United Nations conferences, summits and special sessions and their follow-up meetings, in particular Agenda 21 and the Rio Declaration on Environment and Development, and the Johannesburg Declaration on Sustainable Development and the Johannesburg Plan of Implementation,

Recalling also Commission on Human Rights resolution 2005/60 of 20 April 2005 on human rights and the environment as part of sustainable development,

Recalling further Council resolution 6/27 of 14 December 2007 on adequate housing as a component of the right to an adequate standard of living and in particular paragraph 3 thereof, and Council decision 2/104 of 27 November 2006 on human rights and access to water,

Taking note of the contribution provided by special procedures of the Council in examining and advancing the understanding of the link between the enjoyment of human rights and the protection of environment,

Taking note also of the conclusions and recommendations contained in the report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health to the General Assembly,² which include a call for the Council to study the impact of climate change on human rights,

1. *Decides* to request the Office of the United Nations High Commissioner for Human Rights, in consultation with and taking into account the views of States, other relevant international organizations and intergovernmental bodies, including the Intergovernmental Panel on Climate Change, the secretariat of the United Nations Framework Convention on Climate Change and other stakeholders, to conduct, within existing resources, a detailed analytical study of the relationship between climate change and human rights, to be submitted to the Council prior to its tenth session;

² A/62/214.

2. *Encourages* States to contribute to the study conducted by the Office of the High Commissioner;

3. *Decides* to consider the issue at its tenth session under agenda item 3, and thereafter to make available the study, together with a summary of the debate held during its tenth session, to the Conference of Parties to the United Nations Framework Convention on Climate Change for its consideration.

*41st meeting
28 March 2008*

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

7/24. Elimination of violence against women

The Human Rights Council,

Reaffirming the obligation of all States to promote and protect all human rights and fundamental freedoms, and reaffirming also 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 and girls,

Reaffirming also the Vienna Declaration and Programme of Action, the Declaration on the Elimination of Violence against Women, the Beijing Declaration and Platform for Action, 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”, and the Declaration adopted at the forty-ninth session of the Commission on the Status of Women,

Reaffirming further the international commitments in the field of social development and to gender equality and the advancement of women made at the International Conference on Population and Development, the World Summit for Social Development and the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, as well as those made in the United Nations Millennium Declaration and at the 2005 World Summit,

Reaffirming Commission on Human Rights resolution 1994/45 of 4 March 1994, in which it decided to appoint a Special Rapporteur on violence against women, its causes and consequences,

Reaffirming also Council resolution 6/30 of 14 December 2007 on integrating the human rights of women throughout the United Nations system, all resolutions of the Commission on Human Rights on the elimination of violence against women, all General Assembly resolutions relevant to the elimination of all forms of violence against women, in particular resolution 61/143 of 19 December 2006, and Security Council resolution 1325 (2000) of 31 October 2000 on women, peace and security,

Recalling the inclusion of gender-related crimes and crimes of sexual violence in the Rome Statute of the International Criminal Court,¹

Deeply concerned that all forms of discrimination, including racism, racial discrimination, xenophobia and related intolerance and multiple or aggravated forms of discrimination and disadvantage can lead to the particular targeting or vulnerability to violence of girls and 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, women with disabilities, elderly women, widows and women in situations of armed conflict, women who are otherwise discriminated against, including on the basis of HIV status, and victims of commercial sexual exploitation,

Welcoming the launch of the campaign of the Secretary-General in February 2008 to end violence against women,

Bearing in mind paragraph 6 of General Assembly resolution 60/251 of 15 March 2006,

Recalling its resolutions 5/1 on institution-building of the United Nations Human Rights Council and 5/2 on the Code of Conduct for Special Procedures Mandate-holders of the

¹ A/CONF.183/9.

Human Rights Council, of 18 June 2007, and stressing that the mandate-holder shall discharge his/her duties in accordance with these resolutions and the annexes thereto,

1. *Strongly condemns* all acts of violence against women and girls, whether these acts are perpetrated by the State, private persons or non-State actors, and calls 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, in accordance with the Declaration on the Elimination of Violence against Women, and stresses the need to treat all forms of violence against women and girls as a criminal offence, punishable by law, as well as the duty to provide access to just and effective remedies and specialized assistance to victims, including medical and psychological assistance, as well as effective counselling;

2. *Welcomes* the work of the Special Rapporteur on violence against women, its causes and consequences;

3. *Takes note* of the latest report of the Special Rapporteur, which includes efforts to formulate indicators on violence against women,² as well as her previous reports on intersections between culture and violence against women³ and on the due diligence standard as a tool for elimination of violence against women;⁴

4. *Welcomes* the initiatives, increasing efforts and important contributions at the local, national, regional and international levels to eliminate all forms of violence against women and girls, and encourages, as a contribution to the effective implementation of the mandate of the Special Rapporteur on violence against women, its causes and consequences, the continued efforts of States, all United Nations bodies, funds and programmes, regional organizations and non-governmental organizations, including women's organizations, to build upon and support, including through the allocation of adequate resources, these successful initiatives, and to support and participate in regional consultations in this area;

² A/HRC/7/6.

³ A/HRC/4/34.

⁴ E/CN.4/2006/61.

5. *Decides* to extend the mandate of the Special Rapporteur on violence against women, its causes and consequences, for a period of three years;

6. *Invites* the Special Rapporteur, in carrying out this mandate, within the framework of the Universal Declaration of Human Rights and all other international human rights instruments, including the Convention on the Elimination of All Forms of Discrimination against Women, the Declaration on the Elimination of Violence against Women and the Beijing Declaration and Platform for Action:

(a) To seek and receive information on violence against women, its causes and its consequences, from Governments, treaty bodies, specialized agencies, other special rapporteurs responsible for various human rights questions, and intergovernmental and non-governmental organizations, including women's organizations, and to respond effectively to such information;

(b) To recommend measures, ways and means, at the local, national, regional and international levels, to eliminate all forms of violence against women and its causes, and to remedy its consequences;

(c) To work closely with all special procedures and other human rights mechanisms of the Council and with the treaty bodies, taking into account the request of the Council that they regularly and systematically integrate the human rights of women and a gender perspective into their work, and cooperate closely with the Commission on the Status of Women in the discharge of its functions;

(d) To continue to adopt a comprehensive and universal approach to the elimination of violence against women, its causes and consequences, including causes of violence against women related to the civil, cultural, economic, political and social spheres;

7. *Requests* the Special Rapporteur, to report to the Council in accordance with its annual programme of work;

8. *Encourages* the Special Rapporteur, with a view to promoting greater efficiency and effectiveness and to enhancing his/her access to the information necessary to fulfil his/her duties,

to continue to cooperate with regional intergovernmental organizations and any of their mechanisms engaged in the promotion and protection of the human rights of women and girls;

9. *Calls upon* all Governments to cooperate with and assist the Special Rapporteur in the performance of his/her mandated tasks and duties, to supply all information requested, including with regard to implementation of the recommendations of the Special Rapporteur, and to give serious consideration to responding favourably to his/her requests for visits and communications;

10. *Requests* special procedures of the Council, 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 and girls within their respective mandates, to cooperate with and assist the Special Rapporteur in the performance of his/her mandated tasks and duties and, in particular, to respond to his/her requests for information on violence against women, its causes and consequences;

11. *Requests* the Secretary-General to continue to provide the Special Rapporteur with all necessary assistance for the effective fulfilment of his/her mandate, in particular staff and resources, including to carry out and follow up on missions;

12. *Also 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, the General Assembly and the Committee on the Elimination of Discrimination against Women, and requests the Special Rapporteur to present an oral report annually to the Commission and to the Assembly;

13. *Decides* to continue consideration of the issue of the elimination of all forms of violence against women, its causes and consequences, as a matter of high priority, in conformity with its annual programme of work.

*41st meeting
28 March 2008*

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

7/25. Prevention of genocide

The Human Rights Council,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the Convention on the Prevention and Punishment of the Crime of Genocide, as well as other relevant international instruments,

Considering that the sixtieth anniversary of the Convention on the Prevention and Punishment of the Crime of Genocide, adopted on 9 December 1948 and succeeded by the adoption of the Universal Declaration of Human Rights on the next day, provides an important opportunity for the international community to draw the attention of all States to the significance of the Convention and to invite them to redouble their efforts for the prevention and punishment of the crime of genocide,

Emphasizing that the crime of genocide is recognized in the Convention as an odious scourge which has inflicted great losses on humanity and that further international cooperation is required to facilitate the timely prevention and punishment of the crime of genocide,

Deeply concerned about the occurrence in recent history of genocide, recognized as such by the international community, on the basis of and as defined in the 1948 Convention, and bearing in mind that massive, serious and systematic violations of human rights and international humanitarian law might result in genocide,

Taking into consideration that States parties to the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity of 26 November 1968 have agreed that no statutory limitation shall apply to such crimes, including the crime of genocide, irrespective of the date of their commission,

Affirming that impunity for such crimes encourages their occurrence and is a fundamental obstacle to the furtherance of cooperation among peoples and the promotion of international peace and security, and that fighting impunity for such crimes is an important factor in their prevention,

Acknowledging the significant progress made by the international community in the past 60 years, including within the United Nations system, in developing relevant mechanisms and practices to prevent and punish the crime of genocide, thereby contributing to the effective implementation of the Convention,

Recalling General Assembly resolution 96 (I) of 11 December 1946, in which the Assembly declared genocide a crime under international law, and all subsequent resolutions within the United Nations system that have contributed to the establishment and development of the process of prevention and punishment of the crime of genocide, including Assembly resolution 60/1 of 16 September 2005,

Acknowledging with appreciation that genocide is defined among the most serious crimes of concern to the international community as a whole in the Rome Statute of the International Criminal Court,¹ and anticipating that the functioning of the Court with a high number of ratifications of the Statute and the functioning of other relevant international criminal tribunals will help increase accountability for the crime of genocide,

Recalling that the Council is mandated by the General Assembly to address situations of violations of human rights, including gross and systematic violations, and to make recommendations thereon, and that it should also promote the effective coordination and mainstreaming of human rights within the United Nations system,

Recognizing the important contribution of the United Nations human rights system to efforts towards preventing situations in which the crime of genocide could be committed,

Reaffirming its full support for the mandate of the Special Adviser of the Secretary-General on the prevention of genocide, who acts, inter alia, as an early warning mechanism to prevent potential situations that could result in genocide,

¹ A/CONF.183/9.

