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ORGANIZATIONAL AND PROCEDURAL MATTERS

Draft report of the Human Rights Council on its tenth session*

Vice-President and Rapporteur: Mr. Elchin Amirbayov (Azerbaijan)

CONTENTS

	<i>Page</i>
Resolutions, decisions and President's statements adopted by the Council at its tenth session	
A. <i>Resolutions</i>	
10/1. Question of the realization in all countries of economic, social and cultural rights: follow-up to Human Rights Council resolution 4/1	5
10/2. Human rights in the administration of justice, in particular juvenile justice	7
10/3. World Programme for Human Rights Education	12

* Document A/HRC/10/L.10 will contain the report relating to the organization of the session and the items on the agenda.

CONTENTS (*continued*)

	<i>Page</i>
10/4. Human rights and climate change	14
10/5. Composition of the staff of the Office of the United Nations High Commissioner for Human Rights	16
10/6. Enhancement of international cooperation in the field of human rights	20
10/7. Human rights of persons with disabilities: national frameworks for the promotion and protection of the human rights of persons with disabilities	22
10/8. Draft United Nations guidelines for the appropriate use and conditions of alternative care for children	26
10/9. Arbitrary detention	27
10/10. Enforced or involuntary disappearances	29
10/11. The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination	34
10/12. The right to food	40
10/13. Human rights and arbitrary deprivation of nationality	49
10/14. Implementation of the Convention on the Rights of the Child and the Optional Protocols thereto	53
10/15. Protection of human rights and fundamental freedoms while countering terrorism	58
10/16. Situation of human rights in the Democratic People's Republic of Korea	61
10/17. Human rights in the occupied Syrian Golan	64
10/18. Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan	67
10/19. Human rights violations emanating from the Israeli military attacks and operations in the Occupied Palestinian Territory	72

CONTENTS (*continued*)

	<i>Page</i>
10/20. Right of the Palestinian people to self-determination	75
10/21. Follow-up to Council resolution S-9/1 on the grave violations of human rights in the Occupied Palestinian Territory, particularly due to the recent Israeli military attacks against the occupied Gaza Strip	77
10/22. Combating defamation of religions	78
10/23. Independent Expert in the field of cultural rights	83
10/24. Torture and other cruel, inhuman or degrading treatment or punishment: the role and responsibility of medical and other health personnel	87
10/25. Discrimination based on religion or belief and its impact on the enjoyment of economic, social and cultural rights	92
10/26. Forensic genetics and human rights	96
10/27. Situation of human rights in Myanmar	99
10/28. United Nations Declaration on Human Rights Education and Training	104
10/29. The Social Forum	105
10/30. Elaboration of complementary standards to the International Convention on the Elimination of All Forms of Racial Discrimination	109
10/31. From rhetoric to reality: a global call for concrete action against racism, racial discrimination, xenophobia and related intolerance	110
10/32. Assistance to Somalia in the field of human rights	112
10/33. Situation of human rights in the Democratic Republic of the Congo and the strengthening of technical cooperation and consultative services	114

CONTENTS (*continued*)

	<i>Page</i>
B. <i>Decisions</i>	
10/101. Outcome of the universal periodic review: Botswana	117
10/102. Outcome of the universal periodic review: Bahamas	118
10/103. Outcome of the universal periodic review: Burundi	118
10/104. Outcome of the universal periodic review: Luxembourg	119
10/105. Outcome of the universal periodic review: Barbados	120
10/106. Outcome of the universal periodic review: Montenegro	120
10/107. Outcome of the universal periodic review: United Arab Emirates	121
10/108. Outcome of the universal periodic review: Liechtenstein	122
10/109. Outcome of the universal periodic review: Serbia	122
10/110. Outcome of the universal periodic review: Turkmenistan	123
10/111. Outcome of the universal periodic review: Burkina Faso	124
10/112. Outcome of the universal periodic review: Israel	124
10/113. Outcome of the universal periodic review: Cape Verde	125
10/114. Outcome of the universal periodic review: Colombia	126
10/115. Outcome of the universal periodic review: Uzbekistan	126
10/116. Outcome of the universal periodic review: Tuvalu	127
10/117. Publication of reports completed by the Subcommission on the Promotion and Protection of Human Rights	128
C. <i>President's statement</i>	
PRST/10/1.	129

**Resolutions, decisions and President's statements
adopted by the Council at its tenth session**

A. Resolutions

10/1. Question of the realization in all countries of economic, social and cultural rights: follow-up to Human Rights Council resolution 4/1

The Human Rights Council,

Guided by the principles relating to economic, social and cultural rights enshrined in, inter alia, the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights,

Mindful of recent significant developments and remaining challenges in the promotion and protection of economic, social and cultural rights at the national, regional and international levels,

Reaffirming its resolution 4/1 of 23 March 2007, and recalling the resolutions adopted by the Commission on Human Rights on the question of the realization in all countries of economic, social and cultural rights,

1. *Calls upon* all States to take all measures to implement Council resolution 4/1 with a view to improving the realization of economic, social and cultural rights;
2. *Welcomes* the increase in the number of States parties to the International Covenant on Economic, Social and Cultural Rights, and reminds States parties of their obligations under the Covenant;
3. *Notes with interest* the adoption of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights by the General Assembly on the occasion of the sixtieth anniversary of the Universal Declaration of Human Rights as one of the important tools to help strengthen the protection of economic, social and cultural rights worldwide;

4. *Invites* all States parties to participate in the ceremony of opening for signature of the Optional Protocol, to be held in New York on 24 September 2009 during the 2009 Treaty Event, and to consider signing and ratifying or acceding to the Optional Protocol with a view to its early entry into force;

5. *Notes with interest* the work carried out by the Committee on Economic, Social and Cultural Rights to assist States parties in fulfilling their obligations under the Covenant, and, in such context, notes the recent adoption by the Committee of general comment No. 19 on the right to social security and of the revised guidelines on treaty-specific documents to be submitted by States parties under articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights;

6. *Also notes with interest* the work of other relevant treaty bodies and special procedures in the promotion and protection of economic, social and cultural rights within their respective mandates;

7. *Expresses its appreciation* for the activities of the Office of the United Nations High Commissioner for Human Rights in the field of economic, social and cultural rights, in particular when facilitating cooperation within its mandate, and strengthening its thematic expertise in this area at the country and regional levels, and when paying special attention to such issues as the legal protection of economic, social and cultural rights;

8. *Encourages* the Office of the High Commissioner, the treaty bodies, the special procedures of the Council and other relevant United Nations bodies and mechanisms, specialized agencies or programmes, within their respective mandates, to continue their efforts to promote the realization of economic, social and cultural rights worldwide, and to enhance their cooperation in this regard;

9. *Takes note* of the reports of the Secretary-General on the question of the realization in all countries of economic, social and cultural rights (A/HRC/7/58 and A/HRC/10/46), submitted to the Council pursuant to its resolution 4/1;

10. *Requests* the High Commissioner for Human Rights to continue to prepare and submit to the Council an annual report on the question of the realization in all countries of economic, social and cultural rights under agenda item 3;

11. *Decides* to remain seized of the matter.

41st meeting
25 March 2009
[Adopted without a vote.]

**10/2. Human rights in the administration of justice,
in particular juvenile justice**

The Human Rights Council,

Recalling the Universal Declaration of Human Rights and all relevant international treaties, including the Convention on the Rights of the Child, and in particular its articles 3, 37, 39 and 40,

Bearing in mind the numerous other international standards and norms in the field of the administration of justice, in particular of juvenile justice, including the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the “Beijing Rules”), adopted by the General Assembly in its resolution 40/33 on 29 November 1985, the United Nations Guidelines for the Prevention of Juvenile Delinquency (the “Riyadh Guidelines”) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, adopted by the Assembly in its resolutions 45/112 and 45/113 on 14 December 1990 and the Guidelines in matters involving child victims and witnesses of crimes,

Recalling all resolutions of the Council, the Commission on Human Rights, the General Assembly and the Economic and Social Council relevant to the subject, including Human Rights Council resolution 7/29 of 28 March 2008, Commission resolution 2004/43 of 19 April 2004, Assembly resolutions 62/158 of 18 December 2007 and 63/241 of 24 December 2008, and Economic and Social Council resolution 2007/23 of 26 July 2007,

Noting with interest the adoption by the Human Rights Committee of general comment No. 32 on the right to equality before courts and tribunals and to a fair trial (CCPR/C/GC/32) and the adoption by the Committee on the Rights of the Child of general comment No. 10 on children's rights in juvenile justice (CRC/C/GC/10),

Acknowledging the efforts made by the Secretary-General on improving the coordination of United Nations activities in the field of administration of justice, the rule of law and juvenile justice, in particular his reports on the enhancement of support by the United Nations for the rule of law (A/61/636), his guidance notes on a United Nations approach to rule of law assistance and on the United Nations approach to justice for children,

Noting with interest the relevant work of the United Nations Office on Drugs and Crime in the administration of justice,

Noting with satisfaction the work of the Interagency Panel on Juvenile Justice and its members, including the United Nations Children's Fund, the Office of the United Nations High Commissioner for Human Rights, the United Nations Office on Drugs and Crime, the United Nations Interregional Crime and Justice Research, the United Nations Development Programme, the Department of Peacekeeping Operations, the Committee on the Rights of the Child and various non-governmental organizations, in particular their coordination in providing technical advice and assistance in juvenile justice, and the active participation of civil society in its respective work,

Mindful of the importance of ensuring respect for the rule of law and human rights in the administration of justice, in particular in post-conflict situations, as a crucial contribution to building peace and justice,

Reaffirming that an independent and impartial judiciary, an independent legal profession and the integrity of the judicial system are essential prerequisites for the protection of human rights and for ensuring that there is no discrimination in the administration of justice,

Aware of the need for special vigilance with regard to the specific situation of children, juveniles and women in the administration of justice, in particular while deprived of their liberty, and their vulnerability to various forms of violence, abuse, injustice and humiliation,

Reaffirming that the best interests of the child must be a primary consideration in all decisions concerning deprivation of liberty, and in particular that depriving children and juveniles of their liberty should be used only as a measure of last resort and for the shortest appropriate period of time, in particular before trial, and the need to ensure that, if they are arrested, detained or imprisoned, children should be separated from adults, to the greatest extent feasible, unless it is considered in the child's best interest not to do so,

Recalling that the best interests of the child should also be a primary consideration in relation to the question of whether and how long children of imprisoned mothers should stay with them in prison, and emphasizing the responsibility of the State to provide adequate care for the women in prison and their children,

1. *Welcomes* the latest report of the Secretary-General submitted to the Human Rights Council on human rights in the administration of justice, including juvenile justice (A/HRC/4/102);

2. *Reaffirms* the importance of the full and effective implementation of all United Nations standards on human rights in the administration of justice;

3. *Calls upon* Member States to spare no effort in providing for effective legislative, judicial, social, educative and other relevant mechanisms and procedures, as well as adequate resources, to ensure the full implementation of those standards, and invites them to take into consideration the issue of human rights in the administration of justice in the universal periodic review procedure;

4. *Invites* Governments to include in their national development plans the administration of justice as an integral part of the development process, and to allocate adequate resources for the provision of legal aid services with a view to the promotion and protection of human rights, and invites the international community to respond favourably to requests for financial and technical assistance for the enhancement and strengthening of the administration of justice, including juvenile justice;

5. *Stresses* the special need for national capacity-building in the field of the administration of justice, in particular to establish and maintain stable societies and the rule of law in post-conflict situations, through reform of the judiciary, the police and the penal system, as well as juvenile justice reform;

6. *Invites* Governments to provide for training, including anti-racist, multicultural and gender-sensitive and child rights training, in human rights in the administration of justice, including juvenile justice, for all judges, lawyers, prosecutors, social workers, immigration and police officers and other professionals working in the field of administration of justice, including personnel deployed in international field presences;

7. *Recognizes* that every child and juvenile in conflict with the law must be treated in a manner consistent with his or her rights, dignity and needs, in accordance with international law, including relevant international standards on human rights in the administration of justice, and calls on States parties to the Convention on the Rights of the Child to abide strictly by its principles and provisions and to improve the status of information on the situation of juvenile justice;

8. *Notes* the concern of the Committee on the Rights of the Child that, in all regions of the world and in relation to all legal systems, the provisions of the Convention on the Rights of the Child relating to the administration of juvenile justice are in many instances not reflected in national legislation or practice, and welcomes the fact that the Committee makes concrete recommendations concerning the improvement of national juvenile justice systems, including the implementation of juvenile justice legislation;

9. *Encourages* States that have not yet integrated children's issues in their overall rule of law efforts to do so and to develop and implement a comprehensive juvenile justice policy to prevent and address juvenile delinquency as well as with a view to promoting, inter alia, the use of alternative measures, such as diversion and restorative justice, and ensuring compliance with the principle that deprivation of liberty of children should only be used as a measure of last resort and for the shortest appropriate period of time, as well as to avoid, wherever possible, the use of pretrial detention for children;

10. *Stresses* the importance of including rehabilitation and reintegration strategies for former child offenders in juvenile justice policies, in particular through education programmes, with a view to their assuming a constructive role in society;
11. *Urges* States to ensure that, under their legislation and practice, neither capital punishment nor life imprisonment without the possibility of release is imposed for offences committed by persons under 18 years of age;
12. *Invites* Governments, relevant international and regional bodies, national human rights institutions and non-governmental organizations to devote greater attention to the issue of women and girls in prison, including issues relating to the children of women in prison, with a view to identifying and addressing the gender-specific aspects and challenges related to this problem;
13. *Emphasizes* that, when sentencing or deciding on pretrial measures for a pregnant woman or a child's sole or primary carer, priority should be given to non-custodial measures, bearing in mind the gravity of the offence and after taking into account the best interest of the child;
14. *Welcomes* the important activities of the Committee on the Rights of the Child, the United Nations Children's Fund, the Office of the United Nations High Commissioner for Human Rights, the United Nations Office on Drugs and Crime and the United Nations Development Programme in the field of administration of justice, in particular juvenile justice, and invites States, upon their request, to benefit from technical advice and assistance in juvenile justice provided by the relevant United Nations agencies and programmes, in particular the Interagency Panel on Juvenile Justice, in order to strengthen national capacities and infrastructures in the field of the administration of justice, in particular juvenile justice;
15. *Calls upon* relevant special procedures of the Council to give special attention to questions relating to the effective protection of human rights in the administration of justice, including juvenile justice, and to provide, wherever appropriate, specific recommendations in this regard, including proposals for advisory services and technical assistance measures;

16. *Calls upon* the United Nations High Commissioner for Human Rights to reinforce advisory services and technical assistance relating to national capacity-building in the field of the administration of justice, in particular juvenile justice, taking into account, inter alia, the Nairobi Declaration of October 2008 on the role of national human rights institutions in the administration of justice, adopted at the ninth international conference of the International Coordinating Committee of national human rights institutions;

17. *Calls upon* the Secretary-General and the High Commissioner to strengthen system-wide coordination in this area further, including by providing assistance to national human rights institutions in implementing the Nairobi Declaration and by further supporting the Interagency Panel on Juvenile Justice in its work to respond favourably to requests for technical assistance in the field of juvenile justice;

18. *Requests* the Secretary-General to submit a report to the Council at its thirteenth session on the latest developments, challenges and good practices in human rights in the administration of justice, including juvenile justice and conditions for women and children in detention, as well as in activities undertaken by the United Nations system as a whole;

19. *Requests* the High Commissioner to report to the Council at its thirteenth session on the implementation of the present resolution;

20. *Decides* to continue its consideration of this issue under the same agenda item in accordance with its annual programme of work.

*41st meeting
25 March 2009*

[Adopted without a vote.]

10/3. World Programme for Human Rights Education

The Human Rights Council,

Recalling General Assembly resolutions 43/128 of 8 December 1988, by which the Assembly launched the World Public Information Campaign on Human Rights; 59/113 A of 10 December 2004, 59/113 B of 14 July 2005 and 60/251 of 15 March 2006, by which the Assembly decided, inter alia, that the Human Rights Council would promote human rights

education and learning, as well as Commission on Human Rights resolution 2005/61 of 20 April 2005 and Subcommission for the Promotion and Protection of Human Rights resolution 2006/19 of 24 August 2006, concerning the World Programme for Human Rights Education, structured in consecutive phases, and the Plan of Action for its first phase (2005-2007),

Recalling also Council resolutions 6/9 of 28 September 2007 on the development of public information activities in the field of human rights and 6/24 of 28 September 2007, extending to December 2009 the first phase of the World Programme focusing on the primary and secondary school systems,

Noting paragraphs 49 to 51 of the Plan of Action of the first phase of the World Programme, according to which, at the conclusion of the first phase, Member States are expected to prepare their national evaluation reports, taking into consideration progress made in a number of areas, such as legal frameworks and policies, curricula, teaching and learning processes and tools, revision of textbooks, teacher training and improvement of the school environment, and to provide their final national evaluation reports to the United Nations Inter-Agency Coordinating Committee on Human Rights Education in the School System through the Office of the United Nations High Commissioner for Human Rights,

1. *Takes note* of the report of the United Nations High Commissioner for Human Rights on the World Programme for Human Rights Education (A/HRC/9/4);
2. *Requests* the United Nations High Commissioner for Human Rights to consult with United Nations Member States, national human rights institutions and intergovernmental and non-governmental organizations on the possible focus, in terms of target sector or thematic area, of the second phase of the World Programme to begin on 1 January 2010, and to submit a report on those consultations to the Council at its twelfth session;
3. *Encourages* United Nations Member States to start taking steps for the preparation of their national evaluation reports on the first phase, with the assistance of international and

regional organizations, as well as civil society actors, to be provided to the United Nations Inter-Agency Coordinating Committee on Human Rights Education in the School System in early 2010;

4. *Decides* to consider this issue at its twelfth session under the same agenda item.

41st meeting
25 March 2009
[Adopted without a vote.]

10/4. Human rights and climate change

The Human Rights Council,

Guided by the Charter of the United Nations, and reaffirming 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,

Reaffirming the United Nations Framework Convention on Climate Change and the objectives and principles 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,

Reaffirming also the Rio Declaration on Environment and Development, Agenda 21, the Programme for the Further Implementation of Agenda 21, the Johannesburg Declaration on Sustainable Development and the Plan of Implementation of the World Summit on Sustainable Development, and 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 meet equitably the development and environmental needs of present and future generations,

Reaffirming further that all human rights are universal, indivisible, interdependent and interrelated and that they must be treated in a fair and equal manner, on the same footing and with the same emphasis,

Recalling its resolution 7/23 of 28 March 2008 on human rights and climate change,

Taking note of the report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights (A/HRC/10/61),

Noting that climate change-related impacts have a range of implications, both direct and indirect, for the effective enjoyment of human rights including, inter alia, the right to life, the right to adequate food, the right to the highest attainable standard of health, the right to adequate housing, the right to self-determination and human rights obligations related to access to safe drinking water and sanitation, and recalling that in no case may a people be deprived of its own means of subsistence,

Recognizing that while these implications affect individuals and communities around the world, the effects of climate change will be felt most acutely by those segments of the population who are already in vulnerable situations owing to factors such as geography, poverty, gender, age, indigenous or minority status and disability,

Recognizing also that climate change is a global problem requiring a global solution, and that effective international cooperation to enable the full, effective and sustained implementation of the United Nations Framework Convention on Climate Change in accordance with the provisions and principles of the Convention is important in order to support national efforts for the realization of human rights implicated by climate change-related impacts,

Affirming that human rights obligations and commitments have the potential to inform and strengthen international and national policy-making in the area of climate change, promoting policy coherence, legitimacy and sustainable outcomes,

1. *Decides* to hold a panel discussion on the relationship between climate change and human rights at its eleventh session in order to contribute to the realization of the goals set out in the Bali Action Plan and to invite all relevant stakeholders to participate therein;

2. *Requests* the Office of the United Nations High Commissioner for Human Rights to prepare a summary of the panel discussion and decides to make the summary available to the Conference of Parties of the United Nations Framework Convention on Climate Change for its consideration;

3. *Welcomes* the decision of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living to prepare and present a thematic report on the potential impact of climate change on the right to adequate housing, and encourages other relevant special procedure mandate-holders to give consideration to the issue of climate change within their respective mandates;

4. *Welcomes* the steps by the Office of the High Commissioner and the secretariat of the United Nations Framework Convention on Climate Change to facilitate exchange of information in the area of human rights and climate change;

5. *Encourages* the Office of the High Commissioner to participate at a senior level, during the High-level Meeting on Climate Change, to be held ahead of the general debate of the General Assembly at its sixty-fourth session, and at the fifteenth session and Conference of Parties to the United Nations Framework Convention on Climate Change.

*41st meeting
25 March 2009*

[Adopted without a vote.]