Taking note with appreciation of the presentation of the reports of the Secretary-General submitted to the Council on the implementation of the Five-Point Action Plan and the activities of the Special Adviser,² as well as of the convening of two interactive dialogues with the Special Adviser at both the third and current sessions of the Council,

1. *Reaffirms* the significance of the Convention on the Prevention and Punishment of the Crime of Genocide as an effective international instrument for the prevention and punishment of the crime of genocide;
2. *Expresses its appreciation* to all States that have ratified or acceded to the Convention, and in particular to the States that have done so in the years following the adoption of Commission on Human Rights resolution 2005/62 of 20 April 2005;
3. *Calls upon* States that have not yet ratified or acceded to the Convention to consider doing so as a matter of high priority and, where necessary, to enact national legislation in conformity with the provisions of the Convention;
4. *Reiterates* the responsibility of each individual State to protect its population from genocide, which entails the prevention of such a crime, including incitement to it, through appropriate and necessary means;
5. *Stresses* the importance of enhanced international cooperation, including through the United Nations system and through regional organizations, aimed at fostering the principles enshrined in the Convention;
6. *Calls upon* all States, in order to deter future occurrences of genocide, to cooperate, including through the United Nations system, in strengthening appropriate collaboration among existing mechanisms that contribute to early detection and prevention of massive, serious and systematic violations of human rights, which if not halted, could lead to genocide;

² E/CN.4/2006/84 and A/HRC/7/37.

7. *Recognizes* the important role of the Secretary-General in contributing to prompt consideration of early warning or prevention cases, as mandated by Security Council resolution 1366 (2001) of 30 August 2001, and the functions of the Special Adviser, who, in accordance with his mandate, collects existing information, in particular from within the United Nations system, liaises with the United Nations system on activities for the prevention of genocide and works to enhance the capacity of the United Nations to analyse and manage information relating to genocide or related crimes;

8. *Welcomes* the decisions of the Secretary-General and of the General Assembly, as contained in its resolution 62/238, to retain the mandate of the Special Adviser, to upgrade his position to the level of Under-Secretary-General and to strengthen his office;

9. *Requests* all Governments to cooperate fully with the Special Adviser in the performance of his work, to furnish all relevant information requested and to react promptly to his urgent appeals;

10. *Underlines* the important role of the United Nations human rights system, including of the Council, the Office of the United Nations High Commissioner for Human Rights and the relevant special procedures and treaty bodies in addressing the challenge of collating information on massive, serious and systematic violations of human rights, and thereby contributing to a better understanding and early warning of complex situations that might lead to genocide;

11. *Encourages* the Special Adviser on the Prevention of Genocide and the High Commissioner for Human Rights to further enhance the systematic exchange of information between their offices and between the Special Adviser and all relevant special procedures, including those concerned with the promotion and protection of human rights of persons belonging to the national, ethnic, racial or religious groups as outlined in article II of the Convention on the Prevention and Punishment of the Crime of Genocide;

12. *Emphasizes* the importance, when addressing complex situations that might lead to genocide as defined in the Convention, of a prompt and comprehensive examination of a set of multiple factors, including legal factors, the existence of groups at risk, the massive, serious and

systematic violation of human rights, and the resurgence of systematic discrimination, the prevalence of expressions of hate speech targeting persons belonging to national, ethnic, racial or religious groups, especially if they are uttered in the context of an actual or potential outbreak of violence;

13. *Encourages* States to make use of appropriate international and regional forums to address the issue of prevention of genocide, including, inter alia, the annual meetings of regional and thematic organizations and their related human rights machinery, the preparatory process for the Review Conference on the implementation of the Durban Declaration and Programme of Action and any conferences commemorating the sixtieth anniversary of the Universal Declaration of Human Rights;

14. *Encourages* Governments, in cooperation with international and regional organizations and civil society, while promoting human rights education activities, to disseminate knowledge of the principles of the Convention, paying particular attention to the principles of prevention;

15. *Requests* the High Commissioner to circulate the reports of the Secretary-General submitted to the Council in order to obtain the views of States, relevant United Nations agencies, treaty bodies and special procedures on those reports, including on possible warning signs that might lead to genocide,³ and to report to the Council at its tenth session;

16. *Invites* the High Commissioner, as a matter of high priority and in consultations with States, to elaborate and implement, within existing resources, appropriate commemorative events to mark the sixtieth anniversary of the Convention on the Prevention and Punishment of the Crime of Genocide, having also in mind the commemoration of the sixtieth anniversary of the Universal Declaration of Human Rights;

17. *Also invites* the High Commissioner, as part of the commemorative events, and as an important contribution to developing preventive strategies, to organize, within

³ E/CN.4/2006/84.

existing resources, a seminar on the prevention of genocide, with the participation of States, relevant United Nations entities and other international and regional organizations, civil society, and academic and research bodies, and to publish a paper on the outcome of the seminar;

18. *Requests* the Secretary-General to make available to the Council at its tenth session an updated report on the efforts of the United Nations system to prevent genocide and on the activities of the Special Adviser, and invites the Special Adviser to an interactive dialogue with the Council at the same session on the progress made in discharging his duties;

19. *Decides* to continue consideration of this issue in accordance with its programme of work.

*41st meeting
28 March 2008*

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

**7/26. International Convention for the Protection of All Persons
from Enforced Disappearance**

The Human Rights Council,

Recalling 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,

Recalling also its resolution 1/1 of 29 June 2006,

Acknowledging the adoption of the International Convention for the Protection of All Persons from Enforced Disappearance by the General Assembly in its resolution 61/177 of 20 December 2006, and its opening for signature, ratification and accession,

Welcoming the signature of the Convention by fifty-seven States at the opening ceremony, held in Paris, on 6 February 2007, and the signature of the Convention thereafter,

Welcoming also the ratification of the Convention by some States,

Recognizing that the entry into force of the Convention, as soon as possible, through its ratification by twenty States, will be a significant event,

Recognizing also the widespread campaign engaged by the “Group of Friends” of the Convention,

1. *Encourages* States that are in the process of signing, ratifying or acceding to the International Convention for the Protection of All Persons from Enforced Disappearance to complete their internal procedures towards those ends in compliance with domestic legislation as expeditiously as possible;
2. *Encourages* all States that have not done so to consider signing, ratifying or acceding to the International Convention for the Protection of All Persons from Enforced Disappearance;
3. *Invites* States to consider joining the campaign to share information on best practices and to work towards the early coming into force of the Convention with the aim of its universality.

41st meeting

28 March 2008

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

7/27. Human rights and extreme poverty

The Human Rights Council,

Deeply concerned that extreme poverty persists in all countries of the world, regardless of their economic, social and cultural situation, and that its extent and manifestations are particularly severe in developing countries,

Reaffirming in this regard the commitments made at relevant United Nations conferences, summits, including those made at the World Summit for Social Development, held in

Copenhagen in 1995, and in the United Nations Millennium Declaration adopted by the General Assembly on 8 September 2000¹ and the 2005 World Summit Outcome² adopted by the Heads of State and Government at the 2005 World Summit,

Takes note of the draft guiding principles on extreme poverty and human rights: the rights of the poor annexed to resolution 2006/9 adopted by the Sub-Commission for the Promotion and Protection of Human Rights on 24 August 2006,

Recalling its resolution 2/2 of 27 November 2006,

1. *Affirms* that the fight against extreme poverty must remain a high priority for the international community;
2. *Notes with satisfaction* the report of the United Nations High Commissioner for Human Rights on the draft guiding principles on extreme poverty and human rights: the rights of the poor;³
3. *Welcomes* the substantial contributions of States, relevant United Nations agencies, intergovernmental organizations, United Nations treaty bodies, the independent expert on the question of human rights and extreme poverty, national human rights institutions, non-governmental organizations, especially those in which people in situations of extreme poverty express their views, and other relevant stakeholders;
4. *Invites* the Office of the United Nations High Commissioner for Human Rights:
 - (a) To further consult the above-mentioned relevant stakeholders and allow them to comment also on the report of the High Commissioner, including through the organization of a three-day seminar on the draft guiding principles, before March 2009;

¹ General Assembly resolution 55/2.

² General Assembly resolution 60/1.

³ A/HRC/7/32.

(b) To submit a report to the Council, no later than its last session of 2009, to allow it to take a decision on the ways forward with a view to a possible adoption of guiding principles on the rights of persons living in extreme poverty.

41st meeting
28 March 2008

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

7/28. Missing persons

The Human Rights Council,

Guided by the purposes, principles and provisions of the Charter of the United Nations,

Guided also by the principles and norms of international humanitarian law, in particular the Geneva Conventions of 12 August 1949¹ and the Additional Protocols thereto of 1977,² as well as international standards of human rights, in particular the Universal Declaration of Human Rights,³ the International Covenant on Economic, Social and Cultural Rights,⁴ the International Covenant on Civil and Political Rights,⁴ the Convention on the Elimination of All Forms of Discrimination against Women,⁵ the Convention on the Rights of the Child⁶ and the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993,⁷

¹ United Nations *Treaty Series*, vol. 75, Nos. 970-973.

² Ibid., vol. 1125, Nos. 17512 and 17513.

³ General Assembly resolution 217 A (III).

⁴ See General Assembly resolution 2200 A (XXI), annex.

⁵ United Nations, *Treaty Series*, vol. 1249, No. 20378.

⁶ Ibid., vol. 1577, No. 27531.

⁷ A/CONF.157/24 (Part I), chap. III.

Recalling all previous resolutions on missing persons adopted by the General Assembly, as well as the resolutions adopted by the Commission on Human Rights,

Considering that the problem of missing persons raises questions of both international human rights law and, as applicable, international humanitarian law,

Noting with deep concern that armed conflicts are continuing in various parts of the world, often resulting in serious violations of international humanitarian law and human rights law,

Convinced that States hold the primary responsibility for countering the phenomenon of missing persons and determining the fate of missing persons and that they must recognize their accountability for implementing the relevant mechanisms, policies and laws,

Bearing in mind the effective search for and identification of missing persons through traditional forensic methods, and recognizing that great technological progress has been achieved in the field of DNA forensic sciences, which could significantly assist efforts to identify missing persons,

Noting that the issue of persons reported missing in connection with international armed conflicts, in particular those who are victims of serious violations of international humanitarian law and human rights law, continues to have a negative impact on efforts to put an end to those conflicts and causes suffering to the families of missing persons, and stressing in this regard the need to address the issue from a humanitarian perspective, among others,

Welcoming the conclusions of the International Conference of Governmental and Non-Governmental Experts convened by the International Committee of the Red Cross in Geneva from 19 to 21 February 2003 on “The missing: action to resolve the problem of people unaccounted for as a result of armed conflict or internal violence and to assist their families” and its recommendations to address the problems of missing persons and their families,

Recalling the Agenda for Humanitarian Action, in particular its general objective 1, to “respect and restore the dignity of persons missing as a result of armed conflicts or other situations of armed violence and of their families”, adopted at the Twenty-eighth International Conference of the Red Cross and Red Crescent, held in Geneva from 2 to 6 December 2003, and resolution 3 on the reaffirmation and implementation of international humanitarian law entitled

“Preserving human life and dignity in armed conflict”, adopted at the Thirtieth International Conference of the Red Cross and Red Crescent, held in Geneva from 26 to 30 November 2007,

Taking note of the resolution on missing persons adopted on 18 October 2006 by the Inter-Parliamentary Union at its 115th Assembly,

Welcoming the ongoing regional efforts to address the question of missing persons,

1. *Urges* States to strictly observe and respect and to ensure respect for the rules of international humanitarian law, as set out in the Geneva Conventions of 12 August 1949¹ and, where applicable, in the Additional Protocols thereto of 1977;²
2. *Calls upon* States that are parties to an armed conflict to take all appropriate measures to prevent persons from going missing in connection with armed conflict and account for persons reported missing as a result of such a situation;
3. *Reaffirms* the right of families to know the fate of their relatives reported missing in connection with armed conflicts;
4. *Also reaffirms* that each party to an armed conflict, as soon as circumstances permit and, at the latest, from the end of active hostilities, shall search for the persons who have been reported missing by an adverse party;
5. *Calls upon* States that are parties to an armed conflict to take all necessary measures, in a timely manner, to determine the identity and fate of persons reported missing in connection with the armed conflict and, to the greatest possible extent, to provide their family members, through appropriate channels, with all relevant information they have on their fate;
6. *Recognizes*, in this regard, the need for the collection, protection and management of credible and reliable data on missing persons according to international and national legal norms and standards, and urges States to cooperate with each other and with other concerned actors working in this area, inter alia, by providing all relevant and appropriate information related to missing persons;

7. *Requests* States to pay the utmost attention to cases of children and women reported missing in connection with armed conflicts and to take appropriate measures to search for and identify those children and women;

8. *Invites* States that are parties to an armed conflict to cooperate fully with the International Committee of the Red Cross in establishing the fate of missing persons and to adopt a comprehensive approach to this issue, including all practical and coordination mechanisms as may be necessary, based on humanitarian considerations only;

9. *Urges* States and encourages intergovernmental and non-governmental organizations to take all necessary measures at the national, regional and international levels to address the problem of persons reported missing in connection with armed conflicts and to provide appropriate assistance as requested by the concerned States, and welcomes, in this regard, the establishment and efforts of commissions and working groups on missing persons;

10. *Calls upon* States, without prejudice to their efforts to determine the fate of persons missing in connection with armed conflicts, to take appropriate steps with regard to the legal situation of the missing persons and that of their family members, in fields such as social welfare, financial matters, family law and property rights;

11. *Decides* to hold a panel discussion on the question of missing persons at its ninth session and to invite experts of the International Committee of the Red Cross, delegates of Governments and non-governmental organizations as well as national human rights institutions and international organizations to participate therein and requests the High Commissioner to prepare a summary of the panel's deliberations with a view to subsequently charging the Advisory Committee, at the same session, with the preparation of a study on best practices in the matter;

12. *Invites* relevant human rights mechanisms and procedures, as appropriate, to address the problem of persons reported missing in connection with armed conflicts in their forthcoming reports to the Council;

13. *Requests* the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations bodies, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations;

14. *Also requests* the Secretary-General to submit a comprehensive report on the implementation of the present resolution to the Council before its tenth session;

15. *Decides* to consider the question at its tenth session.

41st meeting

28 March 2008

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

7/29. Rights of the child

The Human Rights Council,

Emphasizing that the Convention on the Rights of the Child must constitute the standard in the promotion and protection of the rights of the child, and bearing in mind the importance of the Optional Protocols to the Convention, as well as other human rights instruments,

Reaffirming all previous resolutions on the rights of the child of the Commission on Human Rights and of the General Assembly, the most recent of which are Commission resolution 2005/44 of 18 April 2005 and Assembly resolution 62/141 of 18 December 2007,

Welcoming the reports of the Secretary-General on the status of the Convention on the Rights of the Child,¹ on the follow-up to the special session of the General Assembly on children² of 15 August 2007 and on the girl child³ of 24 August 2007, as well as the Declaration

¹ A/62/182.

² A/62/259.

³ A/62/297.

of the commemorative high-level plenary meeting devoted to the follow-up to the outcome of the special session on children, held on 11 and 12 December 2007,⁴

Welcoming also the report to the General Assembly of the independent expert for the United Nations study on violence against children,⁵ his report on the first year of follow-up to the study⁶ and the establishment by the General Assembly of the mandate of the Special Representative of the Secretary-General on violence against children, as a high-profile and independent global advocate to promote the prevention and elimination of all forms of violence against children in all regions, in accordance with its resolution 62/141,

Recognizing the contribution of the International Criminal Court in ending impunity for the most serious crimes against children, including genocide, crimes against humanity and war crimes, calling upon States not to grant amnesties for such crimes and acknowledging the contribution of the international criminal tribunals and special courts in ending impunity for the most serious crimes against children, including genocide, crimes against humanity and war crimes,

Welcoming the reports of the Special Representative for children and armed conflict⁷ and the report of the Special Rapporteur on the sale of children, child prostitution and child pornography,⁸

Welcoming also the work of the Committee on the Rights of the Child and taking note of the issuance of its general comments Nos. 6 and 7 (2005), Nos. 8 and 9 (2006) and No. 10 (2007),

⁴ General Assembly resolution 62/88.

⁵ A/61/299.

⁶ A/62/209.

⁷ A/62/228.

⁸ A/HRC/7/8.

Profoundly concerned that the situation of children in many parts of the world remains critical and convinced that urgent and effective national and international action is called for,

Mindful that regional instruments should contribute to the strengthening of the norms of the Convention on the Rights of the Child,

Reaffirming the importance of the family as the fundamental group of society and the natural environment for the growth and well-being of all its members, and particularly children, and that as such should be strengthened; that it is entitled to receive comprehensive protection and support; that the primary responsibility for the protection, upbringing and development of children rests with the family; that all institutions of society should respect children's rights and secure their well-being and render appropriate assistance to parents, families, legal guardians and other caregivers so that children can grow and develop in a safe and stable environment and in an atmosphere of happiness, love and understanding, bearing in mind that, in different cultural, social and political systems, various forms of family exist,

Underlining the need for mainstreaming a gender perspective and recognizing the child as a rights holder, in all policies and programmes relating to children,

Concerned that, in conflict situations, children continue to be the victims and deliberate targets of attacks or the use of force, including indiscriminate and excessive use of force with consequences, which are often irreversible for their physical and emotional integrity,

Recognizing that environmental damage has potentially negative effects on children and their enjoyment of their life, health and a satisfactory standard of living,

Taking note with appreciation of the attention paid to children in the Convention on the Rights of Persons with Disabilities⁹ and in the International Convention for the Protection of All Persons from Enforced Disappearance,¹⁰

⁹ General Assembly resolution 61/106, annex.

¹⁰ General Assembly resolution 61/177, annex.

I. IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF THE CHILD AND OTHER INSTRUMENTS

1. *Reaffirms* that the general principles of, inter alia, the best interests of the child, non-discrimination, participation and survival and development provide the framework for all actions concerning children, including adolescents;

2. *Acknowledges* that the Convention on the Rights of the Child¹¹ is the most universally ratified human rights treaty, and urges the States that have not yet done so to become parties to the Convention and the Optional Protocols thereto¹² as a matter of priority and, concerned at the great number of reservations to the Convention, urges States parties to withdraw reservations incompatible with the object and purpose of the Convention and its Optional Protocols and to consider reviewing regularly other reservations with a view to withdrawing them;

3. *Calls upon* States parties to implement the Convention and its Optional Protocols fully and in accordance with the best interests of the child by, inter alia, putting in place effective national legislation, policies and action plans, and to comply in a timely manner with their reporting obligations under the Convention and the Optional Protocols thereto, in accordance with the guidelines elaborated by the Committee, as well as to take into account the recommendations made by the Committee in the implementation of the provisions of the Convention;

4. *Also calls upon* States parties to designate, establish or strengthen relevant governmental structures for children, including, where appropriate, ministers in charge of child issues and independent ombudspersons for children, and to ensure adequate and systematic training in the rights of the child for professional groups working with and for children;

5. *Encourages* States to strengthen their national statistical capacities, particularly in the area of juvenile justice and on children in detention, and, as far as possible, to use statistics disaggregated by, inter alia, age, sex and other relevant factors that may lead to disparities, and

¹¹ United Nations, *Treaty Series*, vol. 1577, No. 27531.