10/5. Composition of the staff of the Office of the United Nations High Commissioner for Human Rights

The Human Rights Council,

Recalling paragraph 5 (g) of General Assembly resolution 60/251 of 15 March 2006, in which the Assembly decided that the Council should assume the role and responsibilities of the Commission on Human Rights relating to the work of the Office of the United Nations High Commissioner for Human Rights, as decided by the Assembly in its resolution 48/141 of 20 December 1993,

Taking note of all relevant resolutions on this issue adopted by the General Assembly, the Commission on Human Rights and the Council,

Taking note also of the report of the United Nations High Commissioner for Human Rights on the composition of the staff of the Office of the United Nations High Commissioner for Human Rights (A/HRC/10/45),

Taking note further of the reports of the Joint Inspection Unit on the follow-up to the management review of the Office of the United Nations High Commissioner for Human Rights (A/59/65-E/2004/48 and Add.1) and on the funding and staffing of the Office of the United Nations High Commissioner for Human Rights (JIU/REP/2007/8),

Bearing in mind that an imbalance in the composition of the staff could diminish the effectiveness of the work of the Office of the High Commissioner if it is perceived to be culturally biased and unrepresentative of the United Nations as a whole,

Expressing its concern that, despite the repeated requests to correct the unbalanced geographical distribution of the staff, the situation remains that one region accounts for more than half of the posts of the Office of the High Commissioner and for more posts than the four remaining regional groups combined,

Reaffirming the importance of continuing the ongoing efforts to address the imbalance regarding the regional representation of the staff of the Office of the High Commissioner,

Underlining that the paramount consideration for employing staff at every level is the need for the highest standards of efficiency, competence and integrity, and taking into account Article 101, paragraph 3, of the Charter of the United Nations, expressing its conviction that this objective is compatible with the principle of equitable geographical distribution,

Reaffirming that the Fifth Committee is the appropriate Main Committee of the General Assembly entrusted with responsibilities for administrative and budgetary matters,

1. *Welcomes* the statement made by the High Commissioner in her report that achieving geographical balance in the staff of the Office of the United Nations High Commissioner for Human Rights will remain one of her priorities, and requests the High Commissioner to continue taking all measures needed to redress the current imbalance in geographical distribution of the staff of the Office of the High Commissioner;

2. *Notes* the increase in the percentage of staff from regions identified as requiring better representation and the various measures proposed and already taken to address the imbalance in geographical distribution of the staff, while stressing that the imbalance in geographical distribution is still prominent;

3. *Takes note* of the progress achieved towards improved geographic diversity in the staff of the Office, and takes note also of the commitment of the High Commissioner to remain attentive to the need to maintain the emphasis on the broadest possible geographic diversity of her Office, as stated in the conclusion of her report;

4. *Requests* the High Commissioner to work on the broadest geographic diversity of her staff by enhancing the implementation of measures to achieve a better representation of countries and regions that are unrepresented or underrepresented, particularly from the developing world, while considering applying a zero-growth cap on the representation of countries and regions already overrepresented in the Office of the High Commissioner;

5. *Welcomes* the efforts towards the achievement of a gender balance in the composition of the staff and the decision to continue paying special attention to this issue;

6. *Requests* future High Commissioners to continue enhancing the ongoing efforts in the fulfilment of the goal of a geographical balance in the composition of the staff of the Office;

7. *Underlines* the importance of continuing promoting geographical diversity in the recruitment of and promotion to high-level and Professional posts, including senior managers, as a principle of the staffing policies of the Office of the High Commissioner;

8. *Affirms* the vital importance of geographical balance in the composition of the staff of the Office of the High Commissioner, taking into account the significance of national and regional specificities and various historic, cultural and religious backgrounds, as well as of different political, economic and legal systems, to the promotion and protection of the universality of human rights;

9. *Recalls* the provisions contained in section X, paragraph 3, of General Assembly resolution 55/258 of 14 June 2001, on human resources management, in which the Assembly reiterated its request to the Secretary-General to increase further his efforts to improve the composition of the Secretariat by ensuring a wide and equitable geographical distribution of staff in all departments, and also recalls the request that he submit to the General Assembly proposals

for a comprehensive review of the system of desirable ranges, with a view to establishing a more effective tool to ensure equitable geographic distribution in relation to the total number of staff of the Secretariat;

10. *Encourages* the General Assembly to consider further measures for promoting desirable ranges of geographical balance in the staff of the Office of the High Commissioner representing national and regional specificities and various historic, cultural and religious backgrounds, as well as the diversity of political, economic and legal systems;

11. *Welcomes* the significant increase in the human and financial resources allocated to the activities of the Office of the High Commissioner, and the impact it should have on the geographic composition of the Office;

12. *Recognizes* the importance of the follow-up to and implementation of General Assembly resolution 61/159 of 19 December 2006, and underlines the priority importance that the Assembly continue providing support and guidance to the High Commissioner in the ongoing process of improvement of the geographical balance in the composition of the staff of the Office of the High Commissioner;

13. *Requests* the High Commissioner to submit a comprehensive and updated report to the Council at its thirteenth session in 2010, in accordance with its annual programme of work, following the structure and scope of her report and with a special focus on further measures taken to correct the imbalance in geographical composition of the staff of the Office.

*42nd meeting
26 March 2009*

[Adopted by a recorded vote of 33 to 12, with 2 abstentions. See chapter II. The voting was as follows:

In favour: Angola, Argentina, Azerbaijan, Bahrain, Bangladesh, Bolivia, Brazil, Burkina Faso, Cameroon, China, Cuba, Djibouti, Egypt, Gabon, Ghana, India, Indonesia, Jordan, Madagascar, Malaysia, Mauritius, Mexico, Nicaragua, Nigeria, Pakistan, Philippines, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Uruguay, Zambia;

Against: Bosnia and Herzegovina, Canada, France, Germany, Italy, Japan, Netherlands, Slovakia, Slovenia, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland;

Abstaining: Chile, Republic of Korea.]

10/6. Enhancement of international cooperation in the field of human rights

The Human Rights Council,

Reaffirming its commitment to promoting international cooperation, as set forth in the Charter of the United Nations, in particular Article 1, paragraph 3, as well as relevant provisions of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993 for enhancing genuine cooperation among Member States in the field of human rights,

Recalling the adoption by the General Assembly of the United Nations Millennium Declaration on 8 September 2000, General Assembly resolution 63/180 of 18 December 2008, and Human Rights Council resolution 7/3 of 27 March 2008,

Recalling also the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held at Durban, South Africa, from 31 August to 8 September 2001, and its role in the enhancement of international cooperation in the field of human rights,

Recognizing that the enhancement of international cooperation in the field of human rights is essential for the full achievement of the purposes of the United Nations, including the effective promotion and protection of all human rights,

Recognizing also that the promotion and protection of human rights should be based on the principle of cooperation and genuine dialogue and aimed at strengthening the capacity of Member States to comply with their human rights obligations for the benefit of all human beings,

Reaffirming that dialogue among religions, cultures and civilizations in the field of human rights could contribute greatly to the enhancement of international cooperation in this field,

Emphasizing the need for further progress in the promotion and encouragement of respect for human rights and fundamental freedoms through, inter alia, international cooperation,

Underlining the fact that mutual understanding, dialogue, cooperation, transparency and confidence-building are important elements in all the activities for the promotion and protection of human rights,

1. *Reaffirms* that it is one of the purposes of the United Nations and the responsibility of all Member States to promote, protect and encourage respect for human rights and fundamental freedoms through, inter alia, international cooperation;
2. *Recognizes* that, in addition to their separate responsibilities to their individual societies, States have a collective responsibility to uphold the principles of human dignity, equality and equity at the global level;
3. *Reaffirms* that dialogue among cultures and civilizations facilitates the promotion of a culture of tolerance and respect for diversity, and welcomes in this regard the holding of conferences and meetings at the national, regional and international levels on dialogue among civilizations;
4. *Urges* all actors on the international scene to build an international order based on inclusion, justice, equality and equity, human dignity, mutual understanding and promotion of and respect for cultural diversity and universal human rights, and to reject all doctrines of exclusion based on racism, racial discrimination, xenophobia and related intolerance;
5. *Reaffirms* the importance of the enhancement of international cooperation for the promotion and protection of human rights and for the achievement of the objectives of the fight against racism, racial discrimination, xenophobia and related intolerance;
6. *Considers* that international cooperation in the field of human rights, in conformity with the purposes and principles set out in the Charter of the United Nations and international law, should make an effective and practical contribution to the urgent task of preventing violations of human rights and fundamental freedoms;
7. *Reaffirms* that the promotion, protection and full realization of all human rights and fundamental freedoms should be guided by the principles of universality, non-selectivity, objectivity and transparency, in a manner consistent with the purposes and principles set out in the Charter;
8. *Takes note* of the report of the United Nations High Commissioner for Human Rights on the enhancement of international cooperation in the field of human rights (A/HRC/10/26);

9. *Calls upon* Member States, specialized agencies and intergovernmental organizations to continue to carry out a constructive dialogue and consultations for the enhancement of understanding and the promotion and protection of all human rights and fundamental freedoms, and encourages non-governmental organizations to contribute actively to this endeavour;

10. *Invites* States and relevant United Nations human rights mechanisms and procedures to continue to pay attention to the importance of mutual cooperation, understanding and dialogue in ensuring the promotion and protection of all human rights;

11. *Requests* the United Nations High Commissioner for Human Rights to consult States and intergovernmental and non-governmental organizations on ways and means, including obstacles and challenges, as well as possible proposals to overcome them, for enhancement of international cooperation and dialogue in the United Nations human rights machinery, including the Human Rights Council, as recognized by the General Assembly in the preamble of its resolution 60/251 of 15 March 2006, and to present a report on her findings to the Council at the relevant session in 2010;

12. *Decides* to continue its consideration of the question in 2010, in accordance with its annual programme of work.

42nd meeting
26 March 2009
[Adopted without a vote.]

**10/7. Human rights of persons with disabilities: national frameworks
for the promotion and protection of the human rights of persons
with disabilities**

The Human Rights Council,

Reaffirming its resolution 7/9, which provides a framework for the Council's consideration of the rights of persons with disabilities, and welcoming the efforts of all stakeholders to implement the resolution,

Reaffirming also its commitment to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, to promote respect for their inherent dignity, and to eliminate discrimination against persons with disabilities,

Stressing the importance of effective national legislative, policy and institutional frameworks for the full enjoyment of rights by persons with disabilities,

1. *Welcomes* the entry into force of the Convention on the Rights of Persons with Disabilities and its Optional Protocol on 3 May 2008, as well as the convening of the first meeting of the Conference of States Parties and of the Committee on the Rights of Persons with Disabilities;

2. *Also welcomes* the fact that to date 139 States and one regional integration organization have signed and 50 have ratified the Convention, and that 82 have signed and 29 have ratified the Optional Protocol, and calls upon those States and regional integration organizations that have not yet done so to consider ratifying or acceding to the Convention and the Optional Protocol as a matter of priority;

3. *Encourages* States that have ratified the Convention and have submitted one or more reservations to the Convention to implement a process to review regularly the effect and continued relevance of such reservations, and to consider the possibility of withdrawing the reservations;

4. *Takes note with appreciation* of the thematic study on key legal measures for the ratification and effective implementation of the Convention prepared by the Office of the United Nations High Commissioner for Human Rights (A/HRC/10/48), and invites all stakeholders to consider the study when designing and implementing measures for the promotion and protection of the rights of persons with disabilities, including the establishment of national frameworks to this effect;

5. *Encourages* States to promptly undertake a review of all legislation and other measures so as to identify and modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities;

6. *Calls upon* States to take all appropriate measures to prohibit by law and eliminate any form of discrimination on the basis of disability and to ensure equal and effective legal protection to persons with disabilities from discrimination on all grounds;

7. *Encourages* States to exchange information and experiences on legislative measures and models which guarantee the human rights of persons with disabilities, on an equal basis with others, including on measures for accessibility, reasonable accommodation, equal recognition before the law, access to justice, and supported decision-making;

8. *Calls upon* States to adopt specific measures to give practical effect to the principle of non-discrimination on the basis of disability and to the provision of reasonable accommodation, including in the administrative, justice and education sectors, and, where appropriate, special measures to enhance the effective implementation of the Convention and its Optional Protocol;

9. *Encourages* States to adopt or strengthen policies and programmes to promote awareness of and increase expertise on the rights of persons with disabilities within all branches of government, including through training programmes for public officials and agents, taking into account multiple or aggravated forms of discrimination experienced by persons with disabilities;

10. *Calls upon* States to adopt measures to guarantee the enjoyment of political rights of persons with disabilities and to actively promote an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, on an equal basis with others, and to promote their participation in the formulation of policies and programmes;

11. *Calls upon* States to monitor the effectiveness of steps taken to eliminate discrimination on the basis of disability by any person, organization or enterprise, inter alia, in the housing, transport, health, labour and education sectors, and, in so doing, to develop methodologies for compliance with the principles of non-discrimination and accessibility, taking duly into account the need to closely consult with and actively involve persons with disabilities and their representatives in such processes;

12. *Calls upon* States to ensure that persons with disabilities have effective access to justice and to effective remedies and redress, on an equal basis with others, including administrative and judicial remedies for persons with disabilities whose enjoyment of human rights is denied;
13. *Encourages* States, in consultation with relevant stakeholders, to collect and compile disaggregated data to measure national progress and to identify barriers that prevent or undermine the full enjoyment by persons with disabilities of their human rights, and to formulate appropriate steps to remove such barriers;
14. *Acknowledges* the important role that national monitoring mechanisms, including independent mechanisms such as national human rights institutions, play in protecting and promoting the rights of persons with disabilities;
15. *Decides* to continue to integrate the rights of persons with disabilities into its work, in accordance with resolution 7/9;
16. *Decides* that its next annual interactive debate on the rights of persons with disabilities will be held at its thirteenth session, and that it will focus on the structure and role of national mechanisms for the implementation and monitoring of the Convention on the Rights of Persons with Disabilities;
17. *Requests* the Office of the United Nations High Commissioner for Human Rights to prepare a study to enhance awareness on the structure and role of national mechanisms for the implementation and monitoring of the Convention on the Rights of Persons with Disabilities, in consultation with relevant stakeholders, including States, regional organizations, civil society organizations, including organizations of persons with disabilities, and national human rights institutions, and requests that the study be available on the website of the Office of the United Nations High Commissioner for Human Rights, in an accessible format, prior to the thirteenth session of the Council;
18. *Further requests* the Office of the United Nations High Commissioner for Human Rights to continue to elaborate and disseminate training and awareness-raising material on the

rights of persons with disabilities and the implementation of the Convention, and to continue to contribute, as required, to national efforts in the development of tools to mainstream the rights of persons with disabilities, taking into consideration good practices;

19. *Requests* the Secretary-General to continue to ensure that the mandate of the Office of the United Nations High Commissioner for Human Rights on the rights of persons with disabilities is adequately resourced for the fulfilment of its tasks;

20. *Encourages* organizations of persons with disabilities, national monitoring bodies and human rights institutions to participate actively in the session referred to in paragraph 16 above, as well as in regular and special sessions of the Human Rights Council and its working groups.

42nd meeting
26 March 2009
[Adopted without a vote.]

10/8. Draft United Nations guidelines for the appropriate use and conditions of alternative care for children

The Human Rights Council,

Reaffirming the Universal Declaration of Human Rights and the Convention on the Rights of the Child, and celebrating the twentieth anniversary of the Convention in 2009,

Reaffirming also all previous resolutions on the rights of the child of the Council, the Commission on Human Rights and the General Assembly, the most recent being Council resolutions 7/29 of 28 March 2008 and 9/13 of 24 September 2008 and General Assembly resolution 63/241 of 23 December 2008,

Welcomes the progress made during consultations on the draft United Nations guidelines for the appropriate use and conditions of alternative care for children and decides to continue efforts to take action on them at its eleventh session.

42nd meeting
26 March 2009
[Adopted without a vote.]

10/9. Arbitrary detention

The Human Rights Council,

Reaffirming articles 3, 9, 10 and 29 and other relevant provisions of the Universal Declaration of Human Rights,

Recalling articles 9, 10, 11, and 14 to 22 of the International Covenant on Civil and Political Rights,

Recalling also resolutions 1991/42 and 1997/50 of the Commission on Human Rights, and Council resolution 6/4 of 28 September 2007 extending the mandate of the Working Group on Arbitrary Detention for a further period of three years,

1. *Stresses* the importance of the work of the Working Group on Arbitrary Detention and encourages it to pursue the fulfilment of its mandate, as set out in Council resolution 6/4;
2. *Takes note* of the report of the Working Group on Arbitrary Detention (A/HRC/10/21), including the recommendations contained therein;
3. *Requests* the States concerned to take account of the Working Group's views and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty and to inform the Working Group of the steps they have taken;
4. *Encourages* all States:
 - (a) To give due consideration to the recommendations of the Working Group;
 - (b) To take appropriate measures in order to ensure that their legislation, regulations and practices remain in conformity with the relevant international standards and the applicable international legal instruments;
 - (c) To respect and promote the right of anyone who is arrested or detained on a criminal charge to be brought promptly before a judge or other officer authorized by law to exercise judicial power and to be entitled to trial within a reasonable time or to release;

(d) To respect and promote the right of anyone who is deprived of his/her liberty by arrest or detention to be entitled to bring proceedings before a court, in order that the court may decide without delay on the lawfulness of his/her detention and order his/her release if the detention is not lawful, in accordance with their international obligations;

(e) To ensure that the right referred to in subparagraph (d) above is equally respected in cases of administrative detention, including administrative detentions in relation to public security legislation;

(f) To ensure that the conditions of pretrial detention do not undermine the fairness of the trial;

5. *Also encourages* all States concerned to ensure that any measures taken to combat terrorism comply with their obligations that ensure protection against arbitrary detention, bearing in mind relevant recommendations of the Working Group;

6. *Further encourages* all States to ensure that immigrants in an irregular situation and asylum-seekers are protected from arbitrary arrest and detention and to take action to prevent any form of arbitrary deprivation of liberty of immigrants and asylum-seekers, and notes with appreciation that some States have successfully implemented alternative measures to detention for undocumented migrants;

7. *Notes with concern* the comments made by the Working Group in its report (A/HRC/10/21) on the effects caused by corruption on the effective protection of human rights, including the right not to be subject to arbitrary detention;

8. *Encourages* all States to cooperate with the Working Group, and to give serious consideration to responding favourably to its requests for visits, so that it may carry out its mandate even more effectively;

9. *Notes with concern* that a persistent proportion of urgent appeals of the Working Group has been left unanswered and urges the States concerned to give the necessary attention to the urgent appeals addressed to them by the Working Group on a strictly humanitarian basis and without prejudging its possible final conclusions;

10. *Expresses* its profound thanks to the States that have extended their cooperation to the Working Group and responded to its requests for information, and invites all States concerned to demonstrate the same spirit of cooperation;

11. *Notes with satisfaction* that the Working Group has been informed of the release of some of the individuals whose situation has been brought to its attention, while deploring the many cases that have not yet been resolved;

12. *Requests* the Secretary-General to ensure that the Working Group receives all necessary assistance, particularly with regard to the staffing and resources needed for the effective fulfilment of its mandate, especially in respect of field missions;

13. *Decides* to continue consideration of the matter in conformity with its programme of work.

42nd meeting
26 March 2009
[Adopted without a vote.]

10/10. Enforced or involuntary disappearances

The Human Rights Council,

Reaffirming the relevant articles of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, which protect the right to life, liberty and security of the person, the right not to be subjected to torture and the right to recognition as a person before the law,

Recalling resolution 20 (XXXVI) of 29 February 1980 of the Commission on Human Rights establishing a Working Group to examine questions relevant to enforced or involuntary disappearances,

Recalling also General Assembly resolution 47/133 of 18 December 1992, by which the Assembly adopted the Declaration on the Protection of All Persons from Enforced Disappearance,

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 recognizing that its entry into force as soon as possible through its ratification by 20 States will be a significant event,

Deeply concerned by the increasing number of cases of enforced or involuntary disappearances around the world, including arrest, detention and abduction, when these are part of or amount to enforced disappearances, and by the growing number of reports concerning harassment, ill-treatment and intimidation of witnesses of disappearances or relatives of persons who have disappeared,

Acknowledging that acts of enforced disappearance may amount to crimes against humanity as defined in the Rome Statute of the International Criminal Court,

Recognizing the importance of the right of victims to know the truth regarding the circumstances of the enforced disappearance, as set out in the International Convention for the Protection of All Persons from Enforced Disappearance (art. 24 (2) and preamble), so as to contribute to end impunity and to promote and protect human rights,

Recalling the set of principles for the protection and promotion of human rights through action to combat impunity (E/CN.4/Sub.2/1997/20/Rev.1, annex II), and taking note with appreciation of the updated version of these principles (E/CN.4/2005/102/Add.1),

Recalling also its resolution 7/12 of 27 March 2008, extending the mandate of the Working Group on Enforced or Involuntary Disappearances for a further period of three years,

1. *Takes note of* the report submitted by the Working Group on Enforced or Involuntary Disappearances (A/HRC/10/9) and of the recommendations contained therein;

2. *Stresses* the importance of the work of the Working Group, and encourages it to pursue the fulfilment of its mandate as set out in resolution 7/12;

3. *Calls on* the Governments that have not provided for a long period of time substantive replies concerning claims of enforced disappearances in their countries to do so and to give due consideration to relevant recommendations concerning this subject made in the reports of the Working Group;

4. *Urges* States:

(a) To promote and give full effect to the Declaration on the Protection of All Persons from Enforced Disappearances;

(b) To cooperate with the Working Group and help it to carry out its mandate effectively and, in that framework, give serious consideration to responding favourably to the requests for visits to their countries;

(c) To prevent the occurrence of enforced disappearances, including by guaranteeing that any person deprived of liberty is held solely in officially recognized and supervised places of detention, guaranteeing access to all places of detention by authorities and institutions whose competence in this regard has been recognized by the concerned State, maintaining official, accessible, up-to-date registers and/or records of detainees, and ensuring that detainees are brought before a judicial authority promptly after detention;

(d) To work to eradicate the culture of impunity for the perpetrators of enforced disappearances and to elucidate cases of enforced disappearances as crucial steps in effective prevention;

(e) To prevent and investigate with special attention enforced disappearances of persons belonging to vulnerable groups, especially children, and enforced disappearances of women, as they may become particularly vulnerable to sexual violence and other forms of violence, and to bring the perpetrators of those enforced disappearances to justice;