¹² *Ibid.*, vol. 2171, No. 27531; and *ibid.*, vol. 2173, No. 27531.

other statistical indicators at the national, subregional, regional and international levels to develop and assess social policies and programmes so that economic and social resources are used efficiently and effectively for the full realization of the rights of the child;

II. MAINSTREAMING OF THE RIGHTS OF THE CHILD

6. *Affirms* its commitment to effectively integrate the rights of the child in its work and that of its mechanisms in a regular, systematic and transparent manner, taking into account specific needs of boys and girls;

7. *Decides* to incorporate into its programme of work sufficient time, at a minimum an annual full-day meeting, to discuss different specific themes on the rights of the child, including the identification of challenges in the realization of the rights of the child, as well as measures and best practices that can be adopted by States and other stakeholders, and to assess the effective integration of the rights of the child in its work, beginning in 2009;

8. *Urges* all stakeholders to take into full account the rights of the child in the universal periodic review, including in the preparation of information submitted for the review and during its dialogue, outcome and follow-up;

9. *Encourages* States to prepare the information described in paragraph 15 (a) of Council resolution 5/1 through broad consultation at the national level with all relevant stakeholders, including non-governmental organizations active in addressing the rights of the child;

10. *Requests* special procedures and other human rights mechanisms of the Council to integrate the rights of the child into the implementation of their mandates and to include in their reports information on and qualitative analysis of child rights;

11. *Encourages* all human rights treaty bodies to integrate the rights of the child into their work, in particular, in their concluding observations, general comments and recommendations;

III. PROTECTING AND PROMOTING THE RIGHTS OF THE CHILD AND NON-DISCRIMINATION AGAINST CHILDREN, INCLUDING CHILDREN IN DIFFICULT SITUATIONS

Non-discrimination

12. *Calls upon* all States to ensure that children are entitled to their civil, cultural, economic, political and social rights without discrimination of any kind;

13. *Notes with concern* the large number of children, particularly girls, belonging to national, ethnic, religious and linguistic minorities, migrant children, refugee children, internally displaced children and children of indigenous origin among the victims of racism, racial discrimination, xenophobia and related intolerance, stresses the need to incorporate special measures, in accordance with the principle of the best interests of the child and respect for his or her views, and the child's gender-specific needs, in education programmes and programmes to combat these practices, and calls upon States to provide special support and ensure equal access to services for those children;

Freedom from violence

14. *Deeply concerned* by the horrific scale and impact of all forms of violence against children, in all regions, in their homes and families, in schools, care and justice systems, workplaces and in communities, and urges States:

(a) To take effective and appropriate legislative and other measures or, where they exist, strengthen legislation to prohibit and eliminate all forms of violence against children, in all settings;

(b) To take all appropriate measures to prevent, and to protect children from, torture and other cruel, inhuman or degrading treatment and from all forms of violence as a matter of urgency, including physical, mental and sexual violence, child abuse and exploitation, domestic violence and neglect, and abuse by the police, other law enforcement authorities and employees and officials in detention centres or welfare institutions, including orphanages, giving priority to the gender dimension and to address its underlying causes through a systematic and comprehensive approach;

(c) To take appropriate measures to assert the right of children to respect for their human dignity and physical integrity and to prohibit and eliminate any emotional or physical violence or any other humiliating or degrading treatment;

(d) To take measures to eliminate the use of corporal punishment in schools and to take urgent measures to protect students from violence of any kind, injury or abuse, including sexual abuse, intimidation or maltreatment in schools, to establish complaint mechanisms that are age-appropriate and accessible to children and to undertake thorough and prompt investigations of all acts of violence and discrimination;

(e) To take measures to change attitudes that condone or normalize any form of violence against children, including cruel, inhuman or degrading forms of discipline, harmful traditional practices and all forms of sexual violence;

(f) To end impunity for perpetrators of crimes against children, and to investigate and prosecute such acts of violence and impose appropriate penalties, recognizing that persons convicted of violent offences against children, including sexual abuse of children, should be able to work with children only after adequate national safeguards have been used to determine that they do not pose a risk of harm to children;

15. *Requests* the Secretary-General to take urgent action on General Assembly resolution 62/141 and to appoint, in accordance with Assembly resolution 62/141, at the highest possible level and without delay, a Special Representative on violence against children and to report on progress made to the Council at its eighth session;

Identity, family relations and birth registration

16. *Urges* all States parties to intensify their efforts to comply with their obligations under the Convention on the Rights of the Child to preserve the child's identity, including nationality, name and family relations, as recognized by law, to allow for the registration of the child immediately after birth, irrespective of his/her status, to ensure that registration procedures are simple, expeditious and effective and provided free of charge, and to raise awareness of the importance of birth registration at the national, regional and local levels;

17. *Calls upon* States to take necessary measures to prevent and combat illegal adoptions and all adoptions that are not in the best interest of the child, by establishing policy, legislation and effective supervision for the protection of children involved in national and intercountry adoptions, bearing in mind the best interest of the child;

18. *Also calls upon* States to address cases of international abduction of children, bearing in mind that the best interest of the child shall be a primary consideration, and encourages States to engage in multilateral and bilateral cooperation to ensure, inter alia, the return of the child to the country where he or she resided immediately before removal or retention and, in this respect, to pay particular attention to cases of international abduction of children by one of their parents or other relatives;

19. *Further calls upon* States to guarantee, to the extent consistent with the obligations of each State, the right of a child whose parents reside in different States to maintain, on a regular basis, save in exceptional circumstances, personal relations and direct contact with both parents by providing enforceable means of access and visitation in both States and by respecting the principle that both parents have common responsibilities for the upbringing and development of their children;

20. *Reaffirms* the findings of the General Assembly in paragraph 16 of its resolution 62/141 and the importance of promoting appropriate parental care and family preservation where possible, and encourages States to adopt and enforce laws and improve the implementation of policies and programmes to protect children growing up without parents or caregivers; where alternative care is necessary, decision-making should be in the best interests of the child, in full consultation with the child and his/her legal guardians, and in this context, encourages the advancement of the draft United Nations guidelines for the appropriate use and conditions of alternative care for children; further attention should be given to these guidelines by the Council at its eighth session;

Eradication of poverty

21. *Calls upon* States and the international community to cooperate, support and participate in the global efforts for poverty eradication at the global, regional and country levels,

to intensify efforts so that all development and poverty reduction goals, as set out in the United Nations Millennium Declaration,¹³ are realized within their time framework, and reaffirms that investments in children and the realization of their rights contribute to their social and economic development, and are among the most effective ways to eradicate poverty;

Right to the enjoyment of the highest attainable standard of health

22. *Calls upon* all States:

(a) To take all necessary measures to ensure the right of the child to the enjoyment of the highest attainable standard of physical and mental health and to develop sustainable health systems and social services, to ensure access to such systems and services without discrimination, paying particular attention to adequate food and nutrition to prevent disease and malnutrition, to access to safe drinking water and sanitation, to prenatal and post-natal health care, to the special needs of adolescents, to reproductive and sexual health and to threats from substance abuse and violence;

(b) To address, as a matter of priority, the vulnerabilities faced by children affected by and living with HIV by providing support and rehabilitation to those children, their families and caregivers, by promoting child-oriented HIV/AIDS policies and programmes, increased protection for children orphaned and affected by HIV, and by involving children, their caregivers and the private sector, to ensure access to affordable and effective prevention, care and treatment, including through correct information, access to voluntary and confidential testing, reproductive health care and education, access to pharmaceutical products and medical technologies, by intensifying efforts to develop new treatments for children and prioritizing prevention of mother-to-child transmission of the virus, and by building, where needed, and supporting social security systems to protect them;

¹³ See General Assembly resolution 55/2.

Right to education

23. Calls upon all States:

(a) To recognize the right to education on the basis of equal opportunity and non-discrimination by making primary education available, free and compulsory for all children, by ensuring that all children, particularly girls, children in need of special protection, children with disabilities, indigenous children, children belonging to minorities and children of different ethnic origins, internally displaced and refugee children and children living in conflict-affected areas and countries and children affected and living with HIV/AIDS have access to good quality education, as well as making secondary education generally available and accessible for all, in particular by the progressive introduction of free education, bearing in mind that special measures to ensure equal access, including affirmative action, contribute to achieving equal opportunity and combating exclusion;

(b) To design and implement programmes to provide social services to and support for pregnant adolescents and adolescent mothers, in particular to enable them to continue and complete their education;

(c) To ensure that children, from an early age, benefit from education programmes, materials and activities that develop respect for human rights and fully reflect the values of peace, non-violence against oneself and others, tolerance and gender equality;

(d) To enable children, including adolescents, to exercise their right to express their views freely, the views of the child being given due weight in accordance with age and maturity of the child;

The girl child

24. Calls upon all States to take all necessary measures, including legal reforms where appropriate:

(a) To ensure the full and equal enjoyment by girls of all human rights and fundamental freedoms, to take effective actions against violations of those rights and freedoms, to end impunity and to base programmes and policies on the rights of the child, taking into account the special situation of girls;

(b) To eliminate all forms of discrimination and violence against girls, including female infanticide and prenatal sex selection, rape, sexual abuse and harmful traditional or customary practices, including female genital mutilation, son preference, marriages without free and full consent of the intending spouses, early marriages and forced marriages and forced sterilization, including addressing their root causes, by enacting and enforcing legislation and, where appropriate, formulating comprehensive, multidisciplinary and coordinated national plans, programmes or strategies protecting girls;

(c) To involve girls, including girls with special needs, and their representative organizations, in decision-making processes, as appropriate, and include them as full and active partners in identifying their own needs and in developing, planning, implementing and assessing policies and programmes to meet those needs;

Children with disabilities

25. *Recognizes* that children with disabilities should have full enjoyment of all human rights and fundamental freedoms on an equal basis with other children, and recalls the obligations to that end undertaken by the States parties to the Convention on the Rights of the Child;

26. *Calls upon* all States to:

(a) Take all necessary measures to ensure the full and equal enjoyment of all human rights and fundamental freedoms by children with disabilities, in both the public and private spheres, including by incorporating a child-rights perspective that includes children with disabilities into policies and programmes for children, taking into account the particular situation of children with disabilities who may be subject to multiple or aggravated forms of discrimination, including girls with disabilities and children with disabilities living in poverty;

(b) To ensure the dignity of children with disabilities, to promote their self-reliance and to facilitate their full and active participation and inclusion in the community, including by ensuring access to good-quality inclusive education and health, and to enact and enforce legislation protecting children with disabilities against all forms of discrimination, exploitation, violence and abuse;

(c) To consider ratifying the Convention on the Rights of Persons with Disabilities and its Optional Protocol as a matter of priority;

Migrant children

27. *Calls upon* all States to ensure, for migrant children, the enjoyment of all human rights and access to health care, social services and education of good quality, and that migrant children, and especially those who are unaccompanied and those who are victims of violence and exploitation, receive special protection and assistance, in accordance with their obligations, as reflected in articles 9 and 10 of the Convention on the Rights of the Child;

Children working and/or living on the street

28. *Calls upon* all States to prevent violations of the rights of children working and/or living on the street, including discrimination, arbitrary detention and extrajudicial, arbitrary and summary execution, torture, all kinds of violence and exploitation, and to bring the perpetrators to justice, to adopt and implement policies for the protection, social and psychosocial rehabilitation and reintegration of these children, and to adopt economic, social and educational strategies to address the problems of children working and/or living on the street;

Refugee and internally displaced children

29. *Calls upon* all States to protect refugee, asylum-seeking and internally displaced children, in particular those who are unaccompanied, who are particularly exposed to risks in connection with armed conflict and post-conflict situations, such as recruitment, sexual violence and exploitation, to pay particular attention to programmes for voluntary repatriation and, wherever possible, local integration and resettlement, to give priority to family tracing and reunification and, where appropriate, to cooperate with international humanitarian and refugee organizations;

Children alleged to have or recognized as having infringed penal law

30. *Calls upon* all States, in particular those States in which the death penalty has not been abolished:

(a) To abolish by law, as soon as possible, the death penalty and life imprisonment without possibility of release for those under the age of 18 years at the time of the commission of the offence;

(b) To comply with their obligations as assumed under relevant provisions of international human rights instruments, including the Convention on the Rights of the Child and the International Covenant on Civil and Political Rights;¹⁴

(c) To keep in mind the safeguards guaranteeing protection of the rights of those facing the death penalty and the guarantees set out in resolutions 1984/50 of 25 May 1984 and 1989/64 of 24 May 1989 adopted by the Economic and Social Council;

31. *Also calls upon* all States to give greater consideration to restorative justice practices, including mediation, as an alternative to sentencing, or as part of the sentencing process with regard to offenders under the age of 18;

32. *Further calls upon* all States to protect children deprived of their liberty from torture and other cruel, inhuman or degrading treatment or punishment and to ensure that, if they are arrested, detained or imprisoned, children are provided with adequate legal assistance and that they shall have the right to maintain contact with their family through correspondence and visits, save in exceptional circumstances, and that no child in detention is sentenced or subject to forced labour or corporal punishment, or deprived of access to and provision of health-care services, hygiene and environmental sanitation, education, basic instruction and vocational training;

Children of persons alleged to have or recognized as having infringed penal law

33. *Calls upon* all States to give attention to the impact of parental detention and imprisonment on children and, in particular:

¹⁴ See General Assembly resolution 2200 A (XXI), annex.

(a) To give priority to non-custodial measures, when sentencing or deciding on pretrial measures for a child's sole or primary carer, subject to the need to protect the public and the child, and bearing in mind the gravity of the offence;

(b) To identify and promote good practices in relation to the needs and physical, emotional, social and psychological development of babies and children affected by parental detention and imprisonment;

Child labour

34. *Calls upon* all States to translate into concrete action their commitment to the progressive and effective elimination of child labour that is likely to be hazardous or to interfere with the child's education or to be harmful to the child's health or physical, mental, spiritual, moral or social development, to eliminate immediately the worst forms of child labour, to promote education as a key strategy in this regard, including the creation of vocational training and apprenticeship programmes and the integration of working children into the formal education system, and to examine and devise economic policies, where necessary, in cooperation with the international community, that address factors contributing to these forms of child labour;

35. *Urges* all States that have not yet signed and ratified or acceded to the Convention concerning Minimum Age for Admission to Employment, 1973 (No. 138) and the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (No. 182) of the International Labour Organization to consider doing so;

IV. PREVENTION AND ERADICATION OF THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

36. *Calls upon* all States:

(a) To take all necessary measures to eliminate, criminalize and penalize effectively all forms of sexual exploitation and sexual abuse of children, including within the family or for commercial purposes, child pornography and child prostitution, child trafficking, child sex tourism, the sale of children and their organs, and the use of the Internet for these purposes, and to take effective measures against the criminalization of children who are victims of exploitation;

(b) To take effective measures to ensure prosecution of offenders, including through international assistance in connection with investigations or criminal or extradition proceedings;

(c) To increase cooperation at all levels to prevent and dismantle networks trafficking in children;

(d) To consider signing and ratifying or acceding to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;¹⁵

(e) To address effectively the needs of victims of trafficking, of sale of children, of child prostitution and child pornography, including their safety and protection, physical and psychological recovery and full reintegration into their family and society and bearing in mind the best interest of the child;

(f) To combat the existence of a market that encourages such criminal practices against children and factors leading to these practices, including through the adoption and effective application of preventive and enforcement measures targeting customers or individuals who sexually exploit or sexually abuse children, as well as ensuring public awareness of the problem;

(g) To take the necessary measures to eliminate the sale of children, child prostitution and child pornography by adopting a holistic approach and addressing all contributing factors;

37. Welcomes the comprehensive guidelines and recommendations contained in the report of the Special Rapporteur on the sale of children, child prostitution and child pornography to the Council in 2008¹⁶ for the establishment and management of rehabilitation and assistance programmes for children who are victims of sexual commercial exploitation and trafficking and strongly encourages States to take them into account in order to provide the child victims with assistance, protection and a successful rehabilitation in their families and society, taking into consideration the importance of separate programmes that attend to their special needs;

¹⁵ United Nations, *Treaty Series*, vol. 2237, No. 39574.

¹⁶ A/HRC/7/8.

V. PROTECTION OF CHILDREN AFFECTED BY ARMED CONFLICT

38. *Strongly condemns* any recruitment and use of children in armed conflicts contrary to international law, and urges all parties to armed conflict to end such practice, and all other violations and abuses committed against children, including killing or maiming, rape or other sexual violence, abduction, denial of humanitarian access, attacks against schools and hospitals and the forced displacement of children and their families;

39. *Reaffirms* the essential role of the General Assembly, the Economic and Social Council and the Human Rights Council for the promotion and protection of the rights and welfare of children, including children affected by armed conflict, and takes note of Security Council resolutions on children and armed conflict, in particular resolution 1612 (2005) of 26 July 2005, and of the undertaking by the Council to give special attention to the protection, welfare and rights of children in armed conflict when taking action aimed at maintaining peace and security, including provisions for the protection of children in the mandates of peacekeeping operations, as well as the inclusion of child protection advisers in those operations;

40. *Notes with appreciation* the steps taken regarding Security Council resolution 1612 (2005) of 26 July 2005 and the efforts of the Secretary-General to implement the monitoring and reporting mechanism, including in collecting and providing timely, objective, accurate and reliable information on children and armed conflict in accordance with that resolution, with the participation of and in cooperation with national Governments and relevant United Nations and civil society actors, including at the country level, as well as the work carried out by United Nations child protection advisers in peacekeeping operations;

41. *Takes note* of the updating of the Cape Town Principles on child soldiers¹⁷ that led to the Paris Principles and Guidelines on Children Associated with Armed Forces or Armed Groups,¹⁸ encourages Member States to consider using the Guidelines to inform their work in

¹⁷ See E/CN.4/1998/NGO/2.

¹⁸ Available from www.unicef.org.

protecting children from the effects of armed conflicts, and requests the relevant entities of the United Nations system, within their mandates, and invites civil society, to assist Member States in this field;

42. *Takes note* of part two of the report of the Special Representative of the Secretary-General for Children and Armed Conflict,¹⁹ on the strategic review of the 1996 study by Graça Machel entitled “Impact of armed conflict on children”,²⁰ and of the significant developments and achievements in the protection of children in armed conflict at the national and international levels, and calls upon Member States and observers, and invites relevant entities of the United Nations system as well as civil society, as appropriate, to study carefully its recommendations, recognizing the need for discussion on the issues raised therein, and stresses the need for the views of Member States to be fully taken into account in this regard;

43. *Recalls*, in accordance with international humanitarian law, that indiscriminate attacks against civilians, including children, are prohibited, and that they shall not be the object of attack, including by the way of reprisals or excessive use of force, condemns these practices and demands that all parties immediately put an end to them;

44. *Calls upon* all States to pay special attention to the protection, welfare and rights of girls affected by armed conflict;

45. *Calls upon* States:

(a) When ratifying the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, to raise the minimum age for voluntary recruitment of persons into their national armed forces from that set out in article 38, paragraph 3, of the Convention, bearing in mind that under the Convention persons under 18 years of age are entitled to special protection, and to adopt safeguards to ensure that such recruitment is not forced or coerced;

¹⁹ A/62/228.

²⁰ A/51/306 and Add.1.