(f) To take steps to provide adequate protection to witnesses of enforced or involuntary disappearances, human rights defenders acting against enforced disappearances, and the lawyers and families of disappeared persons against any intimidation, persecution, reprisals or

ill-treatment to which they might be subjected, with special attention to women as relatives of disappeared persons in the context of their struggle to resolve the disappearance of members of their families;

5. *Urges* the Governments concerned:

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

(b) To continue their efforts to elucidate the fate of disappeared persons and to ensure that competent authorities in charge of investigation and prosecution are provided with adequate means and resources to resolve cases and bring perpetrators to justice, including after considering establishing, where appropriate, specific judicial mechanisms or truth and reconciliation commissions that complement the justice system;

(c) To make provision in their legal systems for victims of enforced or involuntary disappearances or their families to seek fair, prompt and adequate reparation and in addition, where appropriate, to consider symbolic measures recognizing the suffering of victims and restoring their dignity and reputation;

(d) To address the specific needs of the families of disappeared persons;

6. *Reminds* States that:

(a) As proclaimed in article 2 of the Declaration of the Protection of All Persons from Enforced Disappearances, no State shall practise, permit or tolerate enforced disappearances;

(b) All acts of enforced or involuntary disappearances are crimes punishable by appropriate penalties which should take due account of their extreme seriousness under criminal law;

(c) They should ensure that their competent authorities proceed immediately to conduct impartial inquiries in all circumstances where there is reason to believe that an enforced disappearance has occurred in territory under their jurisdictions;

(d) If such belief is borne out, all the perpetrators of enforced or involuntary disappearances must be brought to justice;

(e) Impunity is simultaneously one of the underlying causes of enforced disappearances and one of the major obstacles to the elucidation of cases thereof;

(f) As proclaimed in article 11 of the Declaration, all persons deprived of liberty must be released in a manner permitting reliable verification that they have actually been released and, further, have been released in conditions in which their physical integrity and ability fully to exercise their rights are assured;

7. *Expresses:*

(a) Its thanks to the many Governments that have cooperated with the Working Group and replied to its requests for information and to the Governments that have accepted visits of the Working Group to their countries, requesting them to give all necessary attention to the Working Group's recommendations and inviting them to inform the Working Group of any action they take on those recommendations;

(b) Its appreciation to the Governments that are investigating, cooperating at the international and bilateral levels, and have developed or are developing appropriate mechanisms to investigate any claims of enforced disappearance that are brought to their attention, and encourages all the Governments concerned to expand their efforts in this area;

8. *Invites* States to take legislative, administrative, legal and other steps, including when a state of emergency has been declared, to take action at the national and regional levels and in cooperation with the United Nations, if appropriate through technical assistance, and to provide the Working Group with concrete information on the measures taken and the obstacles encountered in preventing enforced or involuntary disappearances and in giving effect to the principles set forth in the Declaration;

9. *Takes note of* the assistance provided to the Working Group by non-governmental organizations and their activities in support of the implementation of the Declaration and invites those organizations to continue their cooperation;

10. *Requests* the Secretary-General to continue:

(a) To ensure that the Working Group receives all the assistance and resources it requires to perform its functions, including supporting the principles of the Declaration, carrying out and following up on missions, and holding sessions in countries that are prepared to receive it;

(b) To provide the resources needed to update the database on cases of enforced disappearance;

(c) To keep the Working Group and the Human Rights Council regularly informed of the steps taken for the wide dissemination and promotion of the Declaration;

11. *Encourages* 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, and States that are in the process of signing, ratifying or acceding to this instrument to complete their internal procedures towards those ends in compliance with domestic legislation as soon as possible;

12. *Invites* States to consider joining all efforts to share information on best practices and to work towards the early entry into force of the Convention with the aim of its universality;

13. *Decides* to continue consideration of the matter in conformity with its programme of work.

*42nd meeting
26 March 2009*

[Adopted without a vote.]

10/11. 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 previous resolutions adopted by the General Assembly, the Human Rights Council and the Commission on Human Rights on the subject, including General Assembly

resolution 63/164 of 18 December 2008 and Human Rights Council resolution 7/21 of 28 March 2008, which extended 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 and outlined its tasks,

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

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

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

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

Alarmed and concerned about the threat posed by the activities of mercenaries to peace and security in developing countries in various parts of the world, in particular in areas of conflict,

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

Extremely alarmed and concerned about recent mercenary activities in developing countries in various parts of the world, in particular in areas of conflict, and the threat they pose to the integrity and respect of the constitutional order of the affected countries,

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

1. *Reaffirms* that the use of mercenaries and their recruitment, financing and training are causes for grave concern to all States and violate the purposes and principles enshrined in the Charter of the United Nations;

2. *Recognizes* that armed conflicts, terrorism, arms trafficking and covert operations by third powers, inter alia, encourage the demand for mercenaries on the global market;

3. *Urges* all States to take the necessary steps and to exercise the utmost vigilance against the menace posed by the activities of mercenaries, and to take legislative measures to ensure that their territories and other territories under their control, as well as their nationals, are not used for the recruitment, assembly, financing, training and transit of mercenaries for the planning of activities designed to impede the right to self-determination, to overthrow the Government of any State, or to dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the right to self-determination of peoples;

4. *Requests* all States to exercise the utmost vigilance against any kind of recruitment, training, hiring or financing of mercenaries by private companies offering international military consultancy and security services, as well as to impose a specific ban on such companies intervening in armed conflicts or actions to destabilize constitutional regimes;

5. *Calls upon* all States that have not yet done so to consider taking the necessary action to become parties to the International Convention against the Recruitment, Use, Financing and Training of Mercenaries;

6. *Welcomes* the cooperation extended by those countries that received a visit by the Working Group and the adoption by some States of national legislation that restricts the recruitment, assembly, financing, training and transit of mercenaries;
7. *Invites* States to investigate the possibility of mercenary involvement whenever and wherever criminal acts of a terrorist nature occur;
8. *Condemns* recent mercenary activities in developing countries in various parts of the world, in particular in areas of conflict, and the threat they pose to the integrity of and respect for the constitutional order of these countries and the exercise of the right to self-determination of their peoples, and commends the Governments of Africa on their collaboration in thwarting these illegal actions;
9. *Calls upon* the international community, in accordance with its obligations under international law, to cooperate with and assist the judicial prosecution of those accused of mercenary activities, in transparent, open and fair trials;
10. *Acknowledges with appreciation* the work and contributions made by the Working Group, and takes note with appreciation of its latest report (A/HRC/10/14);
11. *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 (E/CN.4/2004/15);
12. *Notes with appreciation* the work of the Working Group on its elaboration of concrete principles on the regulation of private companies offering military assistance, consultancy and other military security-related services on the international market, carried out by the Working Group after country visits and through the process of regional consultations, and consultation with academics and intergovernmental and non-governmental organizations, and reflected in the reports of the Working Group to the General Assembly at its sixty-third session and to the Council at its tenth session;

13. *Requests* the Working Group to:

(a) Consult with intergovernmental and non-governmental organizations, academic institutions and experts on the content and scope of a possible draft convention on private companies offering military assistance, consultancy and other military security-related services on the international market, and an accompanying Model Law, and other legal instruments;

(b) Share with Member States, through the Office of the United Nations High Commissioner for Human Rights, elements for a possible draft convention on private military and security companies, request their input on the content and scope of such a convention and transmit their replies to the Working Group;

(c) Report to the fifteenth session of the Human Rights Council on the progress achieved in the elaboration of the draft legal instrument for proper consideration and action;

14. *Requests* the Office of the High Commissioner, as a matter of priority, to publicize the adverse effects of the activities of mercenaries and of private companies offering military assistance, consultancy and other military security-related services on the international market 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;

15. *Expresses its appreciation* to the Office of the High Commissioner for its support for convening in the Russian Federation the regional governmental consultation for States in the Eastern European Group and Central Asia region 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;

16. *Requests* the Office of the High Commissioner to continue supporting the Working Group convening regional governmental consultations on this matter, in conformity with paragraph 15 of General Assembly resolution 62/145, with the remaining three to be held before the end of 2010, 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;

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

18. *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;

19. *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-fourth session and to the Council at its fifteenth session;

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

*42nd meeting
26 March 2009*

[Adopted by a recorded vote of 32 to 12, with 3 abstentions. See chapter III. The voting was as follows:

In favour: Angola, Argentina, Azerbaijan, Bahrain, Bangladesh, Bolivia, Brazil, Burkina Faso, Cameroon, China, Cuba, Djibouti, Egypt, Gabon, Ghana, India, Indonesia, Jordan, Madagascar, Malaysia, Mauritius, Nicaragua, Nigeria, Pakistan, Philippines, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Uruguay, Zambia;

Against: Bosnia and Herzegovina, Canada, France, Germany, Italy, Japan, Netherlands, Republic of Korea, Slovakia, Slovenia, Ukraine, United Kingdom of Great Britain and Northern Ireland;

Abstaining: Chile, Mexico, Switzerland.]

10/12. The right to food

The Human Rights Council,

Recalling all previous General Assembly and Human Rights Council resolutions on the right to food, in particular General Assembly resolution 63/187 of 18 December 2008 and Council resolution 7/14 of 27 March 2008, as well as all resolutions of the Commission on Human Rights in this regard,

Recalling also the holding of its seventh special session, which analysed the negative impact of the worsening of the world food crisis on the realization of the right to food for all, and that a follow-up to that issue is being carried out,

Recalling further the Universal Declaration of Human Rights, which provides that everyone has the right to a standard of living adequate for her or his health and well-being, including food, the Universal Declaration on the Eradication of Hunger and Malnutrition and the United Nations Millennium Declaration,

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

Bearing in mind the Rome Declaration on World Food Security and the World Food Summit Plan of Action and the Declaration of the World Food Summit: five years later, adopted in Rome on 13 June 2002,

Reaffirming the concrete recommendations contained in the Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security, adopted by the Council of the Food and Agriculture Organization of the United Nations in November 2004,

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

Reaffirming that all human rights are universal, indivisible, interdependent and interrelated, and that they must be treated globally, in a fair and equal manner, on the same footing and with the same emphasis,

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

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

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

Recognizing that the problems of hunger and food insecurity have global dimensions and that there has been insufficient progress made on reducing hunger, and that they could increase dramatically in some regions unless urgent, determined and concerted action is taken, given the anticipated increase in the world population and the stress on natural resources,

Noting that environmental degradation, desertification and global climate change are factors contributing to destitution and desperation, causing a negative impact on the realization of the right to food, in particular in developing countries,

Expressing its deep concern at the number and scale of natural disasters, diseases and pests and their increasing impact in recent years, which have resulted in massive loss of life and livelihood and threatened agricultural production and food security, in particular in developing countries,

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

Welcoming the recent pledges to increase official development assistance devoted to agriculture, and reminding that the realization of the right to food does not only entail increase in productivity, but also a holistic approach that includes a focus on smallholder and traditional farmers and the most vulnerable groups and national and international policies that are conducive to the realization of this right,

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

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

3. *Considers it intolerable* that more than 6 million children still die every year from hunger-related illnesses before their fifth birthday, that there are at least 963 million undernourished people in the world and that, while the prevalence of hunger has diminished, the absolute number of undernourished people has been increasing in recent years, when, according to a study by the Food and Agriculture Organization of the United Nations, the planet could produce enough food to feed 12 billion people, twice the world's present population;

4. *Expresses its concern* that women and girls are disproportionately affected by hunger, food insecurity and poverty, in part as a result of gender inequality and discrimination, that in many countries girls are twice as likely as boys to die from malnutrition and preventable childhood diseases, and that it is estimated that almost twice as many women as men suffer from malnutrition;

5. *Encourages* States, in accordance with their relevant obligations under the Convention on the Elimination of All Forms of Discrimination against Women, to take action to address gender inequality and discrimination against women, in particular where it contributes to

the malnutrition of women and girls, including measures to ensure the full and equal realization of the right to food and ensuring that women have equal access to resources, including income, land and water, to enable them to feed themselves and their families;

6. *Stresses* the need to guarantee a fair and non-discriminatory access to land rights for smallholders, traditional farmers and their organizations, including in particular rural women and vulnerable groups;

7. *Encourages* the Special Rapporteur on the right to food to ensure mainstreaming a gender perspective in the fulfilment of his mandate, and encourages the Food and Agriculture Organization of the United Nations and all other United Nations bodies and mechanisms addressing the right to food and food insecurity to integrate and effectively implement a gender perspective and a human rights perspective into their relevant policies, programmes and activities regarding access to food;

8. *Reaffirms* the need to ensure that programmes delivering safe and nutritious food are inclusive and accessible to persons with disabilities;

9. *Encourages* all States to take steps with a view to achieving progressively the full realization of the right to food, including steps to promote the conditions for everyone to be free from hunger and, as soon as possible, to enjoy fully the right to food, and, where appropriate, to adopt national strategies for the realization of the right to adequate food and to consider establishing appropriate institutional mechanisms, in order to:

(a) Identify, at the earliest stage possible, emerging threats to the right to adequate food, with a view to facing them;

(b) Strengthen the overall national human rights protection system with a view to contributing to the realization of the right to food;

(c) Improve coordination between the different relevant ministries and between the national and sub-national levels of government;

(d) Improve accountability, with a clear allocation of responsibilities, and the setting of precise time frames for the realization of the dimensions of the right to food which require progressive implementation;

(e) Ensure the adequate participation, particularly, of the most food-insecure segments of the population;

(f) Pay specific attention to the need to improve the situation of the most vulnerable segments of society;

10. *Calls upon* States parties to the International Covenant on Economic, Social and Cultural Rights to fulfil their obligations under article 2, paragraph 1, and article 11, paragraph 2, in particular with regard to the right to adequate food;

11. *Stresses* that improving access to productive resources and public investment in rural development is essential for eradicating hunger and poverty, in particular in developing countries, including through the promotion of investments in appropriate, small-scale irrigation and water management technologies in order to reduce vulnerability to droughts;

12. *Recognizes* that 80 per cent of hungry people live in rural areas, and 50 per cent are small-scale and traditional farm-holders, and that these people are especially vulnerable to food insecurity, given the increasing cost of various inputs and the fall in farm incomes, that access to land, water, seeds and other natural resources is an increasing challenge for poor producers, and that support by States for small farmers, fishing communities and local enterprises is an element key to food security and provision of the right to food;

13. *Stresses* the importance of fighting hunger in rural areas, including through national efforts supported by international partnerships to stop desertification and land degradation and through investments and public policies that are specifically appropriate to the risk of drylands, and, in this regard, calls for the full implementation of the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, particularly in Africa;

14. *Also stresses* its commitments to promote and protect, without discrimination, the economic, social and cultural rights of indigenous peoples, in accordance with international

human rights obligations and taking into account, as appropriate, the United Nations Declaration on the Rights of Indigenous Peoples, and acknowledges that many indigenous organizations and representatives of indigenous communities have expressed in different forums their deep concerns over the obstacles and challenges they face for the full enjoyment of the right to food, and calls upon States to take special actions to combat the root causes of the disproportionately high level of hunger and malnutrition among indigenous peoples and the continuous discrimination against them;

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

16. *Recognizes* the need to strengthen national commitment as well as international assistance, upon request and in cooperation with affected countries, towards a better realization and protection of the right to food, and in particular to develop national protection mechanisms for people forced to leave their homes and land because of hunger or natural or man-made disasters affecting the enjoyment of the right to food;

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

18. *Takes note* of the report of the Special Rapporteur on the right to food (A/HRC/10/5), which examines how development cooperation and food aid policies could make a contribution to the realization of the right to food everywhere;

19. *Encourages* the Special Rapporteur to continue cooperating with States in order to enhance the contribution of development cooperation and food aid to the realization of the right to food, within existing mechanisms, taking into account the views of all stakeholders;

20. *Stresses* that all States should make every effort to ensure that their international policies of a political and economic nature, including international trade agreements, do not have a negative impact on the right to food in other countries;

21. *Takes note* of the report of the Special Rapporteur on the right to food on his mission to the World Trade Organization (A/HRC/10/5/Add.2), and encourages the Special Rapporteur to continue to engage with the World Trade Organization to follow up on the issues of concern identified in his report;

22. *Recalls* the importance of the New York Declaration on Action against Hunger and Poverty, and recommends the continuation of efforts aimed at identifying additional sources of financing for the fight against hunger and poverty;

23. *Recognizes* that the promises made at the World Food Summit in 1996 to halve the number of persons who are undernourished are not being fulfilled, and invites once again all Governments, international financial and development institutions, as well as the relevant United Nations agencies and funds, to give priority to and provide the necessary funding to realize the aim of halving by 2015 the number, or at least the proportion, of people who suffer from hunger, as stated in Millennium Development Goal 1, as well as the right to food, as set out in the Rome Declaration on World Food Security and the United Nations Millennium Declaration;

24. *Reaffirms* that integrating food and nutritional support, with the goal that all people at all times will have access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life, is part of a comprehensive response to the spread of HIV/AIDS, tuberculosis, malaria and other communicable diseases;

25. *Urges* States to give adequate priority in their development strategies and expenditures to the realization of the right to food;

26. *Stresses* the importance of international development cooperation and assistance, in particular in activities related to disaster risk reduction and in emergency situations such as natural and man-made disasters, diseases and pests, for the realization of the right to food and the achievement of sustainable food security, while recognizing that each country has the primary responsibility for ensuring the implementation of national programmes and strategies in this regard;

27. *Invites* all relevant international organizations, including the World Bank and the International Monetary Fund, to promote policies and projects that have a positive impact on the right to food, to ensure that partners respect the right to food in the implementation of common projects, to support strategies of Member States aimed at the fulfilment of the right to food and to avoid any actions that could have a negative impact on the realization of the right to food;

28. *Encourages* the Special Rapporteur on the right to food and the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises to cooperate on the subject of the contribution of the private sector to the realization of the right to food, including the importance of ensuring sustainable water resources for human consumption and agriculture;

29. *Recognizes* the negative impact on the full enjoyment of the right to adequate food of insufficient purchasing power and of increased volatility of prices of agricultural commodities on the international markets, particularly on people in developing countries and on net-food importing countries;

30. *Supports* the realization of the mandate of the Special Rapporteur as extended for a period of three years by the Council in its resolution 6/2 of 27 September 2007;

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

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

33. *Recalls* general comment No. 15 (2002) of the Committee on the right to water (articles 11 and 12 of the Covenant), in which the Committee noted, inter alia, the importance of ensuring sustainable water resources for human consumption and agriculture in the realization of the right to adequate food;

34. *Reaffirms* that the Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security represent a practical tool to promote the realization of the right to food for all, contribute to the achievement of food security and thus provide an additional instrument in the attainment of internationally agreed development goals, including those contained in the Millennium Declaration;

35. *Acknowledges* the work undertaken by the Advisory Committee on the right to food;

36. *Requests* the Advisory Committee to undertake a study on discrimination in the context of the right to food, including identification of good practices of anti-discriminatory policies and strategies, and to report on it at the thirteenth session of the Council;

37. *Welcomes* the continued cooperation of the United Nations High Commissioner for Human Rights, the Advisory Committee and the Special Rapporteur, and encourages them to continue their cooperation in this regard;

38. *Calls upon* all Governments to cooperate with and assist the Special Rapporteur in his/her task to supply all necessary information requested by him/her and to give serious consideration to responding favourably to the requests of the Special Rapporteur to visit their countries to enable him/her to fulfil his/her mandate more effectively;

39. *Recalls* the requests made by the General Assembly, in its resolution 63/187, that the Special Rapporteur submit to it an interim report at its sixty-fourth session on the implementation of that resolution and to continue his/her work, including by examining the emerging issues with regard to the realization of the right to food within his existing mandate;

40. *Invites* Governments, relevant United Nations agencies, funds and programmes, treaty bodies and civil society actors, including non-governmental organizations, as well as the

private sector, to cooperate fully with the Special Rapporteur in the fulfilment of his/her mandate, inter alia, through the submission of comments and suggestions on ways and means of realizing the right to food;

41. *Requests* the Special Rapporteur to submit a report on the implementation of the present resolution to the Council at its thirteenth session;

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

42nd meeting
26 March 2009
[Adopted without a vote.]