(b) To take effective measures to prevent the recruitment and use of children by armed groups, as distinct from the armed forces of a State, including the adoption of legal measures necessary to prohibit and criminalize such practice, and the adoption of measures to prevent re-recruitment, in particular education;

(c) To take all feasible measures, in particular educational measures, to ensure the demobilization and effective disarmament of children used in armed conflicts and to implement effective measures for their rehabilitation, physical and psychological recovery and reintegration into society, taking into account the rights and the specific needs of the girl child;

(d) To take effective preventive measures against sexual exploitation and abuse by their military and civilian peacekeepers and hold them to account;

46. *Calls upon:*

(a) All States and other parties to armed conflict to respect fully international humanitarian law and, in this regard, calls upon States parties to respect fully the provisions of the Geneva Conventions of 12 August 1949,²¹ and the Additional Protocols thereto of 8 June 1977;²²

(b) Armed groups that are distinct from the armed forces of a State not, under any circumstances, to recruit or use in hostilities persons under the age of 18 years;

(c) All States and relevant United Nations bodies and agencies and regional organizations to integrate the rights of the child into all activities in conflict and post-conflict situations, to ensure adequate child protection training of their staff and personnel, including through the drafting and dissemination of codes of conduct addressing the issue of sexual exploitation and abuse of children, to ensure that States take effective preventive measures against sexual exploitation and abuse by their military and civilian peacekeepers and hold them

²¹ United Nations, *Treaty Series*, vol. 75, Nos. 970-973.

²² *Ibid.*, vol. 1125, Nos. 17512 and 17513.

to account, and to facilitate the participation of children in the development of strategies in this regard, making sure that there are opportunities for children's voices to be heard and given due weight in accordance with the age and maturity of the child;

(d) All States and relevant United Nations bodies to continue to support national and international mine action efforts, including through financial contributions, assistance to victims and social and economic reintegration, mine awareness programmes, mine clearance and child-centred rehabilitation;

VI. FOLLOW-UP

47. *Decides:*

(a) To request the Secretary-General to ensure the provision of appropriate staff and facilities from the United Nations regular budget for the effective and expeditious performance of the functions of the Committee on the Rights of the Child, special rapporteurs and special representatives of the United Nations system in the implementation of their mandates and, where appropriate, to invite States to continue to make voluntary contributions;

(b) To request the Secretary-General to submit to the Council at its tenth session a report on the rights of the child, with information on the status of the Convention on the Rights of the Child;

(c) To request the Special Rapporteur on the sale of children, child prostitution and child pornography to submit a report to the Council according to its programme of work;

(d) To remain seized of the issue and to continue the consideration of the rights of the child in accordance with its programme of work and to consider an omnibus resolution on the rights of the child every four years, and to focus on a theme of the rights of the child on an annual basis in the intervening period.

41st meeting
28 March 2008
[Adopted without a vote. See chap. III.]

7/30. Human rights in the occupied Syrian Golan

The Human Rights Council,

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

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

Recalling also all relevant General Assembly resolutions, the most recent being resolution 62/110 of 17 December 2007, in which the Assembly declared that Israel had failed so far to comply with Security Council resolution 497 (1981) and demanded that Israel withdraw from all the occupied Syrian Golan,

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

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

Taking note with deep concern of the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories¹ of 24 September 2007, in which the Committee referred to the grave deterioration in the human rights situation in the Occupied Palestinian Territory and the occupied Syrian Golan and, in this connection, deploring the Israeli settlement in the occupied Arab territories and expressing regret at the constant refusal of Israel to cooperate with and to receive the Special Committee,

Guided by the relevant provisions of the Charter of the United Nations, international law and the Universal Declaration of Human Rights, and reaffirming the applicability of the Geneva

¹ A/62/360.

Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and the relevant provisions of the Hague Conventions of 1899 and 1907 to the occupied Syrian Golan,

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

Reaffirming also the previous relevant resolutions of the Commission on Human Rights and the Human Rights Council, in particular resolution 2/3 of 27 November 2006,

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

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

3. *Further calls upon* Israel to desist from imposing Israeli citizenship and Israeli identity cards on the Syrian citizens in the occupied Syrian Golan and to desist from its repressive measures against them, and from all other practices that obstruct the enjoyment of their fundamental rights and their civil, political, economic, social and cultural rights, some of which are mentioned in the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories;¹

4. *Calls upon* Israel to allow the Syrian population of the occupied Syrian Golan to visit their families and relatives in the Syrian motherland through the Quneitra checkpoint and under the supervision of the International Committee of the Red Cross, and to rescind its decision to prohibit these visits, as it is in flagrant violation of the Fourth Geneva Convention and the International Covenant on Civil and Political Rights;

5. *Also calls upon* Israel to release immediately the Syrian detainees in Israeli prisons, some of whom have been detained for over 22 years and calls on Israel to treat them in conformity with international humanitarian law;

6. *Further calls upon* Israel, in this connection, Israel to allow delegates of the International Committee of the Red Cross to visit Syrian prisoners of conscience and detainees in Israeli prisons accompanied by specialized physicians in order to assess the state of their physical and mental health and to protect their lives;

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

8. *Again calls upon* States members of the United Nations not to recognize any of the above-mentioned legislative or administrative measures;

9. *Requests* the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, specialized agencies, international and regional intergovernmental organizations and international humanitarian organizations, to disseminate it as widely as possible and to report on the matter to the Council at its tenth session;

10. *Decides* to continue the consideration of human rights violations in the occupied Syrian Golan at its tenth session.

*41st meeting
28 March 2008*

[Adopted by a recorded vote of 32 to 1,
with 14 abstentions. See chap. VII.]

7/31. Situation of human rights in Myanmar

The Human Rights Council,

Guided by the principles and objectives of the Charter of the United Nations, the Universal Declaration of Human Rights¹ and the International Covenants on Human Rights, and recalling General Assembly resolution 60/251 of 15 March 2006 and Commission on Human Rights resolution 2005/10 of 14 April 2005, Council resolutions S-5/1 of 2 October 2007 and 6/33 of 14 December 2007,

Acknowledging the announcement of the Government of Myanmar that it would hold a national referendum and elections, while emphasizing that those processes must be made fully transparent, inclusive, free and fair,

Emphasizing its support for the Special Envoy of the Secretary-General for Myanmar, while recalling his concern that his most recent visit had not achieved any immediate tangible outcome, including on the need for international monitoring of the announced constitutional referendum in May 2008,

Deeply concerned at the continuing deterioration of the living conditions and the increase in poverty affecting a significant part of the population throughout the country, with serious consequences for the enjoyment of their economic, social and cultural rights,

Expressing its deep concern at the situation of human rights in Myanmar, including the violent repression of the peaceful demonstrations of September 2007, and the failure of the Government of Myanmar to investigate and bring to justice the perpetrators of these violations, as well as at the continuing high number of political prisoners, including those detained in the wake of those demonstrations and the extension of the house arrest of the General Secretary of the National League for Democracy, Daw Aung San Suu Kyi,

¹ General Assembly resolution 217 A (III).

1. *Strongly deplores* the ongoing systematic violations of human rights and fundamental freedoms of the people of Myanmar;

2. *Strongly urges* the Government of Myanmar to receive, as soon as possible, at his convenience, a follow-up mission by the Special Rapporteur on the situation of human rights in Myanmar, as requested by the Council in its resolution 6/33, to cooperate fully with him and to follow up and implement the recommendations contained in the report of the Special Rapporteur on the situation of human rights in Myanmar;²

3. *Strongly calls upon* the Myanmar authorities:

(a) To make the constitutional process, including the referendum, fully inclusive, participatory and transparent in order to ensure that the constitution is broadly representative of the views of all people of Myanmar and meets all international norms;

(b) To engage urgently in a reinvigorated national dialogue with all parties with a view to achieving genuine national reconciliation, democratization and the establishment of the rule of law;

(c) To ensure to its people basic freedoms and to desist from further denial of basic freedoms, such as the freedom of expression, assembly and religion or belief;

(d) To cooperate fully with humanitarian organizations, including by ensuring full, safe and unhindered access of humanitarian assistance to all persons in need throughout the country;

(e) To take urgent measures to put an end to violations of human rights and humanitarian law, including forced displacement and arbitrary detention, and to release all political prisoners immediately, without condition;

² A/HRC/6/14.

4. *Invites* the Special Rapporteur to continue to discharge his mandate in a coordinated manner with the Special Envoy of the Secretary-General for Myanmar;
5. *Requests* the Special Rapporteur to report on the implementation of Council resolutions S-5/1 and 6/33 to the Council at its next session;
6. *Requests* the Office of the United Nations High Commissioner for Human Rights to provide the Special Rapporteur with adequate support, including expert human resources, to facilitate the fulfilment of the mandate entrusted to him by the present resolution;
7. *Decides* to remain seized of this matter.

*42nd meeting
28 March 2008*

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

**7/32. Mandate of the Special Rapporteur on the
situation of human rights in Myanmar**

The Human Rights Council,

Guided by the principles and objectives of the Charter of the United Nations, the Universal Declaration of Human Rights,¹ the International Covenants on Human Rights and other human rights instruments,

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

Reaffirming also Commission on Human Rights resolution 1992/58 of 3 March 1992 and all subsequent resolutions adopted by the General Assembly, the Commission and the Council on the situation of human rights in Myanmar,

¹ General Assembly resolution 217 A (III).

Recalling General Assembly resolution 60/251 of 15 March 2006,

Recalling also Council resolutions 5/1 entitled “Institution-building of the United Nations Human Rights Council” and 5/2 entitled “Code of Conduct for Special Procedures Mandate-holders of the Human Rights Council”, of 18 June 2007, and stressing that the mandate-holder shall discharge his/her duties in accordance with these resolutions and the annexes thereto,

Bearing in mind the report submitted by the Special Rapporteur on the situation of human rights in Myanmar,² expressing serious concern about ongoing human rights violations and urging the implementation of the recommendations contained therein,

Having reviewed the mandate of the Special Rapporteur on the situation of human rights in Myanmar,

1. *Decides* to extend for one year the mandate of the Special Rapporteur on the situation of human rights in Myanmar, in accordance with Commission on Human Rights resolutions 1992/58 and 2005/10 of 14 April 2005;

2. *Urges* the Government of Myanmar to cooperate fully with the Special Rapporteur and to respond favourably to his requests to visit the country and to provide him with all information and access to relevant bodies and institutions necessary to enable him to fulfil his mandate effectively;

3. *Requests* the Special Rapporteur to submit a progress report to the General Assembly at its sixty-third session and to the Council in accordance with its annual programme of work;

4. *Calls upon* the Office of the United Nations High Commissioner of Human Rights to provide the Special Rapporteur with all necessary assistance and resources to enable him to discharge his mandate fully;

² A/HRC/6/14.

5. *Decides* to continue its consideration of this question in accordance with its annual programme of work.

42nd meeting
28 March 2008
[Adopted without a vote. See chap. IV.]

7/33. From rhetoric to reality: a global call for concrete action against racism, racial discrimination, xenophobia and related intolerance

The Human Rights Council,

Reaffirming all the previous resolutions and decisions of the General Assembly, the Commission on Human Rights and the Council on the elimination of racism, racial discrimination, xenophobia and related intolerance,

1. *Salutes* all positive developments in the fight against racism, racial discrimination, xenophobia and related intolerance;
2. *Welcomes* the landmark and historic formal apology by the Government of Australia for the past laws and policies that inflicted profound grief, suffering and loss on its indigenous peoples;
3. *Urges* Governments that have not done so to issue formal apologies to the victims of past and historic injustices and to take all necessary measures to achieve the healing and reconciliation of and the restoration of dignity to those victims, as outlined in paragraph 101 of the Durban Declaration and Programme of Action;
4. *Urges* all Governments to summon the necessary political will to take decisive steps to combat racism in all its forms and manifestations;
5. Acknowledges the report of the Working Group of Experts on People of African Descent¹ on its eighth session;

¹ A/HRC/7/36.

6. *Welcomes* the convening of the first part of the sixth session of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action in January 2008, during which the Working Group made an initial contribution to the preparatory process of the Durban Review Conference, and looks forward to the convening of the second part of the sixth session, during which the Working Group should continue its follow-up to the implementation of the Durban Declaration and Programme of Action, including the relevant paragraphs of the Durban Declaration and Programme of Action, which are yet to receive the necessary attention, in accordance with the Working Group's programme of work;

7. *Also welcomes* the convening of the first part of the first session of the Ad Hoc Committee on the Elaboration of Complementary Standards in February 2008, and requests the Ad Hoc Committee, at the second part of its first session, to fulfil, as a matter of priority, the mandate entrusted to it by the Council in its decision 3/103 and resolution 6/21;

8. *Acknowledges* the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance to the Council at its seventh session;²

9. *Decides* to invite the Group of Five Independent Eminent Experts to address the Council at its tenth session.

42nd meeting

28 March 2008

[Adopted by a recorded vote of 34 votes to none,
with 13 abstentions. See chap. IX.]

**7/34. Mandate of the Special Rapporteur on contemporary forms of racism,
racial discrimination, xenophobia and related intolerance**

The Human Rights Council,

Bearing in mind paragraph 6 of General Assembly resolution 60/251 of 15 March 2006,

² A/HRC/7/19.

Reaffirming the relevant international human rights instruments, in particular the International Convention on the Elimination of All Forms of Racial Discrimination, proclaimed by the General Assembly in its resolution 2106 (XX) of 20 December 1965,

Underlining the importance of the Durban Declaration and Programme of Action adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban, South Africa, in 2001, and emphasizing that this outcome constitutes a solid foundation for the elimination of all scourges and manifestations of racism, racial discrimination, xenophobia and related intolerance,

Reaffirming all the previous resolutions and decisions of the General Assembly, the Commission on Human Rights and the Council on the elimination of racism, racial discrimination, xenophobia and related intolerance,

Expressing concern at the increase in racist violence and xenophobic ideas in many parts of the world, in political circles, in the sphere of public opinion and in society at large, as a result, inter alia, of resurgent activities of associations established on the basis of racist and xenophobic platforms and charters, and the persistent use of those platforms and charters to promote or incite racist ideologies,

Stressing the need for maintaining continued political will and momentum at the national, regional and international levels, in order to combat racism, racial discrimination, xenophobia and related intolerance, taking into account the commitments enshrined in the Durban Declaration and Programme of Action, and recalling the importance of enhancing national action and international cooperation to this end,

Emphasizing the urgency, more than ever, to combat and end impunity for acts of racism, racial discrimination, xenophobia and related intolerance, and to enable all relevant human rights mechanisms to pay attention to this issue so as to prevent the recurrence of such acts,

Recalling Council resolutions 5/1 on institution-building of the United Nations Human Rights Council and 5/2 on the Code of Conduct for Special Procedures Mandate-holders of the Human Rights Council, of 18 June 2007, and stressing that the mandate-holder shall discharge his/her duties in accordance with these resolutions and the annexes thereto,

1. *Welcomes* the work and contribution of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, including activities undertaken to date in raising awareness and highlighting the plight of the victims of racism, racial discrimination, xenophobia and related intolerance and its contemporary manifestations;

2. *Decides* to extend the mandate of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance for a period of three years, to gather, request, receive and exchange information and communications with all relevant sources, on all issues and alleged violations falling within the purview of his/her mandate, and to investigate and make concrete recommendations, to be implemented at the national, regional and international levels, with a view to preventing and eliminating all forms and manifestations of racism, racial discrimination, xenophobia and related intolerance, focusing, inter alia, on the following issues:

(a) Incidents of contemporary forms of racism and racial discrimination against Africans and people of African descent, Arabs, Asians and people of Asian descent, migrants, refugees, asylum-seekers, persons belonging to minorities and indigenous peoples, as well as other victims included in the Durban Declaration and Programme of Action;

(b) Situations where the persistent denial of individuals belonging to different racial and ethnic groups of their recognized human rights, as a result of racial discrimination, constitutes gross and systematic violations of human rights;

(c) The scourges of anti-Semitism, Christianophobia, Islamophobia in various parts of the world, and racist and violent movements based on racism and discriminatory ideas directed at Arab, African, Christian, Jewish, Muslim and other communities;

(d) Laws and policies glorifying all historic injustices and fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance and underpinning the persistent and chronic inequalities faced by racial groups in various societies;

(e) The phenomenon of xenophobia;

(f) Best practices in the elimination of all forms and manifestations of racism, racial dissemination, xenophobia and related intolerance;

(g) Follow-up to the implementation of all relevant paragraphs of the Durban Declaration and Programme of Action and the promotion of the establishment of national, regional and international mechanisms to combat racism, racial discrimination, xenophobia and related intolerance;

(h) The role of human rights education in promoting tolerance and the elimination of racism, racial discrimination, xenophobia and related intolerance;

(i) Respect for cultural diversity as a means to prevent racism, racial discrimination, xenophobia and related intolerance;

(j) Incitement to all forms of hatred, taking into account article 20, paragraph 2, of the International Covenant on Civil and Political Rights, and instances of racially motivated hate speech, including the dissemination of ideas of racial superiority or that incite racial hatred, taking into account article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination, article 19 of the International Covenant on Civil and Political Rights and general comment No. 15 of the Committee on the Elimination of All Forms of Racial Discrimination, which states that the prohibition of the dissemination of all ideas based upon racial superiority or hatred is compatible with the freedom of opinion and expression;

(k) The sharp increase in the number of political parties and movements, organizations and groups which adopt xenophobic platforms and incite hatred, taking into account the incompatibility of democracy with racism;

(l) Laws and policies glorifying or legitimizing historic injustices, including colonialism;

(m) The impact of some counter-terrorism measures on the rise of racism, racial discrimination, xenophobia and related intolerance, including the practice of racial profiling and profiling on the basis of any grounds of discrimination prohibited by international human rights law;

(n) Institutional racism and racial discrimination;

(o) The efficiency of the measures taken by Governments to remedy the situation of victims of racism, racial discrimination, xenophobia and related intolerance;

(p) Impunity for acts of racism, racial discrimination, xenophobia and related intolerance, and maximizing remedies for the victims of these violations;

3. *Requests* the Special Rapporteur, in the discharge of his/her mandate:

(a) To develop a regular dialogue and discuss areas of possible cooperation with Governments and all relevant actors concerning issues pertaining to his/her mandate, and to provide technical assistance or advisory services at the request of the concerned States;

(b) To play a role of advocacy and to engage in the mobilization of political will with all relevant actors in States for the elimination of racism, racial discrimination, xenophobia and related intolerance;

(c) To coordinate, as appropriate, with other relevant bodies and mechanisms of the United Nations;

(d) To integrate a gender perspective throughout the work of his/her mandate, highlighting women's rights and reporting on women and racism;

(e) To continue his/her exchange of views and consultation, while avoiding unnecessary duplication, with the relevant mechanisms and treaty bodies within the United Nations system, in particular on the issues referred to in subparagraphs (c), (g) and (j) of paragraph 2 above, in order to further enhance their effectiveness and mutual cooperation;

(f) To report regularly to the Council and the General Assembly;

4. *Requests* all Governments to cooperate fully with the Special Rapporteur in the discharge of his/her mandate, including by responding promptly to the Special Rapporteur's communications, including urgent appeals, and by providing the information requested;

5. *Urges* all Governments to seriously consider responding promptly and favourably to the requests of the Special Rapporteur to visit their countries, including follow-up visits;

6. *Requests* the Secretary-General and the United Nations High Commissioner for Human Rights to provide all the necessary human, technical and financial assistance to the Special Rapporteur for the effective fulfilment of his/her mandate.