10/13. Human rights and arbitrary deprivation of nationality

The Human Rights Council,

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

Guided also by article 15 of the Universal Declaration of Human Rights, according to which everyone has the right to a nationality and no one shall be arbitrarily deprived of his nationality,

Reaffirming its resolution 7/10 as well as all previous resolutions adopted by the Commission on Human Rights on the issue of human rights and arbitrary deprivation of nationality,

Recognizing the right of States to establish laws governing the acquisition, renunciation or loss of nationality in accordance with international law, and noting that the issue of statelessness is already under consideration by the General Assembly within the broad issue of State succession,

Noting the provisions of international human rights instruments and international instruments on statelessness and nationality prohibiting arbitrary deprivation of nationality, inter alia, article 5, paragraph (d) (iii), of the International Convention on the Elimination of

All Forms of Racial Discrimination; article 24, paragraph 3, of the International Covenant on Civil and Political Rights; articles 7 and 8 of the Convention on the Rights of the Child; articles 1 to 3 of the Convention on the Nationality of Married Women; article 9 of the Convention on the Elimination of All Forms of Discrimination against Women; article 18 of the Convention on the Rights of Persons with Disabilities; the Convention on the Reduction of Statelessness; and the Convention relating to the Status of Stateless Persons,

Recalling that persons arbitrarily deprived of nationality are protected by international human rights and refugee law as well as instruments on statelessness, including, with respect to States parties, the Convention relating to the Status of Stateless Persons and the Convention relating to the Status of Refugees and the Protocol thereto,

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

Recalling General Assembly resolution 63/148 of 18 December 2008, in which, inter alia, the Assembly urged the Office of the United Nations High Commissioner for Refugees to continue its work with regard to identifying stateless persons, preventing and reducing statelessness and protecting stateless persons,

Noting the important work of the Office of the United Nations High Commissioner for Refugees in seeking to address and prevent the problem of statelessness, as guided by, in particular, the conclusion of its Executive Committee on identification, prevention and reduction of statelessness and protection of stateless persons No. 106 (LVII) 2006,

Mindful of the endorsement by the General Assembly, in its resolution 41/70 of 3 December 1986, of the call upon all States to promote human rights and fundamental freedoms and to refrain from denying those to individuals in their populations because of nationality, ethnicity, race, religion or language,

Recalling General Assembly resolutions 55/153 of 12 December 2000 and 59/34 of 2 December 2004 on the nationality of natural persons in relation to the succession of States,

Taking note with appreciation of the report of the Secretary-General submitted in accordance with Council resolution 7/10¹ and the contributions made to it by States and other stakeholders,

Recognizing that arbitrary deprivation of nationality disproportionately affects persons belonging to minorities and recalling the work done by the independent expert on minority issues on the subject of the right to nationality,²

Expressing its deep concern at the arbitrary deprivation of persons or groups of persons of their nationality, especially on discriminatory grounds such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling that arbitrarily depriving a person of his or her nationality may lead to statelessness, and in this regard expressing concern at various forms of discrimination against stateless persons that violate the obligations of States under international human rights law,

Emphasizing that the human rights and fundamental freedoms of persons whose nationality may be affected by State succession must be fully respected,

1. *Reaffirms* that the right to a nationality of every human person is a fundamental human right;
2. *Recognizes* that arbitrary deprivation of nationality, especially on discriminatory grounds such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, is a violation of human rights and fundamental freedoms;
3. *Calls upon* all States to refrain from taking discriminatory measures and from enacting or maintaining legislation that would arbitrarily deprive persons of their nationality on

¹ A/HRC/10/34.

² A/HRC/7/23.

grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, especially if such measures and legislation render a person stateless;

4. *Urges* all States to adopt and implement nationality legislation with a view to avoiding statelessness, consistent with fundamental principles of international law, in particular by preventing arbitrary deprivation of nationality and statelessness as a result of State succession;

5. *Encourages* States that have not acceded to the Convention on the Reduction of Statelessness and the Convention relating to the Status of Stateless Persons to consider doing so;

6. *Notes* that the full enjoyment of all human rights and fundamental freedoms of an individual might be impeded as a result of arbitrary deprivation of nationality;

7. *Expresses its concern* that persons arbitrarily deprived of nationality may be affected by poverty, social exclusion and legal incapacity;

8. *Recognizes* the special needs of children for protection against arbitrary deprivation of nationality;

9. *Calls upon* States to ensure access of persons arbitrarily deprived of their nationality to effective remedies, including, but not limited to, restoration of nationality;

10. *Urges* relevant United Nations human rights mechanisms and the appropriate treaty bodies and encourages the Office of the United Nations High Commissioner for Refugees to continue to collect information on the issue of human rights and arbitrary deprivation of nationality from all relevant sources and to take account of such information, together with any recommendations thereon, in their reports and activities conducted within their respective mandates;

11. *Requests* the Secretary-General to prepare a report on the right to nationality with emphasis on the issue of arbitrary deprivation of nationality, including in cases of States succession, taking into account the information gathered pursuant to Council resolution 7/10,

similar studies conducted by the Subcommission for the Promotion and Protection of Human Rights and other relevant sources of information, and to present it to the Council at its thirteenth session;

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

42nd meeting
26 March 2009
[Adopted without a vote.]

10/14. Implementation of the Convention on the Rights of the Child and the Optional Protocols thereto

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 Council, the Commission on Human Rights and the General Assembly, the most recent being Council resolution 7/29 of 28 March 2008 and General Assembly resolution 63/241 of 23 December 2008,

Welcoming the report of the Secretary-General on the status of the Convention on the Rights of the Child (A/HRC/10/86),

Celebrating the twentieth anniversary of the Convention in 2009 and taking this opportunity to call for its effective implementation by all States parties to ensure that all children may fully enjoy all their human rights and fundamental freedoms,

Bearing in mind paragraph 47 of Council resolution 7/29 and particularly the Council's decision 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,

Welcoming the constructive dialogue on “20 years of the Convention on the Rights of the Child: achievements and challenges ahead for its full realization” on the occasion of the full day annual meeting on the rights of the child on 11 March 2009 and renewed commitment expressed on this occasion by States to the implementation of the Convention,

Recalling the different initiatives at the international and regional levels to contribute to the implementation of the Convention and international events, such as the recent Third World Congress against Sexual Exploitation of Children and Adolescents, held in November 2008 in Rio de Janeiro,

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 needed,

1. *Calls on* the States that have not yet become States parties to the Convention and the Optional Protocols thereto to do so as a matter of priority;

2. *Also calls on* all States parties to withdraw reservations that are incompatible with the object and purpose of the Convention or the Optional Protocols thereto, and encourages all States parties to the Convention or the Optional Protocols to establish a regular procedure to regularly evaluate the impact of their reservations to the Convention and the Optional Protocols, with a view to withdrawing them in order to ensure the fullest possible respect for the Convention and the Optional Protocols in all States parties;

3. *Requests* the States parties to take effective measures to ensure that their obligations arising from the Convention are given effect and comprehensively implemented through policy and legislation within their domestic systems and to review with this aim their national legislation;

4. *Calls upon* all States parties to systematically assess any proposed law, administrative guidance, policy or budgetary allocation that is likely to have an impact on children and their rights, taking into account interdependence and indivisibility of rights of the child and ensuring appropriate enforcement of their obligations under the Convention and the Optional Protocols thereto;

5. *Also calls upon* all States to ensure that development and evaluation of States policies on children are informed by available, sufficient, reliable and disaggregated data on children, covering the whole period of childhood and all the rights guaranteed in the Convention;

6. *Urges* all States to develop or renew, as appropriate through a process of consultation, including with children and young people and their representatives, as well as those living and working with them, comprehensive national strategies for children, taking into account the Convention, setting out specific goals, targeted implementation measures and allocation of financial and human resources and including arrangements for monitoring and regular review, and to endorse this strategy at the highest level of government and ensure its comprehensive dissemination, including in child-friendly formats as well as in appropriate languages and forms;

7. *Recognizing* that the sufficient allocation of resources in public spending, including in primary education and basic health care, is a fundamental condition for the full realization of the rights of the child, calls upon States to make children a priority in their budgetary allocations, make resources allocated to children visible in the State budget through a detailed compilation of resources allocated to them and to take all necessary measures to ensure that children, including in particular marginalized and disadvantaged groups of children, are protected from adverse effects of financial downturns;

8. *Calls on* States to take all appropriate measures, including legal reforms and special support measures, to ensure the enjoyment by children of all their human rights and fundamental freedoms without discrimination of any kind;

9. *Recalls* the United Nations target for international development assistance of 0.7 per cent of gross domestic product and the 20/20 initiative³ and calls upon all States to ensure that their international development assistance related directly or indirectly to children is rights-based and supports the implementation of the Convention;

³ Outcome document of the World Summit for Social Development.

10. *Calls upon* all States to establish, maintain, strengthen or designate, in complementarity to effective governmental structures for children, independent mechanisms such as national human rights institutions in accordance with the Paris Principles, children's ombudspersons, commissioners or focal points on the rights of the child in national human rights institutions that are sufficiently funded and accessible to children, to promote and monitor the implementation of the Convention and advance the universal realization of children's rights;

11. *Also calls on* all States to ensure that child-sensitive procedures are made available to children and their representatives so that children have access to means of facilitating effective remedies for any breaches of any of their rights arising from the Convention through independent advice, advocacy and complaint procedures, including justice mechanisms, and that their views are heard when they are involved or their interests concerned in justice procedures;

12. *Further calls on* States to develop further, as appropriate, effective mechanisms that encourage and facilitate expression by children of their views, in particular with regard to the formulation of public policies from the local level up to the national level and to ensure meaningful participation of children and reflection of their views in monitoring and reporting on the implementation of the Convention;

13. *Calls upon* all States to promote and develop as appropriate practical and systematic education and training for all those involved in the implementation of the Convention, government officials, parliamentarians and members of the judiciary, and for all those working with and for children as well as continuous specific education for children themselves, with the aim of emphasizing the status of the child as a holder of human rights, increasing knowledge and understanding of the Convention and encouraging active respect for all its provisions;

14. *Urges* States parties to publish and widely disseminate the text of the Convention and the Optional Protocols thereto as well as national reports submitted to the Committee on the Rights of the Child and concluding observations and recommendations of that Committee to all, including children, by effective means, including the Internet, and also in appropriate languages and in child-friendly and other accessible formats;

15. *Encourages* States parties to take duly into account, in implementing the provisions of the Convention and the Optional Protocols thereto, the recommendations, observations and general comments of the Committee on the Rights of the Child;

16. *Welcomes* actions of the Committee on the Rights of the Child to follow up and monitor the implementation of its concluding observations and recommendations by the States parties and, in this regard, particularly underlines the regional workshops and the Committee's participation in national-level initiatives;

17. *Also welcomes* the role that the Office of the United Nations High Commissioner for Human Rights plays in promoting the implementation of the Convention and the Optional Protocol thereto, and, while noting with satisfaction the recent establishment of the Office-wide task force on the rights of the child, encourages the Office of the High Commissioner, in collaboration with the United Nations Children's Fund and other relevant United Nations agencies, to ensure further the systematic integration of child rights into its programmes and activities;

18. *Calls on* all States parties, while implementing the Convention and the Optional Protocol thereto, to work closely with civil society organizations, including child and youth-led organizations;

19. *Affirms* its commitment to integrate the provisions of the Convention and the Optional Protocols thereto into its work, in a regular, systematic and transparent manner, and requests special procedures and other human rights mechanisms of the Council to take into account the relevant provisions of the Convention and the Optional Protocols thereto in the fulfilment of their mandates;

20. *Calls on* States parties to integrate the Convention on the Rights of the Child and the Optional Protocols thereto in the universal periodic review process, and encourages States parties to take into account the relevant recommendations derived thereof in implementing the Convention and the Optional Protocols thereto;

21. *Encourages* States parties, while implementing the Committee's recommendations, to request, as appropriate, the technical support of United Nations agencies and other relevant international institutions in their country or region;

22. *Requests* the High Commissioner for Human Rights to prepare a summary of the full-day meeting on the rights of the child on an annual basis by way of follow-up to paragraph 7 of Council resolution 7/29;

23. *Recalling* Council resolution 7/29 and General Assembly resolution 63/241, expresses deep concern at the delay in the appointment of the Special Representative of the Secretary-General on Violence against Children, and requests the Secretary-General to proceed urgently to that appointment in accordance with Assembly resolution 62/141, and to report to the Council at its eleventh session on progress made in this regard;

24. *Decides* to continue its consideration of the rights of the child in accordance with its programme of work and with its resolution 7/29, and to focus its next resolution and full-day meeting on the fight against sexual violence against children.

43rd meeting

26 March 2009

[Adopted without a vote.]

**10/15. Protection of human rights and fundamental freedoms
while countering terrorism**

The Human Rights Council,

Reaffirming its decision 2/112 and its resolutions 6/28 and 7/7, and Commission on Human Rights resolutions 2003/68, 2004/87 and 2005/80, and recalling General Assembly resolutions 57/219, 58/187, 59/191, 60/158, 61/171, 62/159 and 63/185, and welcoming the efforts of all relevant stakeholders to implement those resolutions,

1. *Calls upon* States to ensure that any measure taken to counter terrorism complies with international law, in particular international human rights, refugee and humanitarian law;

2. *Expresses serious concern* at the violations of human rights and fundamental freedoms, as well as of refugee and international humanitarian law, in the context of countering terrorism;

3. *Deeply deplores* the suffering caused by terrorism to the victims and their families, expresses its profound solidarity with them and stresses the importance of providing them with proper assistance;

4. *Reaffirms* its unequivocal condemnation of all acts, methods and practices of terrorism in all its forms and manifestations, wherever and by whomsoever committed, regardless of their motivation, as criminal and unjustifiable, and renews its commitment to strengthen international cooperation to prevent and combat terrorism, and in that regard calls upon States and other relevant actors, as appropriate, to continue to implement the United Nations Global Counter-Terrorism Strategy, which, inter alia, reaffirms respect for human rights for all and the rule of law to be the fundamental basis of the fight against terrorism;

5. *Calls upon* States, while countering terrorism, to ensure that any person whose human rights or fundamental freedoms have been violated has access to an effective remedy and that victims will receive adequate, effective and prompt reparations where appropriate, including by bringing to justice those responsible for such violations;

6. *Urges* States, while countering terrorism, to protect all human rights, including economic, social and cultural rights, bearing in mind that certain counter-terrorism measures may have an impact on the enjoyment of these rights;

7. *Also urges* States, while countering terrorism, to respect the right to be equal before the courts and tribunals and to a fair trial, as provided for by international law, including international human rights law, such as article 14 of the International Covenant on Civil and Political Rights and, as applicable, international humanitarian law and refugee law;

8. *Invites* States to study the recent list of principles of the Working Group on Arbitrary Detention on the deprivation of liberty in the context of measures to counter terrorism related to articles 9 and 10 of the Universal Declaration of Human Rights and articles 9 and 14 of the International Covenant on Civil and Political Rights (A/HRC/10/21);

9. *Recognizes* that the universal periodic review mechanism may serve as a tool for the promotion and protection of human rights and fundamental freedoms while countering terrorism and urges all stakeholders to continue to increase their efforts in this regard;

10. *Acknowledges* the report of the Special Rapporteur on the promotion and protection of human rights while countering terrorism (A/HRC/10/3);

11. *Requests* all States to cooperate fully with the Special Rapporteur in the performance of the tasks and duties mandated, including by reacting promptly to the urgent appeals and providing the information requested, and also requests States to give serious consideration to responding favourably to requests by the Special Rapporteur to visit their countries;

12. *Requests* the Special Rapporteur, pursuant to his mandate, to prepare, working in consultation with States and other relevant stakeholders, a compilation of good practices on legal and institutional frameworks and measures that ensure respect for human rights by intelligence agencies while countering terrorism, including on their oversight, and to present the compilation in a report to the Council at its thirteenth session;

13. *Acknowledges* the report of the United Nations High Commissioner for Human Rights on the protection of human rights and fundamental freedoms while countering terrorism submitted to the Council (A/HRC/8/13) as well as the work to implement the mandate given to her by the Commission on Human Rights in its resolution 2005/80 and the General Assembly in its resolution 60/158 on the protection of human rights and fundamental freedoms while countering terrorism, and requests the High Commissioner to continue her efforts in this regard;

14. *Requests* the High Commissioner and the Special Rapporteur to contribute further appropriately to the ongoing discussion regarding efforts of States Members of the United Nations to assure adequate human rights guarantees to ensure fair and clear procedures, in particular with regard to placing and removing individuals and entities from terrorism-related sanctions lists;

15. *Stresses* the importance that relevant United Nations bodies and entities and international, regional and subregional organizations, in particular those that are participating in the Counter-Terrorism Implementation Task Force, which provide technical assistance related to the prevention and suppression of terrorism to consenting States include, as appropriate and where consistent with their mandates, the respect of international human rights law, and, as applicable, international humanitarian law and refugee law, as well as the rule of law, as an important element of technical assistance that they offer to States related to counter terrorism, including by drawing on the advice of, and otherwise ensuring the ongoing dialogue with, the special procedures of the Council within their mandates and the Office of the High Commissioner and relevant stakeholders;

16. *Requests* the High Commissioner and the Special Rapporteur to present their reports, bearing in mind the content of the present resolution, to the Council at its thirteenth session under agenda item 3, in conformity with its annual programme of work.

43rd meeting
26 March 2009
[Adopted without a vote.]

10/16. Situation of human rights in the Democratic People's Republic of Korea

The Human Rights Council,

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

Recalling all previous resolutions adopted by the Commission on Human Rights, the Human Rights Council and the General Assembly on the situation of human rights in the Democratic People's Republic of Korea, including Council resolution 7/15 of 27 March 2008 and General Assembly resolution 63/190 of 18 December 2008, and urging the implementation of those resolutions,

Bearing in mind paragraph 3 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,

Bearing in mind the reports on the situation of human rights in the Democratic People's Republic of Korea submitted by the Special Rapporteur (A/63/322 and A/HRC/10/18), and urging the implementation of the recommendations contained therein,

Having reviewed the mandate of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea,

Deeply concerned at the continuing reports of systematic, widespread and grave violations of civil, political, economic, social and cultural rights in the Democratic People's Republic of Korea and at the unresolved questions of international concern relating to the abduction of nationals of other States, and urging the Government of the Democratic People's Republic of Korea to respect all human rights and fundamental freedoms fully,

Deploring the grave, widespread and systematic human rights abuses in the Democratic People's Republic of Korea, in particular the use of torture and labour camps against political prisoners and repatriated citizens of the Democratic People's Republic of Korea,

Deeply regretting the refusal of the Government of the Democratic People's Republic of Korea to recognize the mandate of the Special Rapporteur or to extend full cooperation to him, and allow him access to the country,

Alarmed by the precarious humanitarian situation in the country,

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

Recognizing the vulnerability of women, children, persons with disabilities and the elderly, and the need to ensure their protection against neglect, abuse, exploitation and violence,

1. *Expresses* serious concern at ongoing grave, widespread and systematic human rights violations in the Democratic People's Republic of Korea;
2. *Commends* the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea for the activities undertaken so far and his continued efforts in the conduct of the mandate, despite the limited access to information;
3. *Decides* to extend the mandate of the Special Rapporteur, in accordance with Council resolution 7/15, for a period of one year;
4. *Urges* the Government of the Democratic People's Republic of Korea to cooperate fully with the Special Rapporteur and to permit him unrestricted access to visit the country and to provide him with all necessary information to enable him to fulfil his mandate;
5. *Also urges* the Government of the Democratic People's Republic of Korea to engage fully and positively with the universal periodic review process in December 2009, with a view to improving the human rights situation through effective engagement with the international community;
6. *Further urges* the Government of the Democratic People's Republic of Korea to ensure full, rapid and unimpeded access of humanitarian assistance that is delivered on the basis of need, in accordance with humanitarian principles;
7. *Encourages* the United Nations, including its specialized agencies, regional intergovernmental organizations, mandate-holders, interested institutions and independent experts and non-governmental organizations to develop regular dialogue and cooperation with the Special Rapporteur in the fulfilment of his mandate;
8. *Requests* the Secretary-General to provide the Special Rapporteur with all assistance and adequate staffing necessary to carry out his mandate effectively and to ensure that this mechanism works with the support of the Office of the United Nations High Commissioner for Human Rights;

9. *Invites* the Special Rapporteur to submit regular reports on the implementation of his mandate to the Council and the General Assembly.

*43rd meeting
26 March 2009*

[Adopted by a recorded vote of 26 to 6, with 15 abstentions. See chapter IV. The voting was as follows:

In favour: Argentina, Bahrain, Bosnia and Herzegovina, Burkina Faso, Cameroon, Canada, Chile, France, Germany, Ghana, Italy, Japan, Jordan, Madagascar, Mauritius, Mexico, Netherlands, Republic of Korea, Saudi Arabia, Slovakia, Slovenia, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Zambia;

Against: China, Cuba, Egypt, Indonesia, Nigeria, Russian Federation;

Abstaining: Angola, Azerbaijan, Bangladesh, Bolivia, Brazil, Djibouti, Gabon, India, Malaysia, Nicaragua, Pakistan, Philippines, Qatar, Senegal, South Africa.]

10/17. Human rights in the occupied Syrian Golan

The Human Rights Council,

Deeply concerned at the suffering of the Syrian citizens in the occupied Syrian Golan due to the systematic and continuous 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 63/99 of 5 December 2008, 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 Territories (A/63/401), in which the Committee referred to the grave deterioration of the human rights situation in 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 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, the most recent being resolution 7/30 of 28 March 2008,

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, in particular 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;

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 more than 23 years, and calls on Israel to treat them in conformity with international humanitarian law;

6. *Further calls upon* Israel, in this connection, 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 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 aim 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, of 12 August 1949, 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 this matter to the Council at its thirteenth session;

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

*43rd meeting
26 March 2009*

[Adopted by a recorded vote of 33 to 13, with 1 abstention. See chapter VII. The voting was as follows:

In favour: Angola, Argentina, Azerbaijan, Bahrain, Bangladesh, Bolivia, Brazil, Burkina Faso, Chile, China, Cuba, Djibouti, Egypt, Gabon, Ghana, India, Indonesia, Jordan, Madagascar, Malaysia, Mauritius, Mexico, Nicaragua, Nigeria, Pakistan, Philippines, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Uruguay, Zambia;

Against: Canada;

Abstaining: Bosnia and Herzegovina, Cameroon, France, Germany, Italy, Japan, Netherlands, Republic of Korea, Slovakia, Slovenia, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland.]

10/18. Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan

The Human Rights Council,

Guided by the principles of the Charter of the United Nations and affirming the inadmissibility of the acquisition of territory by force,

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

Recalling relevant resolutions of the Commission on Human Rights, the Human Rights Council, the Security Council and the General Assembly, reaffirming, inter alia, the illegality of the Israeli settlements in the occupied territories,

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

Considering that the transfer by the occupying Power of parts of its own civilian population into the territory it occupies constitutes a breach of the Fourth Geneva Convention and relevant provisions of customary law, including those codified in Additional Protocol I to the Geneva Conventions of 12 August 1949,

Recalling the advisory opinion rendered on 9 July 2004 by the International Court of Justice on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, and its conclusion that the Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, were established in breach of international law,

Recalling also General Assembly resolution ES-10/15 of 20 July 2004,

Affirming that the Israeli settlement activities in the Occupied Palestinian Territory constitute very serious violations of international humanitarian law and of the human rights of the Palestinian people therein and undermine international efforts, including the Annapolis Peace Conference of 27 November 2007 and the Paris International Donors' Conference for the Palestinian State of 17 December 2007, aimed at invigorating the peace process and establishing a viable, contiguous, sovereign and independent Palestinian State by the end of 2008,

Recalling its attachment to the implementation by both parties of their obligations under the Quartet road map to a permanent two-State solution to the Israeli-Palestinian conflict (S/2003/529, annex), and noting specifically its call for a freeze on all settlement activity,

Expressing its grave concern about the continuation by Israel, the occupying Power, of settlements building and expansion in the Occupied Palestinian Territory, in violation of international humanitarian law and relevant United Nations resolutions, including plans to expand and connect Israeli settlements around occupied East Jerusalem, thus threatening the creation of a contiguous Palestinian State,

Expressing its concern that continuing Israeli settlement activity undermines the realization of a two-State solution,

Expressing grave concern at the continuing construction, contrary to international law, by Israel of the wall inside the Occupied Palestinian Territory, including in and around East Jerusalem, and expressing its concern in particular about the route of the wall in departure from the Armistice Line of 1949, which could prejudge future negotiations and make the two-State solution physically impossible to implement and which is causing the Palestinian people further humanitarian hardship,

Deeply concerned that the route of the wall has been traced in such a way as to include the great majority of the Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem,

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

1. *Welcomes* the report of the Special Rapporteur on the situation of human rights in the Palestinian Territories occupied since 1967 (A/HRC/10/20), and calls upon the Government of Israel to cooperate with all relevant special rapporteurs in accordance with Council resolution S-9/1 to allow them to discharge their mandates fully;

2. *Deplores* the recent Israeli announcements of the construction of new housing units for Israeli settlers in the Occupied Palestinian Territory, particularly in and around occupied East Jerusalem, as they undermine the peace process and the creation of a contiguous, sovereign and independent Palestinian State and are in violation of international law and Israeli pledges at the Annapolis Peace Conference;

3. *Expresses its grave concern* at:

(a) The continuing Israeli settlement and related activities, in violation of international law, including the expansion of settlements, the expropriation of land, the demolition of houses, the confiscation and destruction of property, the expulsion of Palestinians and the construction of

bypass roads, which change the physical character and demographic composition of the Occupied Palestinian Territories, including East Jerusalem, and the Syrian Golan, and constitute a violation of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and in particular article 49 of that Convention; and recalls that settlements are a major obstacle to the establishment of a just and comprehensive peace and to the creation of an independent, viable, sovereign and democratic Palestinian State;

(b) The Israeli planned settlement construction in the vicinity of the Adam settlements in the occupied West Bank, which constitutes a new settlement block;

(c) The increasing number of newly built structures, in 2008 amounting to 1,257, including 748 permanent buildings and 509 mobile structures, which obstruct the efforts of the international community to advance the Middle East peace process;

(d) The implications for the final status negotiations of the announcement by Israel that it will retain the major settlement blocks in the Occupied Palestinian Territory, including settlements located in the Jordan Valley;

(e) The expansion of Israeli settlements and the construction of new ones in the Occupied Palestinian Territory rendered inaccessible behind the wall, which create a fait accompli on the ground that could well be permanent and would be tantamount to de facto annexation;

(f) The continued closures of and within the Occupied Palestinian Territory, and the restriction of the freedom of movement of people and goods, including the repeated closures of the crossing points of the Occupied Gaza Strip, which have created an extremely precarious humanitarian situation for the civilian population as well as impaired the economic and social rights of the Palestinian people;

(g) The continued construction, contrary to international law, of the wall inside the Occupied Palestinian Territory, including in and around East Jerusalem;

(h) The latest Israeli plan to demolish more than 88 houses in Al-Bustan neighbourhood of Silwan, which will result in the displacement of more than 1,500 Palestinian residents of East Jerusalem;

4. *Urges* Israel, the occupying Power:

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

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

5. *Urges* the full implementation of the Agreement on Movement and Access of 15 November 2005, particularly the urgent reopening of the Rafah and Karni crossings, which are crucial to the passage of foodstuffs and essential supplies, as well as the access of United Nations agencies to and within the Occupied Palestinian Territory;

6. *Calls upon* Israel to take and implement serious measures, including confiscation of arms and enforcement of criminal sanctions, with the aim of preventing acts of violence by Israeli settlers, and other measures to guarantee the safety and protection of the Palestinian civilians and Palestinian properties in the Occupied Palestinian Territory, including East Jerusalem;

7. *Calls upon* Israel to implement the recommendations regarding the settlements made by the United Nations High Commissioner for Human Rights in her report to the Commission on Human Rights on her visit to the Occupied Palestinian Territory, Israel, Egypt and Jordan (E/CN.4/2001/114);

8. *Demands* that Israel, the occupying Power, comply fully with its legal obligations, as mentioned in the advisory opinion rendered on 9 July 2004 by the International Court of Justice;

9. *Urges* the parties to give renewed impetus to the peace process in line with the Annapolis Peace Conference and the Paris International Donors’ Conference for the Palestinian State and to implement fully the road map endorsed by the Security Council in its resolution 1515 (2003) of 19 November 2003, with the aim of reaching a comprehensive political settlement in accordance with the resolutions of the Security Council, including resolutions 242 (1967) and 338 (1973), and other relevant United Nations resolutions, the

principles of the Peace Conference on the Middle East, held in Madrid on 30 October 1991, the Oslo accords and subsequent agreements, which will allow two States, Israel and Palestine, to live in peace and security;

10. *Decides* to continue the consideration of this question at its thirteenth session in March 2010.

*43rd meeting
26 March 2009*

[Adopted by a recorded vote of 46 to 1, with no abstention. See chapter VII, The voting was as follows:

In favour: Angola, Argentina, Azerbaijan, Bahrain, Bangladesh, Bolivia, Bosnia and Herzegovina, Brazil, Burkina Faso, Cameroon, Chile, China, Cuba, Djibouti, Egypt, France, Gabon, Germany, Ghana, India, Indonesia, Italy, Japan, Jordan, Madagascar, Malaysia, Mauritius, Mexico, Netherlands, Nicaragua, Nigeria, Pakistan, Philippines, Qatar, Republic of Korea, Russian Federation, Saudi Arabia, Senegal, Slovakia, Slovenia, South Africa, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Zambia;

Against: Canada.]

10/19. Human rights violations emanating from the Israeli military attacks and operations in the Occupied Palestinian Territory

The Human Rights Council,

Guided by the principles and objectives of the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenants on Human Rights,

Guided also by the right of the Palestinian people to self-determination and the inadmissibility of the acquisition of land by the use of force, as enshrined in the Charter of the United Nations,

Affirming the applicability of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Occupied Palestinian Territory, including East Jerusalem,

Affirming also the applicability of international human rights law to the Occupied Palestinian Territory, including East Jerusalem,

Expressing serious concern at the lack of implementation by the occupying Power, Israel, of previously adopted resolutions and recommendations of the Council relating to the human rights situation in the Occupied Palestinian Territory, including East Jerusalem,

Condemning all forms of violence against civilians and deploring the loss of human lives in the context of the current situation,

Recognizing that the Israeli military attacks and operations in the Occupied Palestinian Territory have caused severe violations of international humanitarian law and of the human rights of the Palestinian people therein and undermine international efforts towards achieving a just and lasting peace in the region based on the two-State solution,

Recognizing also that the Israeli siege imposed on the occupied Gaza Strip, including the closure of border crossings, leads to disastrous humanitarian, economic and environmental consequences,

1. *Demands* that the occupying Power, Israel, end its occupation of the Palestinian land occupied since 1967, and to respect its commitments within the peace process towards the establishment of the independent sovereign Palestinian State, with East Jerusalem as its capital, living in peace and security with all its neighbours;

2. *Strongly condemns* the Israeli military attacks and operations in the Occupied Palestinian Territory, particularly the recent ones in the occupied Gaza Strip, which have resulted in the killing and injury of thousands of Palestinians civilians, including a large number of women and children, and also condemns the firing of crude rockets on Israeli civilians;

3. *Demands* that the occupying Power, Israel, stop the targeting of civilians and the systematic destruction of the cultural heritage of the Palestinian people, in addition to the destruction of public and private properties, and the targeting of United Nations facilities, as laid down in the Fourth Geneva Convention;

4. *Also demands* that Israel, the occupying Power, cease immediately all current excavations beneath and around the Al-Aqsa Mosque compound, and refrain from any act that may endanger the structure or change the nature of the holy sites both Islamic and Christian, in the Occupied Palestinian Territory, particularly in and around Jerusalem;

5. *Calls for* immediate protection of all civilians including an international protection for the Palestinian people in the Occupied Palestinian Territory, in compliance with international human rights and humanitarian law both applicable in the Occupied Palestinian Territory, including East Jerusalem;

6. *Also calls for* the immediate cessation of all Israeli military attacks and operations throughout the Occupied Palestinian Territory and of the firing of crude rockets by Palestinian combatants against southern Israel;

7. *Also demands* that the occupying Power, Israel, immediately stop its illegal decision to demolish a large number of Palestinian houses in the East Jerusalem neighbourhood of Al-Bustan in the Selwan area, near the Al-Aqsa Mosque, which will result in the displacement of more than 1,500 Palestinian residents of East Jerusalem;

8. *Demands* that the occupying Power, Israel, release Palestinian prisoners and detainees;

9. *Calls upon* the occupying Power, Israel, to lift checkpoints and to open all crossing points and borders in accordance with international agreements;

10. *Urges* all parties concerned to respect the rules of international human rights and humanitarian law and to refrain from violence against civilian populations;

11. *Decides* to continue the consideration of this question at its thirteenth session in March 2010.

*43rd meeting
26 March 2009*

[Adopted by a recorded vote of 35 to 4, with 8 abstentions. See chapter VII. The voting was as follows:

In favour: Angola, Argentina, Azerbaijan, Bahrain, Bangladesh, Bolivia, Bosnia and Herzegovina, Brazil, Burkina Faso, Chile, China, Cuba, Djibouti, Egypt, Gabon, Ghana, India, Indonesia, Jordan, Madagascar, Malaysia, Mauritius, Mexico, Nicaragua, Nigeria, Pakistan, Philippines, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Switzerland, Uruguay, Zambia;

Against: Canada, Germany, Italy, Netherlands;

Abstaining: Cameroon, France, Japan, Republic of Korea, Slovakia, Slovenia, Ukraine, United Kingdom of Great Britain and Northern Ireland.]

10/20. Right of the Palestinian people to self-determination

The Human Rights Council,

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

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

Guided further by the International Covenants on Human Rights, the Universal Declaration of Human Rights, the Declaration on the Granting of Independence to Colonial Countries and Peoples and the provisions of the Vienna Declaration and Programme of Action, adopted on 25 June 1993 by the World Conference on Human Rights (A/CONF.157/23), and in particular part I, paragraphs 2 and 3, relating to the right of self-determination of all peoples and especially those subject to foreign occupation,

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

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

Recalling further the conclusion of the International Court of Justice, in its advisory opinion of 9 July 2004, that the construction of the wall by Israel, the occupying Power,

in the Occupied Palestinian Territory, including East Jerusalem, along with measures previously taken, severely impedes the right of the Palestinian people to self-determination,

Recalling the resolutions adopted in this regard by the Commission on Human Rights, the latest being resolution 2005/1 of 7 April 2005,

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

1. *Reaffirms* the inalienable, permanent and unqualified right of the Palestinian people to self-determination, including their right to live in freedom, justice and dignity and to establish their sovereign, independent, democratic and viable contiguous State;

2. *Also reaffirms* its support for the solution of two States, Palestine and Israel, living side by side in peace and security;

3. *Stresses* the need for respect for and preservation of the territorial unity, contiguity and integrity of all of the Occupied Palestinian Territory, including East Jerusalem;

4. *Urges* all Member States and relevant bodies of the United Nations system to support and assist the Palestinian people in the early realization of their right to self-determination;

5. *Decides* to continue the consideration of this question at its thirteenth session in March 2010.

43rd meeting
26 March 2009
[Adopted without a vote.]

10/21. Follow-up to Council resolution S-9/1 on the grave violations of human rights in the Occupied Palestinian Territory, particularly due to the recent Israeli military attacks against the occupied Gaza Strip

The Human Rights Council,

Recalling its resolution S-9/1 of 12 January 2009,

Recalling also its decision to dispatch an urgent, independent international fact-finding mission, to be appointed by the President of the Council, to investigate all violations of international human rights law and international humanitarian law by the occupying Power, Israel, against the Palestinian people throughout the Occupied Palestinian Territory, particularly in the occupied Gaza Strip, due to the latest aggression, and that it called upon Israel not to obstruct the process of investigation and to fully cooperate with the mission,

Expressing with regret that resolution S-9/1 has not been fully implemented to date,

1. *Requests* the President of the Council to continue his tireless efforts to appoint the independent international fact-finding mission;
2. *Calls upon* the occupying Power, Israel, to abide by its obligations under international law, international humanitarian law and international human rights law;
3. *Demands* that the occupying Power, Israel, fully cooperate with all relevant special procedures mandate-holders in the discharge of their mandates;
4. *Also demands* that the occupying Power, Israel, facilitate and provide unhindered access to the members of the independent international fact-finding mission;
5. *Decides* to remain seized of the matter.

*43rd meeting
26 March 2009*

[Adopted by a recorded vote of 33 to 1, with 13 abstentions. See chapter VII. The voting was as follows:

In favour: Angola, Argentina, Azerbaijan, Bahrain, Bangladesh, Bolivia, Brazil, Burkina Faso, Chile, China, Cuba, Djibouti, Egypt, Gabon, Ghana, India, Indonesia, Jordan,

Madagascar, Malaysia, Mauritius, Mexico, Nicaragua, Nigeria, Pakistan, Philippines, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Uruguay, Zambia;

Against: Canada;

Abstaining: Bosnia and Herzegovina, Cameroon, France, Germany, Italy, Japan, Netherlands, Republic of Korea, Slovakia, Slovenia, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland.]

10/22. Combating defamation of religions

The Human Rights Council,

Reaffirming the pledge made by all States under the Charter of the United Nations to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion,

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

Recalling the 2005 World Summit Outcome adopted by the General Assembly in its resolution 60/1 of 16 September 2005, in which the Assembly emphasized the responsibilities of all States, in conformity with the Charter of the United Nations, to respect human rights and fundamental freedoms for all, without distinction of any kind, and acknowledged the importance of respect and understanding for religious and cultural diversity throughout the world,

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

Welcoming the resolve expressed in the United Nations Millennium Declaration, adopted by the General Assembly on 8 September 2000, to take measures to eliminate the increasing acts of racism and xenophobia in many societies and to promote greater harmony and tolerance in all societies, and looking forward to its effective implementation at all levels,

Underlining in this regard 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, welcoming the progress

achieved in implementing them, and emphasizing that they constitute a solid foundation for the elimination of all scourges and manifestations of racism, racial discrimination, xenophobia and related intolerance,

Welcoming all international and regional initiatives to promote cross-cultural and interfaith harmony, including the Alliance of Civilizations and the International Dialogue on Interfaith Cooperation for Peace and Harmony, and their valuable efforts in the promotion of a culture of peace and dialogue at all levels,

Welcoming also the reports of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance submitted to the Council at its fourth, sixth and ninth sessions (A/HRC/4/19, A/HRC/6/6 and A/HRC/9/12), in which the Special Rapporteur highlighted the serious nature of the defamation of all religions and the need to complement legal strategies,

Noting with deep concern the instances of intolerance, discrimination and acts of violence against followers of certain faiths occurring in many parts of the world, in addition to the negative projection of certain religions in the media and the introduction and enforcement of laws and administrative measures that specifically discriminate against and target persons with certain ethnic and religious backgrounds, particularly Muslim minorities following the events of 11 September 2001, and that threaten to impede their full enjoyment of human rights and fundamental freedoms,

Stressing that defamation of religions is a serious affront to human dignity leading to a restriction on the freedom of religion of their adherents and incitement to religious hatred and violence,

Noting with concern that defamation of religions and incitement to religious hatred in general could lead to social disharmony and violations of human rights, and alarmed at the inaction of some States to combat this burgeoning trend and the resulting discriminatory practices against adherents of certain religions and, in this context, stressing the need to effectively combat defamation of all religions and incitement to religious hatred in general and against Islam and Muslims in particular,

Convinced that respect for cultural, ethnic, religious and linguistic diversity, as well as dialogue among and within civilizations, are essential for global peace and understanding, while manifestations of cultural and ethnic prejudice, religious intolerance and xenophobia generate hatred and violence among peoples and nations,

Underlining the important role of education in the promotion of tolerance, which involves acceptance by the public of and its respect for diversity,

Noting the various regional and national initiatives to combat religious and racial intolerance against specific groups and communities and emphasizing, in this context, the need to adopt a comprehensive and non-discriminatory approach to ensure respect for all races and religions,

Recalling its resolution 7/19 of 27 March 2008 and General Assembly resolution 63/171 of 18 December 2008,

1. *Takes note* of the study of the United Nations High Commissioner for Human Rights on the compilation of existing legislation and jurisprudence concerning defamation of and contempt for religions (A/HRC/9/25) and the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/HRC/9/12) presented to the Council at its ninth session;

2. *Expresses deep concern* at the negative stereotyping and defamation of religions and manifestations of intolerance and discrimination in matters of religion or belief still evident in the world, which have led to intolerance against the followers of these religions;

3. *Strongly deplores* all acts of psychological and physical violence and assaults, and incitement thereto, against persons on the basis of their religion or belief, and such acts directed against their businesses, properties, cultural centres and places of worship, as well as targeting of holy sites, religious symbols and venerated personalities of all religions;

4. *Expresses deep concern* at the continued serious instances of deliberate stereotyping of religions, their adherents and sacred persons in the media, as well as programmes and agendas pursued by extremist organizations and groups aimed at creating and perpetuating stereotypes about certain religions, in particular when condoned by Governments;

5. *Notes with deep concern* the intensification of the overall campaign of defamation of religions and incitement to religious hatred in general, including the ethnic and religious profiling of Muslim minorities in the aftermath of the tragic events of 11 September 2001;

6. *Recognizes* that, in the context of the fight against terrorism, defamation of religions and incitement to religious hatred in general have become aggravating factors that contribute to the denial of fundamental rights and freedoms of members of target groups, as well as to their economic and social exclusion;

7. *Expresses deep concern* in this respect that Islam is frequently and wrongly associated with human rights violations and terrorism and, in this regard, regrets the laws or administrative measures specifically designed to control and monitor Muslim minorities, thereby stigmatizing them and legitimizing the discrimination they experience;

8. *Reaffirms* the commitment of all States to the implementation, in an integrated manner, of the United Nations Global Counter-Terrorism Strategy, adopted without a vote by the General Assembly in its resolution 60/288 of 8 September 2006 and reaffirmed by the Assembly in its resolution 62/272 of 5 September 2008, in which it clearly reaffirms, inter alia, that terrorism cannot and should not be associated with any religion, nationality, civilization or group, as well as the need to reinforce the commitment of the international community to promote, among other things, a culture of peace and respect for all religions, beliefs, and cultures and to prevent the defamation of religions;

9. *Deplores* the use of the print, audio-visual and electronic media, including the Internet, and any other means to incite acts of violence, xenophobia or related intolerance and discrimination against any religion, as well as the targeting of religious symbols and venerated persons;

10. *Emphasizes* that, as stipulated in international human rights law, including articles 19 and 29 of the Universal Declaration of Human Rights and articles 19 and 20 of the International Covenant on Civil and Political Rights, everyone has the right to hold opinions without interference and the right to freedom of expression, the exercise of which carries with it

special duties and responsibilities and may therefore be subject to limitations only as provided for by law and are necessary for respect of the rights or reputations of others, protection of national security or of public order, public health or morals and general welfare;

11. *Reaffirms* that general comment No. 15 of the Committee on the Elimination of Racial Discrimination, in which the Committee stipulated that the prohibition of the dissemination of all ideas based upon racial superiority or hatred is compatible with freedom of opinion and expression, is equally applicable to the question of incitement to religious hatred;

12. *Strongly condemns* all manifestations and acts of racism, racial discrimination, xenophobia and related intolerance against national or ethnic, religious and linguistic minorities and migrants and the stereotypes often applied to them, including on the basis of religion or belief, and urges all States to apply and, where required, reinforce existing laws when such xenophobic or intolerant acts, manifestations or expressions occur, in order to deny impunity for those who commit such acts;

13. *Urges* all States to provide, within their respective legal and constitutional systems, adequate protection against acts of hatred, discrimination, intimidation and coercion resulting from defamation of religions and incitement to religious hatred in general, and to take all possible measures to promote tolerance and respect for all religions and beliefs;

14. *Underscores* the need to combat defamation of religions and incitement to religious hatred in general by strategizing and harmonizing actions at the local, national, regional and international levels through education and awareness-building;

15. *Calls upon* all States to make the utmost effort, in accordance with their national legislation and in conformity with international human rights and humanitarian law, to ensure that religious places, sites, shrines and symbols are fully respected and protected, and to take additional measures in cases where they are vulnerable to desecration or destruction;

16. *Calls for* strengthened international efforts to foster a global dialogue for the promotion of a culture of tolerance and peace at all levels, based on respect for human rights and diversity of religions and beliefs, and urges States, non-governmental organizations, religious leaders as well as the print and electronic media to support and foster such a dialogue;

17. *Expresses its appreciation* to the High Commissioner for holding a seminar on freedom of expression and advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence, in October 2008, and requests her to continue to build on this initiative, with a view to contributing concretely to the prevention and elimination of all such forms of incitement and the consequences of negative stereotyping of religions or beliefs, and their adherents, on the human rights of those individuals and their communities;

18. *Requests* the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance to report on all manifestations of defamation of religions, and in particular on the serious implications of Islamophobia, on the enjoyment of all rights by their followers, to the Council at its twelfth session;

19. *Requests* the High Commissioner for Human Rights to report to the Council at its twelfth session on the implementation of the present resolution, including on the possible correlation between defamation of religions and the upsurge in incitement, intolerance and hatred in many parts of the world.