42nd meeting
28 March 2008

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

7/35. Assistance to Somalia in the field of human rights

The Human Rights Council,

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

Recalling all the previous resolutions of the Commission on Human Rights, the last of which was resolution 2005/83 of 21 April 2005,

Welcoming the commitment and efforts undertaken by the African Union to support Somali-led efforts towards reconciliation and stability and the efforts made by international and regional stakeholders to help Somalia re-establish stability, peace and security in its national territory,

Welcoming also the Declaration on the situation in Somalia, adopted by the Heads of State and Government of the African Union during the tenth ordinary session of the Assembly of the African Union, held in Addis Ababa from 31 January to 2 February 2008,

Emphasizing that the above-mentioned declaration, adopted by the Assembly of the African Union, stressed the need for the deployment of a United Nations peacekeeping operation in Somalia that would take over from the African Union Mission to Somalia and support the long-term stabilization and post-conflict reconstruction of the country,

Reiterating that humanitarian, human rights and development assistance is of paramount importance to alleviate poverty and to promote a more peaceful, equitable and democratic society in Somalia,

Welcoming the steps taken within Somalia, including the convening of the National Reconciliation Congress, in July and August 2007, the recent appointment of a new Prime Minister, Nur Hassan Hussein, and the subsequent formation of a new Government, as well as the efforts made by the African Union, notably through the deployment of the African Union Mission in Somalia,

Reiterating that, despite the daunting challenges confronting the peace and reconciliation process, the opportunity that arose in December 2006, when the Transitional Federal Government regained control of Mogadishu and other parts of the country in order to find a lasting solution to the crisis in Somalia, still exists,

Stressing the need for both the Somali stakeholders and the international community as a whole to seize this opportunity to address decisively the conflict in Somalia and to take all steps required to this end,

Seriously concerned about the human rights and humanitarian situation in Somalia,

Noting with concern that the security situation remains fragile throughout the country,

Emphasizing that efforts to combat terrorism in Somalia must respect international law, including human rights and fundamental freedoms, which are inseparable from the establishment of peace in Somalia,

Bearing in mind paragraph 6 of General Assembly resolution 60/251 of 15 March 2006,

Recalling Council resolutions 5/1 on institution-building of the United Nations Human Rights Council and 5/2 on the Code of Conduct for Special Procedures Mandate-holders of the Human Rights Council, of 18 June 2007, and stressing that the mandate-holder shall discharge his/her duties in accordance with those resolutions and the annexes thereto,

1. *Expresses its serious concern* at the human rights and humanitarian situation in Somalia, and calls for an immediate end to all ongoing violations;

2. *Demands* that all parties in Somalia reject and stop all acts of violence, abstain from engaging in hostilities, prevent any act likely to increase tension and security and fully respect their obligations under international human rights law and international humanitarian law;
3. *Urges* all parties in Somalia to uphold the principles and spirit enshrined in the Transitional Federal Charter and to work towards genuine national reconciliation within that framework, including by holding fair, national multiparty elections in 2009, as envisaged by the Charter;
4. *Calls upon* the international community to stand by the legitimate Somali institutions and to provide adequate and concrete support in order to enhance their capacity, including that of the Transitional Federal Government, as part of an integrated approach that encompasses political, security and programmatic dimensions;
5. *Appeals* to the partners of the African Union to provide increased logistical and financial support for the African Union Mission in Somalia, especially in view of the fact that the African Union, in deploying an operation in Somalia, is also acting on behalf of the international community at large;
6. *Urges* the international community to provide, as a matter of urgency, development assistance to Somalia, so as to effectively contribute to the reconstruction of Somalia, the rebuilding of its institutions and technical assistance in the field of human rights;
7. *Also urges* the international community to provide humanitarian assistance to the needy population and to ensure that all necessary steps are taken to create conditions conducive to the provision of humanitarian assistance, including unhindered access to the needy population and security for humanitarian workers and organizations;
8. *Acknowledges* the work undertaken by the independent expert on the situation of human rights in Somalia, including his report to the current session;¹

¹ A/HRC/7/26.

9. *Decides* to renew the mandate of the independent expert for a period of one year, with a view to maximizing the provision and the flow of technical assistance to Somalia in the field of human rights, and requests him/her to submit a report to the Council at its sessions in September 2008 and March 2009;

10. *Requests* the Secretary-General to provide the independent expert with all necessary human, technical and financial assistance in carrying out his/her mandate;

11. *Requests* the Office of the United Nations High Commissioner for Human Rights to strengthen its presence in Somalia with a view to providing technical assistance and advisory services to the relevant Somali institutions;

12. *Invites* relevant United Nations bodies and agencies to provide support and technical assistance to Somalia in the field of human rights.

*42nd meeting
28 March 2008*

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

7/36. Mandate of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

The Human Rights Council,

Guided by the Universal Declaration of Human Rights, which affirms the right to freedom of opinion and expression,

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 society,

Mindful also that article 19 of the International Covenant on Civil and Political Rights provides 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, but that these shall be only such as are provided by law and are necessary for respect of the rights or reputations of others, or for the protection of national security or of public order (*ordre public*), or of public health and morals, and that article 20 provides that any propaganda for war or advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law,

Reaffirming resolution 2005/38 on freedom of opinion and expression adopted by the Commission on Human Rights on 19 April 2005, and recalling all its previous resolutions on this issue,

Recognizing that the exercise of the right to freedom of opinion and expression is one of the essential foundations of a democratic society; is enabled by a democratic environment which, inter alia, offers guarantees for its protection; is essential to full and effective participation in a free and democratic society; and is instrumental to the development and strengthening of effective democratic systems,

Recognizing also that the effective exercise of the right to freedom of opinion and expression is an important indicator of the level of protection of other human rights and freedoms, bearing in mind that all human rights are universal, indivisible, interdependent and interrelated,

Deeply concerned that violations of the right to freedom of opinion and expression continue to occur,

Stressing the need to ensure that invocation of national security, including counter-terrorism, is not used unjustifiably or arbitrarily to restrict the right to freedom of opinion and expression,

Stressing also the importance of full respect for the freedom to seek, receive and impart information, including the fundamental importance of access to information, to democratic participation, to accountability and to combating corruption,

Recognizing the importance of all forms of the media, including the print media, radio, television and the Internet, in the exercise, promotion and protection of the right to freedom of opinion and expression, and also the importance that all forms of media report and deliver information in a fair and impartial manner,

Bearing in mind paragraph 6 of General Assembly resolution 60/251 of 15 March 2006,

Recalling Council resolutions 5/1 entitled “Institution-building of the United Nations Human Rights Council” and 5/2 entitled “Code of Conduct for Special Procedures Mandate-holders of the Human Rights Council” and stressing that the mandate-holder shall discharge his/her duties in accordance with these resolutions and the annexes thereto,

1. *Reaffirms* the right of everyone to hold opinions without interference, as well as the right to freedom of expression, and the intrinsically linked rights to freedom of thought, conscience and religion, peaceful assembly and association and the right to take part in the conduct of public affairs;

2. *Takes note with appreciation* of the reports of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression,¹ invites all relevant actors to consider the recommendations contained therein, and welcomes his important contribution to the promotion and protection of the right to freedom of opinion and expression, in particular his ongoing and increasing cooperation with other mechanisms and organizations;

3. *Decides* to extend for a further three years the mandate of the Special Rapporteur whose tasks will be:

(a) To gather all relevant information, wherever it may occur, relating to violations of the right to freedom of opinion and expression, discrimination against, threats or use of violence, harassment, persecution or intimidation directed at persons seeking to exercise or to promote the exercise of the right to freedom of opinion and expression, including, as a matter of high priority, against journalists or other professionals in the field of information;

¹ E/CN.4/2006/55, A/HRC/4/27 and A/HRC/7/14.

(b) To seek, receive and respond to credible and reliable information from Governments, non-governmental organizations and any other parties who have knowledge of these cases;

(c) To make recommendations and provide suggestions on ways and means to better promote and protect the right to freedom of opinion and expression in all its manifestations;

(d) To contribute to the provision of technical assistance or advisory services by the Office of the United Nations High Commissioner for Human Rights to better promote and protect the right to freedom of opinion and expression;

4. *Requests* the Special Rapporteur, within the framework of his/her mandate:

(a) To draw the attention of the Council and 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;

(b) To integrate the human rights of women and a gender perspective throughout the work of his/her mandate;

(c) With a view to greater efficiency and effectiveness in promoting and protecting the right to freedom of opinion and expression, to continue his/her efforts to cooperate with other relevant United Nations bodies, including the High Commissioner for Human Rights, the human rights treaty bodies, special procedures and mechanisms, specialized agencies, funds and programmes, regional intergovernmental organizations and their mechanisms, and national human rights institutions, and to develop and extend his/her network of relevant non-governmental organizations, particularly at the local level;

(d) To report on instances in which the abuse of the right of freedom of expression constitutes an act of racial or religious discrimination, taking into account articles 19 (3) and 20 of the International Covenant on Civil and Political Rights, and general comment No. 15 of the Committee on the Elimination of All Forms of Racial Discrimination, which stipulates that the prohibition of the dissemination of all ideas based upon racial superiority or hatred is compatible with the freedom of opinion and expression;

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

(f) To continue to provide his/her views, when appropriate, on the advantages and challenges of new information and communication technologies, including the Internet and mobile technologies, 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;

5. *Calls upon* all States to cooperate fully with and assist the Special Rapporteur in the performance of his/her tasks, to provide all necessary information requested by him/her, to react promptly to his/her urgent appeals and other communications and to consider favourably his/her requests for visits and for implementing his/her recommendations so that he/she may carry out his/her mandate more effectively;

6. *Invites* the United Nations High Commissioner for Human Rights, relevant special procedures of the Council and the human rights treaty bodies to pay attention, within the framework of their mandates, to the situation of persons whose right to freedom of opinion and expression has been violated with a view to avoiding unnecessary duplication;

7. *Requests* the Secretary-General to provide the assistance necessary to the Special Rapporteur to fulfil his/her mandate effectively, in particular by placing adequate human and material resources at his/her disposal;

8. *Requests* the Special Rapporteur to submit each year to the Council a report covering activities relating to his/her mandate;

9. *Decides* to continue its consideration of the issue of the right to freedom of opinion and expression in accordance with its programme of work.

*42nd meeting
28 March 2008*

[Adopted by a recorded vote of 32 to none,
with 15 abstentions. See chap. III.]