*43rd meeting
26 March 2009*

[Adopted by a recorded vote of 23 to 11, with 13 abstentions. See chapter IX. The voting was as follows:

In favour: Angola, Azerbaijan, Bahrain, Bangladesh, Bolivia, Cameroon, China, Cuba, Djibouti, Egypt, Gabon, Indonesia, Jordan, Malaysia, Nicaragua, Nigeria, Pakistan, Philippines, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa;

Against: Canada, Chile, France, Germany, Italy, Netherlands, Slovakia, Slovenia, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland;

Abstaining: Argentina, Brazil, Bosnia and Herzegovina, Burkina Faso, Ghana, India, Japan, Madagascar, Mauritius, Mexico, Republic of Korea, Uruguay, Zambia.]

10/23. Independent Expert in the field of cultural rights

The Human Rights Council,

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

Recalling the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Vienna Declaration and Programme of Action, and all other relevant human rights instruments,

Recalling also all relevant resolutions of the General Assembly, the Commission on Human Rights and the Human Rights Council, including Assembly resolutions 62/155 of 18 December 2007 and 63/22 of 13 November 2008, and Council resolution 6/6 of 28 September 2007,

Noting the declarations within the United Nations system on cultural diversity and international cultural cooperation, in particular the Declaration of the Principles of International Cultural Cooperation and the Universal Declaration on Cultural Diversity, adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization in 1966 and 2001 respectively,

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 all mandate-holders shall discharge their duties in accordance with these resolutions and annexes thereto,

Welcoming the increasing number of States parties to the Convention on the Protection and Promotion of the Diversity of Cultural Expressions, adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization on 20 October 2005 and which entered into force on 18 March 2007,

Convinced that international cooperation in promoting and encouraging respect for human rights and fundamental freedoms for all should be based on an understanding of the economic, social and cultural specificities of each country and on the full realization and recognition of the universality of all human rights and the principles of freedom, justice, equality and non-discrimination,

Recognizing that cultural diversity and the pursuit of cultural development by all peoples and nations are a source of mutual enrichment for the cultural life of humankind,

Determined to treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis,

1. *Reaffirms* that cultural rights are an integral part of human rights, which are universal, indivisible, interrelated and interdependent;
2. *Recognizes* the right of everyone to take part in cultural life and to enjoy the benefits of scientific progress and its applications;
3. *Reaffirms* that, while the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of the States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms;
4. *Recalls*, as expressed in the Universal Declaration on Cultural Diversity, that no one may invoke cultural diversity to infringe upon human rights guaranteed by international law, nor to limit their scope;
5. *Reaffirms* that States have the responsibility to promote and protect cultural rights;
6. *Takes note* of the report of the United Nations High Commissioner for Human Rights on the promotion of the enjoyment of the cultural rights of everyone and respect for cultural diversity (A/HRC/10/60);
7. *Expresses its appreciation* to the States and intergovernmental and non-governmental organizations that responded to or participated in the consultations held pursuant to Commission on Human Rights resolutions 2002/26 of 22 April 2002, 2003/26 of 22 April 2003, 2004/20 of 16 April 2004 and 2005/20 of 14 April 2005, and pursuant to Council resolution 6/6 of 28 September 2007;

8. *Recognizes* that respect for the cultural diversity and cultural rights of all enhances cultural pluralism, contributing to a wider exchange of knowledge and understanding of cultural background, advancing the application and enjoyment of human rights throughout the world and fostering stable, friendly relations among peoples and nations worldwide;

9. *Decides* to establish, for a period of three years, a new special procedure entitled “Independent Expert in the field of cultural rights”, as set out in the relevant United Nations human rights instruments, with the following mandate:

(a) To identify best practices in the promotion and protection of cultural rights at the local, national, regional and international levels;

(b) To identify possible obstacles to the promotion and protection of cultural rights, and to submit proposals and/or recommendations to the Council on possible actions in that regard;

(c) To work in cooperation with States in order to foster the adoption of measures at the local, national, regional and international levels aimed at the promotion and protection of cultural rights through concrete proposals enhancing subregional, regional and international cooperation in that regard;

(d) To study the relationship between cultural rights and cultural diversity, in close collaboration with States and other relevant actors, including in particular the United Nations Educational, Scientific and Cultural Organization, with the aim of further promoting cultural rights;

(e) To integrate a gender and disabilities perspective into his and her work;

(f) To work in close coordination, while avoiding unnecessary duplication, with intergovernmental and non-governmental organizations, other special procedures of the Council, the Committee on Economic, Social and Cultural Rights and the United Nations Educational, Scientific and Cultural Organization, as well as with other relevant actors representing the broadest possible range of interests and experiences, within their respective mandates, including by attending and following up on relevant international conferences and events;

10. *Calls upon* all Governments to cooperate with and assist the independent expert in the discharge of his or her mandate, to provide him or her with all the necessary information requested by him or her and to give serious consideration to responding favourably to his or her requests to visit their countries in order to enable him or her to fulfil his or her duties effectively;

11. *Requests* the High Commissioner to provide all the necessary human and financial resources for the effective fulfilment of the mandate by the independent expert;

12. *Requests* the independent expert to present his or her first report to the Council in March 2010 in accordance with its programme of work;

13. *Decides* to continue its consideration of this matter under the same agenda item in accordance with its programme of work.

*43rd meeting
26 March 2009
[Adopted without a vote.]*

10/24. Torture and other cruel, inhuman or degrading treatment or punishment: the role and responsibility of medical and other health personnel

The Human Rights Council,

Recalling all resolutions on torture and other cruel, inhuman or degrading treatment or punishment and on forensic science adopted by the General Assembly, the Commission on Human Rights and the Human Rights Council,

Recalling also the Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

Reaffirming that no one shall be subjected to torture or to other cruel, inhuman or degrading treatment or punishment,

Recalling that freedom from torture and other cruel, inhuman or degrading treatment or punishment is a non-derogable right that must be protected under all circumstances, including in

times of international or internal armed conflict or disturbance and state of emergency, and that the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment is affirmed in relevant international instruments,

Noting the duty of medical and other health personnel to practice for the good of the patients and never do harm or injustice pursuant to the Hippocratic Oath and their respective professional codes of ethics,

Recalling that it is a gross contravention of medical ethics for medical and other health personnel to engage, actively or passively, in acts which constitute participation in, complicity in, incitement to or attempts to commit torture or other cruel, inhuman or degrading treatment or punishment pursuant to the Principles of Medical Ethics,

Stressing that medical and other health personnel have a duty to provide competent medical service in full professional and moral independence, with compassion and respect for human dignity, and to always bear in mind human life and to act in the patient's best interest under their respective professional codes of ethics,

Noting the duty of all medical and other health personnel to report or denounce acts of torture or cruel, inhuman or degrading treatment of which they are aware to relevant medical, judicial, national or international authorities as appropriate under and consistent with their respective professional codes of ethics,

Noting also that, under the Geneva Conventions of 1949, torture and inhuman treatment are a grave breach and that under the statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, the statute of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 and the Rome Statute of the International Criminal Court, acts of torture can constitute crimes against humanity and, when committed in a situation of armed conflict, constitute war crimes,

1. *Condemns* all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment;
2. *Emphasizes* that States must take persistent, determined and effective measures to prevent and combat torture and other cruel, inhuman or degrading treatment or punishment, and stresses that all acts of torture must be made offences under domestic criminal law;
3. *Stresses* that an order or instruction from a superior officer or a public authority should not be invoked as a justification of torture or other cruel, inhuman or degrading treatment or punishment and that States must never request or require anyone, including any medical or other health personnel, to commit any act of torture or other cruel, inhuman or degrading treatment or punishment;
4. *Urges* States to respect the professional and moral independence, duties and responsibilities of medical and other health personnel;
5. *Also urges* States to ensure that all medical and other health personnel may fulfil their duty to report or denounce acts of torture or cruel, inhuman or degrading treatment of which they are aware to relevant medical, judicial, national or international authorities as appropriate under and consistent with their respective codes of ethics, without fear of retribution or harassment;
6. *Stresses* that all allegations of torture and other cruel, inhuman or degrading treatment or punishment must be examined promptly and impartially by the competent domestic authority, including where relevant through examination by forensic experts and other relevant medical personnel, in order for those who encourage, order, tolerate or perpetrate such acts to be held responsible, brought to justice and punished commensurate with the severity of the offence;

7. *Urges* States to establish effective investigation and documentation procedures, and takes note of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as a useful tool in this respect;

8. *Stresses* that States must not punish or otherwise intimidate medical and other health personnel for not obeying orders or instructions to commit, facilitate or conceal acts amounting to torture or other cruel, inhuman or degrading treatment or punishment or for speaking out against it;

9. *Urges* all States to provide all persons deprived of their liberty, in prisons or any other detention facility, with a professional medical examination at their admission to and transfer between such facilities and thereafter on a regular basis as a means to help prevent torture or other cruel, inhuman or degrading treatment or punishment;

10. *Also urges* all States to provide all persons deprived of their liberty with protection of their physical and mental health, treatment of any disease or care specifically needed by persons with disabilities of the same quality and standard as is afforded to persons not deprived of their liberty as a means to help prevent torture or other cruel, inhuman or degrading treatment or punishment;

11. *Recognizes* that forensic investigation can play an important role in combating impunity by providing the evidentiary basis on which prosecutions can successfully be brought against persons responsible for violations of human rights and, where applicable, international humanitarian law and encourages further coordination concerning, inter alia, the planning and realization of such investigations, as well as the protection of forensic and related experts, between Governments, intergovernmental organizations and non-governmental organizations;

12. *Calls upon* all States to ensure that education and information regarding the absolute prohibition of torture and cruel, inhuman or degrading treatment or punishment are fully included in the training of medical and other health personnel who may be involved in the custody, interrogation and treatment of any individual subjected to any form of arrest, detention or imprisonment;

13. *Urges* all States that have not yet done so to become parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as a matter of priority and calls upon States parties to give early consideration to signing and ratifying the Optional Protocol to the Convention;

14. *Welcomes* the designation or establishment of independent national preventive mechanisms to prevent torture, with the participation of relevant medical and other health personnel, encourages all States that have not yet established such mechanisms to do so and calls upon States parties to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to fulfil their obligation to designate or establish truly independent and effective national preventive mechanisms;

15. *Requests* the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and other relevant special procedures and invites relevant treaty bodies, within their respective mandates:

(a) To remain vigilant with regard to medical and other health personnel's active or passive participation in torture and other cruel, inhuman or degrading treatment or punishment and to their functional independence of the institution in which they serve;

(b) To discuss possible areas of cooperation with the relevant United Nations bodies, specialized agencies and programmes, in particular the World Health Organization, to address the role and responsibility of medical and other health personnel in the documentation and prevention of torture and other cruel, inhuman or degrading treatment or punishment;

(c) To respond effectively to credible and reliable information submitted to their attention regarding alleged cases of the active or passive participation of medical and other health personnel in torture and other cruel, inhuman or degrading treatment or punishment;

(d) To consider including in their reports submitted to the Council information on the problem of medical and other health personnel's participation in torture and other cruel, inhuman or degrading treatment or punishment;

16. *Also requests* States to cooperate fully and in good faith with the relevant special procedures;

17. *Calls upon* the Office of the United Nations High Commissioner for Human Rights to continue to provide advisory services to States for the prevention of torture and cruel, inhuman or degrading treatment or punishment, including concerning tools, for the investigation of alleged cases of torture;

18. *Takes note* of the report of the Special Rapporteur (A/HRC/10/44).

*44th meeting
27 March 2009*

[Adopted by a recorded vote of 34 to 0, with 13 abstentions. See chapter III. The voting was as follows:

In favour: Angola, Argentina, Azerbaijan, Bolivia, Bosnia and Herzegovina, Brazil, Burkina Faso, Cameroon, Canada, Chile, Cuba, France, Gabon, Germany, Indonesia, Italy, Japan, Madagascar, Mauritius, Mexico, Netherlands, Nicaragua, Nigeria, Philippines, Republic of Korea, Russian Federation, Slovakia, Slovenia, South Africa, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Zambia;

Abstaining: Bahrain, Bangladesh, China, Djibouti, Egypt, Ghana, India, Jordan, Malaysia, Pakistan, Qatar, Saudi Arabia, Senegal.]

10/25. Discrimination based on religion or belief and its impact on the enjoyment of economic, social and cultural rights

The Human Rights Council,

Recalling General Assembly resolution 36/55 of 25 November 1981, in which the Assembly proclaimed the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief,

Recalling also article 18 of the International Covenant on Civil and Political Rights, article 18 of the Universal Declaration of Human Rights, article 2 (2) of the International Covenant on Economic, Social and Cultural Rights and other relevant human rights provisions,

Recalling further its resolution 6/37 of 14 December 2007 and the resolutions on the elimination of all forms of intolerance and of discrimination based on religion or belief adopted by the General Assembly and by the Commission on Human Rights,

Noting with interest the recent adoption of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights by the General Assembly,

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

Firmly believing that further intensified and strong efforts are required to promote and protect the right to freedom of thought, conscience and religion or belief and to eliminate all forms of hatred, intolerance and discrimination based on religion or belief, as also noted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance,

Noting that a formal or legal distinction at the national level between different kinds of faith-based communities may constitute discrimination and may impinge on the enjoyment of the freedom of religion or belief,

Recognizing that persons belonging to religious minorities are often particularly vulnerable to discrimination based on religion or belief with regard to the enjoyment of all their human rights and fundamental freedoms, including their economic, social and cultural rights,

Seriously concerned at all attacks on religious places, sites and shrines, including any deliberate destruction on relics and monuments, particularly when in violation of international law, in particular human rights and humanitarian law,

Recognizing the importance of enhanced inter-religious and intra-religious dialogue in promoting tolerance in matters relating to religion or belief, and welcoming different initiatives in this regard, including the Alliance of Civilizations and the programmes led by the United Nations Educational, Scientific and Cultural Organization,

Emphasizing that States, regional organizations, non-governmental organizations, religious bodies and the media have an important role to play in promoting tolerance, respect for religious and cultural diversity and in the universal promotion and protection of human rights, including freedom of religion or belief,

1. *Condemns* all forms of intolerance and discrimination based on religion or belief as well as violations of the freedom of thought, conscience, religion or belief;

2. *Stresses* that the right to freedom of thought, conscience and religion applies equally to all people, regardless of their religions or beliefs, and without any discrimination as to their equal protection by the law;

3. *Welcomes* the report presented by the Special Rapporteur on freedom of religion or belief (A/HRC/10/8) addressing discrimination based on religion or belief and its impact on the enjoyment of economic, social and cultural rights, and encourages States to consider implementing the recommendations contained therein;

4. *Emphasizes* that discrimination based on religion or belief often has an adverse impact on the enjoyment of economic, social and cultural rights, particularly with regard to persons belonging to religious minorities and other persons in vulnerable situations;

5. *Urges* States:

(a) To ensure that everyone has the right, *inter alia*, to education, work, an adequate standard of living, the enjoyment of the highest attainable standard of physical and mental health and to take part in cultural life, without any discrimination on the basis of religion or belief;

(b) To ensure that no one is discriminated against on the basis of his or her religion or belief, in particular with regard to access to, *inter alia*, humanitarian assistance, social benefits or the public service in one's country;

(c) To ensure that no one is affected, because of his or her religion or belief, in the enjoyment of his or her economic, social and cultural rights by, *inter alia*, discriminatory laws on housing, property or land trust, or any discriminatory practices;

(d) To take the necessary measures, in accordance with international human rights law, to combat discrimination based on religion or belief by non-State actors, with particular regard to members of religious minorities and other persons in vulnerable situations;

(e) To devote particular attention to discriminatory practices against women on the basis of their religion or belief that adversely affect the enjoyment of their economic, social and cultural rights;

(f) To ensure that appropriate legal and other remedies, in accordance with international human rights law, are available to individuals in order to allow them to seek redress against discrimination based on religion or belief that affects the enjoyment of their economic, social and cultural rights;

(g) To promote and encourage, through all available means, including education and inter-religious dialogue, understanding, tolerance and respect in all matters relating to freedom of religion or belief and religious tolerance, and to make all appropriate efforts to encourage those engaged in teaching, as well as social workers, to promote mutual understanding, tolerance and respect;

6. *Welcomes and encourages* the continuing efforts of all actors in society, including non-governmental organizations and bodies and groups based on religion or belief, to promote the implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, and further encourages their work in promoting freedom of religion or belief and in highlighting cases of religious intolerance, discrimination and persecution;

7. *Requests* the Special Rapporteur to submit her next annual report to the Council at its thirteenth session;

8. *Decides* to remain seized of the question of the elimination of all forms of intolerance and discrimination based on religion or belief under the same agenda item.

*44th meeting
27 March 2009*

[Adopted by a recorded vote of 22 to 1, with 24 abstentions. See chapter III. The voting was as follows:

In favour: Angola, Argentina, Brazil, Canada, Chile, France, Germany, India, Italy, Japan, Mauritius, Mexico, Netherlands, Nicaragua, Republic of Korea, Russian Federation, Slovakia, Slovenia, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay;

Against: South Africa;

Abstaining: Azerbaijan, Bahrain, Bangladesh, Bolivia, Bosnia and Herzegovina, Burkina Faso, Cameroon, China, Cuba, Djibouti, Egypt, Gabon, Ghana, Indonesia, Jordan, Madagascar, Malaysia, Nigeria, Pakistan, Philippines, Qatar, Saudi Arabia, Senegal, Zambia.]

10/26. Forensic genetics and human rights

The Human Rights Council,

Recalling the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Geneva Conventions of 12 August 1949, and the Additional Protocols thereto of 1977, and other relevant instruments of international human rights law and international humanitarian law, as well as the Vienna Declaration and Programme of Action,

Taking into account resolution 2005/66 of the Commission on Human Rights, decision 2/105 and resolution 9/11 of the Council and the reports of the Office of the United Nations High Commissioner for Human Rights (E/CN.4/2006/91 and A/HRC/5/7) on the right to the truth,

Taking into account also resolutions 1993/33, 1994/31, 1996/31, 1998/36, 2000/32, 2003/33 and 2005/26 of the Commission on Human Rights on human rights and forensic science,

Recalling article 32 of Additional Protocol I to the Geneva Conventions, of 12 August 1949, which recognizes the right of families to know the fate of their relatives, article 33 of Additional Protocol I, which provides that the parties to an armed conflict shall search for the persons who have been reported missing as soon as circumstances permit, and article 24 (2) of the International Convention for the Protection of All Persons from Enforced Disappearance, which sets out the right of victims to know the truth regarding the circumstances of the enforced disappearance, the progress and results of the investigation and the fate of the disappeared person, and sets forth State party obligations to take appropriate measures in this regard,

Recalling also General Assembly resolution 61/155 on missing persons, in which the Assembly emphasized the importance of forensics in identifying such persons and recognized the progress achieved in this regard with the development of genetics, as well as the report of the Secretary-General on missing persons (A/63/299),

Noting the report of the International Committee of the Red Cross on missing persons and their families of February 2003,

Stressing that adequate steps to identify victims should also be taken in situations of serious violations of human rights and, in the context of armed conflicts, of violations of international humanitarian law,

Recognizing the importance of restoring identity to those persons who were separated from their families of origin, including those cases where they were taken away from their relatives when they were children, in situations of serious violations of human rights and, in the context of armed conflicts, of violations of international humanitarian law,

Recognizing also that forensic genetics, when applied in an independent manner and subject to international standards, may effectively contribute to the identification of remains of victims, to the restitution of identity to those persons illegally taken away and to address the issue of impunity,

Mindful of the fact that ethical issues arising from the swift progress of science and its technological uses must be examined not only in the light of due respect for a human being's dignity, but also of the observance of human rights and fundamental freedoms, and recalling in this regard the Universal Declaration on Bioethics and Human Rights, the International Declaration on Human Genetic Data and the Universal Declaration on the Human Genome and Human Rights of the United Nations Educational, Scientific and Cultural Organization,

1. *Encourages* States to consider the use of forensic genetics to contribute to the identification of the remains of victims of serious violations of human rights and of international humanitarian law, and to address the issue of impunity;

2. *Also encourages* States to consider the use of forensic genetics to contribute to the restoration of the identity to those persons who were separated from their families, including those taken away from their relatives when they were children, in situations of serious violations of human rights and, in the context of armed conflicts, of violations of international humanitarian law;

3. *Stresses* the importance of providing the results of the investigations of forensic genetics to national authorities, in particular, where appropriate, to competent judicial authorities;

4. *Welcomes* the increasing use of forensic genetics in the investigations of serious violations of human rights and international humanitarian law, and calls for further cooperation between States, intergovernmental organizations and non-governmental organizations in planning and conducting such investigations consistent with applicable domestic and international law;

5. *Encourages* States to consider the use of forensic genetics to be applied pursuant to the international standards accepted by the scientific community in relation to quality assurance and control, and to ensure, where appropriate, the utmost respect for the principles of protection and confidentiality of information and restricted access to such information, and recognizes that many States have domestic legislation in place designed to protect the privacy of individuals;

6. *Requests* the Office of the United Nations High Commissioner for Human Rights to request information from States, intergovernmental and non-governmental organizations on best practices in the use of forensic genetics for identifying victims of serious violations of human rights and international humanitarian law with a view to considering the possibility of drafting a manual that may serve as a guide for the application of forensic genetics, including, where appropriate, the voluntary creation and operation of genetic banks, with appropriate safeguards;

7. *Asks* the Office of the High Commissioner to include the information requested above in a report on the use of forensic experts, to be submitted to the Council at its fifteenth session, pursuant to Council resolution 9/11 on the right to the truth;

8. *Decides* to consider this matter at its fifteenth session under the same agenda item.

44th meeting
27 March 2009
[Adopted without a vote.]

10/27. Situation of human rights in Myanmar

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenants on Human Rights, and reaffirming also previous resolutions on the situation of human rights in Myanmar of the Commission on Human Rights, Council resolutions S-5/1 of 2 October 2007, 6/33 of 14 December 2007, 7/31 of 28 March 2008 and 8/14 of 18 June 2008, as well as resolutions of the General Assembly, the most recent being resolution 63/245 of 24 December 2008,

Welcoming the agreement by the Government of Myanmar to the visits of the Special Rapporteur from 3 to 7 August 2008 and from 14 to 19 February 2009, and also the report of the Special Rapporteur on the situation of human rights in Myanmar (A/HRC/10/19), while urging the implementation of the recommendations contained therein and encouraging the continuation of regular visits and the extension of full cooperation of Myanmar authorities to the Special Rapporteur,

Welcoming also the agreement by the Government of Myanmar to the visit of the Special Representative of the Secretary-General to Myanmar from 31 January to 3 February 2009, as well as the report of the Secretary-General on the situation of human rights in Myanmar (A/HRC/10/17),

Being concerned that the urgent calls contained in the above-mentioned resolutions and of other United Nations bodies concerning the human rights situation in Myanmar have not been met and further emphasizing the need for significant progress towards meeting these calls of the international community,

Being concerned also that the violent crackdown on peaceful mass demonstrations of September 2007 and the ensuing human rights violations, including enforced disappearances, arbitrary detentions, torture and ill-treatment, have not been investigated and their perpetrators prosecuted,

Expressing its concern that the drafting process of the Constitution and the constitutional referendum did not meet the expectations that the political process would be free and fair, and reiterating its calls to the Government of Myanmar to ensure that the country's political processes are transparent, inclusive, free and fair,

Being concerned by the continued arbitrary house arrest of the General Secretary of the National League for Democracy, Daw Aung San Suu Kyi, and by reports that, despite the recent release of 29 political prisoners, 2,100 others still remain imprisoned, in harsh conditions, in unknown locations or without charge,

Reaffirming that it is the responsibility of the Government of Myanmar to ensure the full enjoyment of all human rights and fundamental freedoms of its entire population, as stated in the Charter of the United Nations, the Universal Declaration of Human Rights and other applicable human rights instruments,

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 annexes thereto,

1. *Condemns* the ongoing systematic violations of human rights and fundamental freedoms of the people of Myanmar;
2. *Strongly urges* the Government of Myanmar to desist from further politically motivated arrests, to release without delay and without conditions all political prisoners, including the General Secretary of the National League for Democracy, Daw Aung San Suu Kyi, the Chairman of the Shan Nationalities League for Democracy, U Khun Tun Oo and the leader of 88 Generation Students Group, U Min Ko Naing;
3. *Calls for* fair and public hearings by competent, independent and impartial tribunals established by law, and expresses its concern at the deficiencies of trials leading to the harsh sentences delivered in Yangon and Mandalay since October 2008, and calls on the Government of Myanmar to rectify those deficiencies;

4. *Also calls for* a full, transparent, effective, impartial and independent investigation into all reports of human rights violations, including enforced disappearances, arbitrary detentions, rape and other forms of sexual violence, torture and other forms of ill-treatment, and for bringing those responsible to justice in order to end impunity for violations of human rights;

5. *Strongly urges* the Government of Myanmar to end all forms of discrimination and to protect civil, political, economic, social and cultural rights on the basis of the Universal Declaration of Human Rights and, in particular, to comply with its human rights obligations under the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child in this regard;

6. *Welcomes* the prolongation in February 2009 of the trial period of the supplementary understanding between the International Labour Organization and the Government of Myanmar, and urges the Government of Myanmar to intensify measures to end its practice of forced labour, to strengthen its cooperation with the liaison office of the Organization and to ensure that there are no negative repercussions, in particular against those that seek redress;

7. *Strongly calls upon* the Government of Myanmar to put an immediate end to the recruitment and use of child soldiers in violation of international law by all parties, to intensify measures to ensure the protection of children from armed conflict and to pursue its collaboration with the Special Representative of the Secretary-General for Children and Armed Conflict;

8. *Notes with appreciation* the cooperation of the Government of Myanmar with the international community, including the United Nations, in delivering humanitarian assistance to the people affected by Cyclone Nargis, and the recent extension of the Tripartite Core Group mechanism, mindful that timely access contributes to reduced suffering and loss of life;

9. *Calls upon* the Government of Myanmar to address urgently the dire humanitarian situation and to allow and facilitate rapid and unimpeded humanitarian access to all persons in need in all areas of Myanmar, while paying special attention to internally displaced persons;

10. *Expresses its concern* over the situation of the persons belonging to the Rohingya ethnic minority in Northern Rakhine State, and urges the Government of Myanmar to recognize the right of these persons to nationality and to protect all of their human rights;

11. *Calls upon* the Government of Myanmar to consider acceding to remaining international core human rights treaties;

12. *Takes note* of the information that a number of domestic laws have been sent for review, calls upon the Government of Myanmar to ensure a transparent, inclusive and comprehensive review of compliance of all its national legislation with international human rights law, while engaging constructively with democratic opposition and ethnic groups, and to refrain from implementing and to revoke those national legal provisions that are found to be contrary to international human rights law;

13. *Urges* the Government of Myanmar to ensure the independence and impartiality of the judiciary and to guarantee due process of law, and welcomes in this context the assurances given by the authorities of Myanmar to the Special Rapporteur on the situation of human rights in Myanmar to begin a dialogue on judicial reform, and calls upon the authorities to fulfil those assurances as early as possible;

14. *Also urges* the Government of Myanmar to provide, in cooperation with the Office of the United Nations High Commissioner for Human Rights, adequate human rights and international humanitarian law training for its armed forces, police and prison personnel, to ensure their strict compliance with international human rights law and international humanitarian law and to hold them accountable for any violations thereof;

15. *Calls on* the Government of Myanmar to engage in a meaningful, substantive and time-bound process of open dialogue and national reconciliation with the full participation of representatives of all political parties and ethnic groups;

16. *Also calls on* the Government of Myanmar to ensure free and fair electoral process that is transparent and inclusive, with full and genuine participation of all stakeholders;

17. *Urges* the Government of Myanmar to guarantee the rights to the freedom of assembly, association and freedom of expression, including for free and independent media, and to lift immediately all restrictions on the exercise of these rights;

18. *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 of 3 March 1992 and 2005/10 of 14 April 2005, and Council resolution 7/32 of 28 March 2008;

19. *Urges* the Government of Myanmar to continue to respond favourably to the Special Rapporteur's requests to visit the country and to cooperate fully with him by providing access to all relevant information, bodies, institutions and persons, so as to enable him to fulfil his mandate effectively, and to implement the recommendations contained in his reports (A/HRC/6/14, A/HRC/7/18, A/HRC/7/24, A/HRC/8/12 and A/HRC/10/19) and in Council resolutions S-5/1, 6/33, 7/31 and 8/14;

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

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

22. *Calls upon* the Government of Myanmar to continue to engage in a dialogue with the Office of the High Commissioner with a view to ensuring full respect for all human rights and fundamental freedoms;

23. *Expresses its strong support* for the good offices mission and commitment of the Secretary-General, encourages the Government of Myanmar to allow regular visits of his Special Representative on Myanmar to facilitate a genuine and inclusive political process, and calls on the Government of Myanmar to ensure full cooperation with the Secretary-General, his representative and the Special Rapporteur.

44th meeting
27 March 2009
[Adopted without a vote.]

10/28. United Nations Declaration on Human Rights Education and Training

The Human Rights Council,

Recalling resolution 6/10 of the Human Rights Council of 28 September 2007 by which the Council requested the Human Rights Council Advisory Committee to prepare a draft Declaration on Human Rights Education and Training, to be presented to the Human Rights Council for consideration,

Mindful and appreciative of the efforts made on this issue by the International Labour Organization, the United Nations Children's Fund, the United Nations Development Programme and the Office of the United Nations High Commissioner for Human Rights as well as by other relevant stakeholders, including educators and non-governmental organizations,

Underlining in particular the role of the United Nations Educational, Scientific and Cultural Organization in promoting human rights education,

Welcoming the interest expressed by a high number of stakeholders in their answers to the questionnaire prepared by the Advisory Committee seeking their views and inputs on the possible elements of the content of the draft Declaration on Human Rights Education and Training,

Welcoming with satisfaction the progress report on the draft Declaration on Human Rights Education and Training presented to the Council by the Committee at the current session,

1. *Urges* all relevant stakeholders that have not yet done so to submit their responses to the questionnaire prepared by the Advisory Committee on the possible elements of the content of the Declaration and to take into account existing relevant instruments;
2. *Welcomes* the initiative of the Platform for Human Rights Education and Training to organize a seminar, with the participation of experts and specialists and the assistance and expertise of the Office of the United Nations High Commissioner for Human Rights and all interested parties, in order to further the reflection on elements to be included in the draft Declaration;

3. *Requests* the Human Rights Council Advisory Committee to submit its draft Declaration on Human Rights Education and Training to the Council for consideration at its thirteenth session in March 2010.

*45th meeting
27 March 2009
[Adopted without a vote.]*

10/29. The Social Forum

The Human Rights Council,

Recalling all previous resolutions and decisions adopted on this issue by the former Commission on Human Rights and its Subcommission on the Promotion and Protection of Human Rights, as well as by the Economic and Social Council,

Recalling also its resolutions 5/1 of 18 June 2007, and 6/13 of 28 September 2007,

Bearing in mind that the reduction of poverty and the elimination of extreme poverty remain an ethical and moral imperative of humankind, based on respect for human dignity, and noting the report of the Chairperson-Rapporteur of the 2008 Social Forum, held from 1 to 3 September 2008, which focused on questions relating to the eradication of poverty in the context of human rights, best practices in the fight against poverty, and the social dimension of the globalization process,

Reaffirming the unique nature within the United Nations of the Social Forum, which makes possible a dialogue and an exchange between the representatives of Member States, civil society, including grass-roots organizations, and intergovernmental organizations, and stressing that the current reform of the United Nations should take into account the contribution of the Social Forum as a vital space for open and fruitful dialogue on issues linked with the national and international environment needed for the promotion of the enjoyment of all human rights by all,

1. *Takes note with satisfaction* of the report of the 2008 Social Forum held in Geneva from 1 to 3 September 2008 submitted by the Chairman-Rapporteur (A/HRC/10/65);

2. *Takes note with interest* of the conclusions and recommendations of the 2008 Social Forum and of the innovative nature of many of them, and calls upon States, international organizations, in particular those with a mandate for poverty eradication, non-governmental organizations, civil society organizations, trade unions and other relevant actors to take them into account when designing and implementing poverty-eradication programmes and strategies;

3. *Reaffirms* the Social Forum as a unique space for interactive dialogue between the United Nations human rights machinery and various stakeholders, including grass-roots organizations, and stresses the need to ensure a larger participation of grass-roots organizations and of those living in poverty, particularly women, especially from developing countries, in the Social Forum sessions, and to this end considers, inter alia, the possibility of the establishment of a voluntary United Nations Fund to contribute to providing resources to these organizations so that they can participate in and contribute to the deliberations of future sessions;

4. *Underlines* the importance of coordinated efforts at national, regional and international levels for the promotion of social cohesion based on the principles of social justice, equity and solidarity and of addressing the social dimension and challenges of the ongoing globalization process and the negative impacts of the current economic and financial crises;

5. *Requests* that the next meeting of the Social Forum be held during 2009, in Geneva, on dates suitable for the participation of representatives of United Nations Member States and of the broadest possible range of other stakeholders, especially from developing countries, and decides that at its next meeting the Social Forum should focus on:

(a) Negative impacts of economic and financial crises on efforts to combat poverty;

(b) National anti-poverty programmes: best practices of States in implementing social security programmes from a human rights perspective;

(c) International assistance and cooperation in combating poverty;

6. *Decides* that the Social Forum will meet for three working days, in order that it may devote:

(a) Two days to thematic discussions on the topics of the Forum;

(b) One day to an interactive debate with relevant thematic procedures mandate-holders of the Human Rights Council on issues related to the topics of the Social Forum, and to formulating conclusions and recommendations to be presented to relevant bodies through the Human Rights Council;

7. *Requests* the President of the Council to appoint, as early as possible, from candidates nominated by regional groups, the Chairperson-Rapporteur for the 2009 Social Forum bearing in mind the principle of regional rotation;

8. *Invites* the appointed Chairperson-Rapporteur to announce, in a timely manner, the most appropriate dates for convening the 2009 Social Forum, after holding consultations with United Nations Member States and other stakeholders;

9. *Requests* the United Nations High Commissioner for Human Rights to consult all actors identified in the present resolution on the issues referred to in paragraph 5 above and to present a report as a background contribution for the dialogues and debates that will be held at the 2009 Social Forum;

10. *Also requests* the United Nations High Commissioner for Human Rights to facilitate the participation in the 2009 Social Forum, in order to assist the Chairperson-Rapporteur as resource persons, of up to four relevant Human Rights Council thematic procedures mandate-holders, in particular the independent expert on the question of human rights and extreme poverty and the independent expert on human rights and international solidarity;

11. *Decides* that the Social Forum will remain open to the participation of representatives of United Nations Member States and all other interested stakeholders such as intergovernmental organizations, different components of the United Nations system, especially mandate-holders of thematic procedures and mechanisms of the human rights machinery, regional economic commissions, specialized agencies and organizations, in particular the United Nations Development Programme, the World Bank, the International Monetary Fund, the World Trade Organization, and the United Nations Conference on Trade and Development, as well as representatives designated by human rights national institutions and non-governmental organizations in consultative status with the Economic and Social Council, and shall also be open to other non-governmental organizations, whose aims and purposes are in conformity with

the spirit, purposes and principles of the Charter of the United Nations, in particular newly emerging actors such as small groups and rural and urban associations from the North and the South, anti-poverty groups, peasants' and farmers' organizations and their national and international associations, voluntary organizations, youth associations, community organizations, trade unions and associations of workers, as well as representatives of the private sector, regional banks, and other financial institutions and international development agencies, based on arrangements, including Economic and Social Council resolution 1996/31 of 25 July 1996, and practices observed by the Commission on Human Rights, through an open and transparent accreditation procedure, in accordance with the Rules of Procedure of the Human Rights Council, while ensuring the most effective contribution of these entities;

12. *Requests* the Office of the United Nations High Commissioner for Human Rights to seek effective means of ensuring consultation and the broadest possible participation of representatives from every region, especially those from developing countries, in the Social Forum, including by establishing partnerships with non-governmental organizations, the private sector and international organizations;

13. *Also requests* the Secretary-General to adopt the appropriate measures to disseminate information about the Social Forum, invite the relevant individuals and organizations to the Social Forum and take all practical measures required for the success of this initiative;

14. *Invites* the 2009 Social Forum to submit a report to the Human Rights Council;

15. *Requests* the Secretary-General to provide the Social Forum with all the services and facilities necessary to fulfil its activities, and also requests the United Nations High Commissioner for Human Rights to provide all the necessary support to facilitate the convening and proceedings of the Social Forum;

16. *Decides* to continue consideration of this issue under the relevant agenda item when the report of the 2009 Social Forum is submitted to the Human Rights Council.

45th meeting
27 March 2009
[Adopted without a vote.]

10/30. Elaboration of complementary standards to the International Convention on the Elimination of All Forms of Racial Discrimination

The Human Rights Council,

Recalling its decision 3/103 of 8 December 2006 by which, heeding the decision and instruction of the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, it decided to establish the Ad Hoc Committee of the Human Rights Council on the Elaboration of Complementary Standards, with a mandate to elaborate, as a matter of priority and necessity, complementary standards in the form of either a convention or additional protocol(s) to the International Convention on the Elimination of All Forms of Racial Discrimination, filling the existing gaps in the Convention and also providing new normative standards aimed at combating all forms of contemporary racism, including incitement to racial and religious hatred,

Recalling also its resolution 3/2 of 8 December 2006, in which it reaffirmed that there would be no renegotiation of the Durban Declaration and Programme of Action,

Welcoming the progress achieved during the meetings held during the first and second parts of the first session of the Ad Hoc Committee of the Human Rights Council on the Elaboration of Complementary Standards, and expressing the common desire of the international human rights system and the need to enhance the momentum of this process with a view to ensuring the timely fulfilment of the mandate of the Ad Hoc Committee,

Recalling the need to provide adequate protection for victims of racism, racial discrimination, xenophobia and related intolerance, as well as appropriate remedies while combating all forms of impunity in this regard,

1. *Endorses* the road map adopted by the Ad Hoc Committee of the Human Rights Council on the Elaboration of Complementary Standards during the second part of its first session as a guiding framework document for all future work in this regard;

2. *Requests* the Chairperson-Rapporteur to ensure that the outcome referred to in the road map is circulated in a timely manner to all stakeholders, in order that complementary

standards to strengthen and update international instruments against racism, racial discrimination, xenophobia and related intolerance in all their aspects may be elaborated from the second session onwards;

3. *Decides* that all future sessions of the Ad Hoc Committee shall be convened in a consolidated period of 10 consecutive working days;

4. *Also decides* that the second session of the Ad Hoc Committee will be held in October 2009;

5. *Further decides* to retain this priority issue on its programme of work and to review progress at its thirteenth session.

*45th meeting
27 March 2009*

[Adopted by a recorded vote of 34 to 13, with no abstentions. See chapter IX. The voting was as follows:

In favour: Angola, Argentina, Azerbaijan, Bahrain, Bangladesh, Bolivia, Brazil, Burkina Faso, Cameroon, Chile, China, Cuba, Djibouti, Egypt, Gabon, Ghana, India, Indonesia, Jordan, Madagascar, Malaysia, Mauritius, Mexico, Nicaragua, Nigeria, Pakistan, Philippines, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Uruguay, Zambia;

Against: Bosnia and Herzegovina, Canada, France, Germany, Italy, Japan, Netherlands, Republic of Korea, Slovakia, Slovenia, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland.]

10/31. From rhetoric to reality: a global call for concrete action against racism, racial discrimination, xenophobia and related intolerance

The Human Rights Council,

Recalling General Assembly resolution 56/266 of 27 March 2002, by which the Assembly endorsed the Durban Declaration and Programme of Action, as well as Commission on Human Rights resolutions 2002/68 of 25 April 2002 and 2003/30 of 23 April 2003,

Recalling also its resolutions 1/5 of 30 June 2006, 3/2 of 8 December 2006 and 9/14 of 24 September 2008,

Noting with interest the work of the Working Group of Experts on People of African Descent as set out in its mandate, to continue to find ways and means to fulfil its mandate

optimally, particularly in the areas of directly linking and consulting with the affected communities of people of African descent living in the diaspora, including liaising with financial and developmental institutions with a view to contributing to developmental programmes for the benefit of people of African descent, as well as conducting country visits,

Recognizing the challenges that have impeded the Group of Five Independent Eminent Experts from fully discharging its mandate in following up on the implementation of the Durban Declaration and Programme of Action,

Appreciating all efforts made by the Intergovernmental Working Group on the effective implementation of the Durban Declaration and Programme of Action in its constructive work aimed at the effective implementation of the Durban Declaration and Programme of Action, in accordance with its mandate,

1. *Takes note of* the work of the Five Independent Eminent Experts on the follow-up to the implementation of the provisions of the Durban Declaration and Programme of Action in line with their mandate;
2. *Takes note of* the report of the Working Group of Experts on People of African Descent and welcomes its workplan for the period 2009-2011, and stressed the need to ensure the availability of the necessary resources, and furthermore calls on the Office of the United Nations High Commissioner for Human Rights to avail the necessary resources and support to enable the Working Group to discharge its mandate fully, in particular the undertaking of country visits and holding of public meetings with people of African descent living in the diaspora;
3. *Welcomes* the report of the Intergovernmental Working Group on the effective implementation of the Durban Declaration and Programme of Action;
4. *Decides* to remain seized of this important issue.

45th meeting
27 March 2009
[Adopted without a vote.]

10/32. Assistance to Somalia in the field of human rights

The Human Rights Council,

Guided by the Charter of the United Nations and the Universal Declaration of Human Rights,

Recalling its resolution 7/35 of 28 March 2008,

Reaffirming its respect for sovereignty, territorial integrity, political independence and unity in Somalia,

Welcoming the positive political developments and progress made in the Djibouti peace process in Somalia, including the voluntary resignation of former President Abdullahi Yusuf Ahmed on 29 December 2008, 10 months ahead of the conclusion of his term, the convening of the Transitional Federal Parliament in Djibouti, the election of President Shaikh Sharif Sheikh Ahmed on 30 January 2009, the endorsement by the Parliament of Prime Minister Omar Abdirashid Ali Sharmarke on 14 February 2009 and the subsequent formation of a new Government,

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,

Welcoming the commitment and efforts undertaken by the African Union to support Somali-led efforts towards reconciliation and stability and the efforts made by the international and regional stakeholders to help Somalia re-establish stability, peace and security in its national territory, as well as the recent extension of the mandate of the African Union Mission in Somalia for an additional three months,

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

1. *Expresses its serious concern* at the human rights and humanitarian situation in Somalia, and calls for an immediate end to all violations;
2. *Takes note with appreciation* of the work undertaken by the independent expert on the situation of human rights in Somalia and of his report (A/HRC/10/85);
3. *Invites* the independent expert to continue his work until the end of September 2009, without prejudice to the relevant provision of Human Rights Council resolution 5/1;
4. *Encourages* in the meantime the Office of the United Nations High Commissioner for Human Rights to reach a comprehensive agreement with Somali authorities on technical cooperation and human and institutional capacity-building at the national and regional level in the field of human rights inside Somalia, including for the legislative sector, the judiciary, law enforcement agencies and education, as well as conducting public-awareness campaigns, all in line with the priorities and the framework determined by the Somali authorities, including, inter alia, the creation of the most favourable conditions for the work of the independent expert, in order to further renew his mandate;
5. *Calls upon* the international community to stand by the legitimate Somali institutions and to provide adequate, timely and tangible support in order to enhance their capacity, as part of an integrated approach that encompasses political, security and human rights dimensions;
6. *Requests* the Secretary-General to provide the independent expert with all necessary human, technical and financial assistance in carrying out his mandate;
7. *Requests* the independent expert to present an update to his report at the twelfth session of the Council;
8. *Decides* to remain seized of the matter.

45th meeting
27 March 2009
[Adopted without a vote.]

10/33. Situation of human rights in the Democratic Republic of the Congo and the strengthening of technical cooperation and consultative services

The Human Rights Council,

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

Recalling also Council resolution 5/1 of 18 June 2007,

Recalling further Council resolution 7/20 of 27 March 2008, in which it called on the international community to provide the Democratic Republic of the Congo with the various forms of assistance that the Democratic Republic of the Congo requests, with a view to improving the human rights situation,

Recalling its resolution S-8/1 of 1 December 2008, in which the Council condemned the acts of violence, human rights violations and abuses committed in Kivu, in particular sexual violence and the recruitment by the militia of child soldiers,

Expressing its appreciation for the role played by the international community, in particular by the African Union and the European Union, towards enhancing the rule of law and improving the human rights situation in the Democratic Republic of the Congo,

Considering that the pertinent work undertaken by the Office of the United Nations High Commissioner for Human Rights and the Human Rights Section of the United Nations Organization Mission in the Democratic Republic of the Congo is complementary to that of the thematic special rapporteurs and must be sufficiently reinforced,

Taking into consideration that the presence of the Office of the High Commissioner in the Democratic Republic of the Congo and the Human Rights Section of the United Nations Organization Mission in the Democratic Republic of the Congo have been merged with a view to achieving more efficiency in their work on the human rights situation in the country,

Considering the existence of a national programme for the promotion and protection of human rights in the Democratic Republic of the Congo and the willingness of the Government of

the country to implement the same, in particular through the earmarking of greater budget allocations to the Ministry of Human Rights, whose structures will have to be expanded into provinces to enable greater protection of human rights,

Having reviewed the activity of the thematic special rapporteurs in relation to the human rights situation in the Democratic Republic of the Congo,

1. *Welcomes* the commitment of the Democratic Republic of the Congo to pursuing technical cooperation with the various thematic representatives and special rapporteurs as part of the follow-up to the human rights situation in the Democratic Republic of the Congo;

2. *Also welcomes* the cooperation of the Democratic Republic of the Congo with the thematic special procedures of the Council and its invitation to a number of them, including the Special Rapporteur on the situation of human rights defenders and the Representative of the Secretary-General on the human rights of internally displaced persons, to make recommendations within their respective mandates on how best to assist technically the Democratic Republic of the Congo in addressing the situation of human rights, with a view to obtaining tangible improvements on the ground, taking into account also the needs formulated by the Government of the Democratic Republic of the Congo;

3. *Encourages* the Democratic Republic of the Congo to continue ratifying human rights-related international and regional instruments, in particular the Convention on the Rights of Persons with Disabilities and the protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, and notes with satisfaction the decision by the Government to establish a national agency to combat sexual violence against women and children as part of its policy to fight impunity;

4. *Also encourages* the Democratic Republic of the Congo to finalize the establishment process of a national commission for human rights, pursuant to the Paris Principles, welcomes the promulgation by the President of the Republic of the law concerning the protection of the child, and invites the Government to fulfil its objective to promote human rights education at school, in academia, the armed forces of the Democratic Republic of the Congo, the national police force and security services;

5. *Notes* the report of the seven thematic special procedures on technical assistance to the Government of the Democratic Republic of the Congo and urgent examination of the situation in the east of the country (A/HRC/10/59) presented by the Special Representative of the Secretary-General on the human rights of internally displaced persons, acting on behalf of the other six representatives and special rapporteurs, and invites them to report again to the Council on the development of the situation at its thirteenth session;

6. *Calls on* the international community to increase the various forms of assistance requested by the Democratic Republic of the Congo with a view to improving the human rights situation;

7. *Invites* the Government of the Democratic Republic of the Congo to inform and update the Council, at its future sessions, on the human rights situation on the ground, specifying the difficulties it experiences and its relevant needs;

8. *Takes note* of the report of the United Nations High Commissioner for Human Rights on the situation of human rights in the Democratic Republic of the Congo and the activities carried out in the country by the Office of the High Commissioner (A/HRC/10/58), and invites the Office to report again to the Council, at its thirteenth session, on the development of the situation and those activities;

9. *Calls on* the international community to support the establishment of a local cooperation mechanism by the Government of the Democratic Republic of the Congo, the United Nations High Commissioner for Human Rights and the Human Rights Section of the United Nations Organization Mission in the Democratic Republic of the Congo, referred to as the *entité de liaison des droits de l'homme*;

10. *Calls on* the Office of the High Commissioner to increase and enhance, through its presence in the Democratic Republic of the Congo, its technical assistance programmes and activities, in consultation with the authorities of the country;

11. *Decides* to continue monitoring the human rights situation in the Democratic Republic of the Congo at its thirteenth session.

*45th meeting
27 March 2009*

[Adopted by a recorded vote of 33 to 0, with 14 abstentions. See chapter X. The voting was as follows:

In favour: Angola, Argentina, Azerbaijan, Bahrain, Bangladesh, Bolivia, Brazil, Burkina Faso, Cameroon, Chile, China, Cuba, Djibouti, Egypt, Gabon, Ghana, India, Indonesia, Jordan, Madagascar, Malaysia, Mauritius, Mexico, Nigeria, Pakistan, Philippines, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Uruguay, Zambia;

Abstaining: Bosnia and Herzegovina, Canada, France, Germany, Italy, Japan, Netherlands, Nicaragua, Republic of Korea, Slovakia, Slovenia, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland.]

B. Decisions

Decision 10/101. Outcome of the universal periodic review: Botswana

The Human Rights Council,

Acting in compliance with the mandate entrusted to it by the General Assembly in its resolution 60/251 of 15 March 2006 and Council resolution 5/1 of 18 June 2007, and in accordance with the President's statement PRST/8/1 on modalities and practices for the universal periodic review process of 9 April 2008,

Having conducted the review of Botswana on 1 December 2008 in conformity with all the relevant provisions contained in Council resolution 5/1,

Adopts the outcome of the universal periodic review on Botswana which is constituted of the report of the Working Group on the review of Botswana (A/HRC/10/69), together with the views of Botswana concerning the recommendations and/or conclusions, as well as its voluntary commitments and its replies presented before the adoption of the outcome by the plenary to questions or issues that were not sufficiently addressed during the interactive dialogue in the Working Group (A/HRC/10/29, chap. VI and A/HRC/10/69/Add.1).

*27th meeting
18 March 2009
[Adopted without a vote.]*

Decision 10/102. Outcome of the universal periodic review: Bahamas

The Human Rights Council,

Acting in compliance with the mandate entrusted to it by the General Assembly in its resolution 60/251 of 15 March 2006 and Council resolution 5/1 of 18 June 2007, and in accordance with the President's statement PRST/8/1 on modalities and practices for the universal periodic review process of 9 April 2008,

Having conducted the review of Bahamas on 1 December 2008 in conformity with all the relevant provisions contained in Council resolution 5/1,

Adopts the outcome of the universal periodic review on Bahamas which is constituted of the report of the Working Group on the review of Bahamas (A/HRC/10/70 and A/HRC/10/70/Corr.1), together with the views of Bahamas concerning the recommendations and/or conclusions, as well as its voluntary commitments and its replies presented before the adoption of the outcome by the plenary to questions or issues that were not sufficiently addressed during the interactive dialogue in the Working Group (A/HRC/10/29, chap. VI and A/HRC/10/70/Add.1).

*27th meeting
18 March 2009*
[Adopted without a vote.]

Decision 10/103. Outcome of the universal periodic review: Burundi

The Human Rights Council,

Acting in compliance with the mandate entrusted to it by the General Assembly in its resolution 60/251 of 15 March 2006 and Council resolution 5/1 of 18 June 2007, and in accordance with the President's statement PRST/8/1 on modalities and practices for the universal periodic review process of 9 April 2008,

Having conducted the review of Burundi on 2 December 2008 in conformity with all the relevant provisions contained in Council resolution 5/1,

Adopts the outcome of the universal periodic review on Burundi which is constituted of the report of the Working Group on the review of Burundi (A/HRC/10/71), together with the views of Burundi concerning the recommendations and/or conclusions, as well as its voluntary commitments and its replies presented before the adoption of the outcome by the plenary to questions or issues that were not sufficiently addressed during the interactive dialogue in the Working Group (A/HRC/10/29, chap. VI).

27th meeting
18 March 2009
[Adopted without a vote.]

Decision 10/104. Outcome of the universal periodic review: Luxembourg

The Human Rights Council,

Acting in compliance with the mandate entrusted to it by the General Assembly in its resolution 60/251 of 15 March 2006 and Council resolution 5/1 of 18 June 2007, and in accordance with the President's statement PRST/8/1 on modalities and practices for the universal periodic review process of 9 April 2008,

Having conducted the review of Luxembourg on 2 December 2008 in conformity with all the relevant provisions contained in Council resolution 5/1,

Adopts the outcome of the universal periodic review on Luxembourg which is constituted of the report of the Working Group on the review of Luxembourg (A/HRC/10/72), together with the views of Luxembourg concerning the recommendations and/or conclusions, as well as its voluntary commitments and its replies presented before the adoption of the outcome by the plenary to questions or issues that were not sufficiently addressed during the interactive dialogue in the Working Group (A/HRC/10/29, chap. VI and A/HRC/10/72/Add.1).

28th meeting
18 March 2009
[Adopted without a vote.]

Decision 10/105. Outcome of the universal periodic review: Barbados

The Human Rights Council,

Acting in compliance with the mandate entrusted to it by the General Assembly in its resolution 60/251 of 15 March 2006 and Council resolution 5/1 of 18 June 2007, and in accordance with the President's statement PRST/8/1 on modalities and practices for the universal periodic review process of 9 April 2008,

Having conducted the review of Barbados on 3 December 2008 in conformity with all the relevant provisions contained in Council resolution 5/1,

Adopts the outcome of the universal periodic review on Barbados which is constituted of the report of the Working Group on the review of Barbados (A/HRC/10/73), together with the views of Barbados concerning the recommendations and/or conclusions, as well as its voluntary commitments and its replies presented before the adoption of the outcome by the plenary to questions or issues that were not sufficiently addressed during the interactive dialogue in the Working Group (A/HRC/10/29, chap. VI and A/HRC/10/73/Add.1).

28th meeting
18 March 2009
[Adopted without a vote.]

Decision 10/106. Outcome of the universal periodic review: Montenegro

The Human Rights Council,

Acting in compliance with the mandate entrusted to it by the General Assembly in its resolution 60/251 of 15 March 2006 and Council resolution 5/1 of 18 June 2007, and in accordance with the President's statement PRST/8/1 on modalities and practices for the universal periodic review process of 9 April 2008,

Having conducted the review of Montenegro on 3 December 2008 in conformity with all the relevant provisions contained in Council resolution 5/1,

Adopts the outcome of the universal periodic review on Montenegro which is constituted of the report of the Working Group on the review of Montenegro (A/HRC/10/74), together with the views of Montenegro concerning the recommendations and/or conclusions, as well as its voluntary commitments and its replies presented before the adoption of the outcome by the plenary to questions or issues that were not sufficiently addressed during the interactive dialogue in the Working Group (A/HRC/10/29, chap. VI and A/HRC/10/74/Add.1).

28th meeting
18 March 2009
[Adopted without a vote.]

Decision 10/107. Outcome of the universal periodic review: United Arab Emirates

The Human Rights Council,

Acting in compliance with the mandate entrusted to it by the General Assembly in its resolution 60/251 of 15 March 2006 and Council resolution 5/1 of 18 June 2007, and in accordance with the President's statement PRST/8/1 on modalities and practices for the universal periodic review process of 9 April 2008,

Having conducted the review of the United Arab Emirates on 4 December 2008 in conformity with all the relevant provisions contained in Council resolution 5/1,

Adopts the outcome of the universal periodic review on the United Arab Emirates which is constituted of the report of the Working Group on the review of the United Arab Emirates (A/HRC/10/75), together with the views of the United Arab Emirates concerning the recommendations and/or conclusions, as well as its voluntary commitments and its replies presented before the adoption of the outcome by the plenary to questions or issues that were not sufficiently addressed during the interactive dialogue in the Working Group (A/HRC/10/29, chap. VI).

29th meeting
19 March 2009
[Adopted without a vote.]

Decision 10/108. Outcome of the universal periodic review: Liechtenstein

The Human Rights Council,

Acting in compliance with the mandate entrusted to it by the General Assembly in its resolution 60/251 of 15 March 2006 and Council resolution 5/1 of 18 June 2007, and in accordance with the President's statement PRST/8/1 on modalities and practices for the universal periodic review process of 9 April 2008,

Having conducted the review of Liechtenstein on 5 December 2008 in conformity with all the relevant provisions contained in Council resolution 5/1,

Adopts the outcome of the universal periodic review on Liechtenstein which is constituted of the report of the Working Group on the review of Liechtenstein (A/HRC/10/77), together with the views of Liechtenstein concerning the recommendations and/or conclusions, as well as its voluntary commitments and its replies presented before the adoption of the outcome by the plenary to questions or issues that were not sufficiently addressed during the interactive dialogue in the Working Group (A/HRC/10/29, chap. VI and A/HRC/10/77/Add.1).

29th meeting
19 March 2009
[Adopted without a vote.]

Decision 10/109. Outcome of the universal periodic review: Serbia

The Human Rights Council,

Acting in compliance with the mandate entrusted to it by the General Assembly in its resolution 60/251 of 15 March 2006 and Council resolution 5/1 of 18 June 2007, and in accordance with the President's statement PRST/8/1 on modalities and practices for the universal periodic review process of 9 April 2008,

Having conducted the review of Serbia on 5 December 2008 in conformity with all the relevant provisions contained in Council resolution 5/1,

Adopts the outcome of the universal periodic review on Serbia which is constituted of the report of the Working Group on the review of Serbia (A/HRC/10/78), together with the views of Serbia concerning the recommendations and/or conclusions, as well as its voluntary commitments and its replies presented before the adoption of the outcome by the plenary to questions or issues that were not sufficiently addressed during the interactive dialogue in the Working Group (A/HRC/10/29, chap. VI and A/HRC/10/78/Add.1).

30th meeting
19 March 2009
[Adopted without a vote.]

Decision 10/110. Outcome of the universal periodic review: Turkmenistan

The Human Rights Council,

Acting in compliance with the mandate entrusted to it by the General Assembly in its resolution 60/251 of 15 March 2006 and Council resolution 5/1 of 18 June 2007, and in accordance with the President's statement PRST/8/1 on modalities and practices for the universal periodic review process of 9 April 2008,

Having conducted the review of Turkmenistan on 9 December 2008 in conformity with all the relevant provisions contained in Council resolution 5/1,

Adopts the outcome of the universal periodic review on Turkmenistan which is constituted of the report of the Working Group on the review of Turkmenistan (A/HRC/10/79), together with the views of Turkmenistan concerning the recommendations and/or conclusions, as well as its voluntary commitments and its replies presented before the adoption of the outcome by the plenary to questions or issues that were not sufficiently addressed during the interactive dialogue in the Working Group (A/HRC/10/29, chap. VI and A/HRC/10/79/Add.1).

30th meeting
19 March 2009
[Adopted without a vote.]

Decision 10/111. Outcome of the universal periodic review: Burkina Faso

The Human Rights Council,

Acting in compliance with the mandate entrusted to it by the General Assembly in its resolution 60/251 of 15 March 2006 and Council resolution 5/1 of 18 June 2007, and in accordance with the President's statement PRST/8/1 on modalities and practices for the universal periodic review process of 9 April 2008,

Having conducted the review of Burkina Faso on 9 December 2008 in conformity with all the relevant provisions contained in Council resolution 5/1,

Adopts the outcome of the universal periodic review on Burkina Faso which is constituted of the report of the Working Group on the review of Burkina Faso (A/HRC/10/80 and A/HRC/10/80/Corr.1), together with the views of Burkina Faso concerning the recommendations and/or conclusions, as well as its voluntary commitments and its replies presented before the adoption of the outcome by the plenary to questions or issues that were not sufficiently addressed during the interactive dialogue in the Working Group (A/HRC/10/29, chap. VI).

30th meeting
19 March 2009
[Adopted without a vote.]

Decision 10/112. Outcome of the universal periodic review: Israel

The Human Rights Council,

Acting in compliance with the mandate entrusted to it by the General Assembly in its resolution 60/251 of 15 March 2006 and Council resolution 5/1 of 18 June 2007, and in accordance with the President's statement PRST/8/1 on modalities and practices for the universal periodic review process of 9 April 2008,

Having conducted the review of Israel on 4 December 2008 in conformity with all the relevant provisions contained in Council resolution 5/1,

Adopts the outcome of the universal periodic review on Israel which is constituted of the report of the Working Group on the review of Israel (A/HRC/10/76), together with the views of Israel concerning the recommendations and/or conclusions, as well as its voluntary commitments and its replies presented before the adoption of the outcome by the plenary to questions or issues that were not sufficiently addressed during the interactive dialogue in the Working Group (A/HRC/10/29, chap. VI).

31st meeting
20 March 2009
[Adopted without a vote.]

Decision 10/113. Outcome of the universal periodic review: Cape Verde

The Human Rights Council,

Acting in compliance with the mandate entrusted to it by the General Assembly in its resolution 60/251 of 15 March 2006 and Council resolution 5/1 of 18 June 2007, and in accordance with the President's statement PRST/8/1 on modalities and practices for the universal periodic review process of 9 April 2008,

Having conducted the review of Cape Verde on 10 December 2008 in conformity with all the relevant provisions contained in Council resolution 5/1,

Adopts the outcome of the universal periodic review on Cape Verde which is constituted of the report of the Working Group on the review of Cape Verde (A/HRC/10/81), together with the views of Cape Verde concerning the recommendations and/or conclusions, as well as its voluntary commitments and its replies presented before the adoption of the outcome by the plenary to questions or issues that were not sufficiently addressed during the interactive dialogue in the Working Group (A/HRC/10/29, chap. VI).

31st meeting
20 March 2009
[Adopted without a vote.]

Decision 10/114. Outcome of the universal periodic review: Colombia

The Human Rights Council,

Acting in compliance with the mandate entrusted to it by the General Assembly in its resolution 60/251 of 15 March 2006 and Council resolution 5/1 of 18 June 2007, and in accordance with the President's statement PRST/8/1 on modalities and practices for the universal periodic review process of 9 April 2008,

Having conducted the review of Colombia on 10 December 2008 in conformity with all the relevant provisions contained in Council resolution 5/1,

Adopts the outcome of the universal periodic review on Colombia which is constituted of the report of the Working Group on the review of Colombia (A/HRC/10/82), together with the views of Colombia concerning the recommendations and/or conclusions, as well as its voluntary commitments and its replies presented before the adoption of the outcome by the plenary to questions or issues that were not sufficiently addressed during the interactive dialogue in the Working Group (A/HRC/10/29, chap. VI and A/HRC/10/82/Add.1).

31st meeting
20 March 2009
[Adopted without a vote.]

Decision 10/115. Outcome of the universal periodic review: Uzbekistan

The Human Rights Council,

Acting in compliance with the mandate entrusted to it by the General Assembly in its resolution 60/251 of 15 March 2006 and Council resolution 5/1 of 18 June 2007, and in accordance with the President's statement PRST/8/1 on modalities and practices for the universal periodic review process of 9 April 2008,

Having conducted the review of Uzbekistan on 11 December 2008 in conformity with all the relevant provisions contained in Council resolution 5/1,

Adopts the outcome of the universal periodic review on Uzbekistan which is constituted of the report of the Working Group on the review of Uzbekistan (A/HRC/10/83), together with the views of Uzbekistan concerning the recommendations and/or conclusions, as well as its voluntary commitments and its replies presented before the adoption of the outcome by the plenary to questions or issues that were not sufficiently addressed during the interactive dialogue in the Working Group (A/HRC/10/29, chap. VI and A/HRC/10/83/Add.1).

31st meeting
20 March 2009
[Adopted without a vote.]

Decision 10/116. Outcome of the universal periodic review: Tuvalu

The Human Rights Council,

Acting in compliance with the mandate entrusted to it by the General Assembly in its resolution 60/251 of 15 March 2006 and Council resolution 5/1 of 18 June 2007, and in accordance with the President's statement PRST/8/1 on modalities and practices for the universal periodic review process of 9 April 2008,

Having conducted the review of Tuvalu on 11 December 2008 in conformity with all the relevant provisions contained in Council resolution 5/1,

Adopts the outcome of the universal periodic review on Tuvalu which is constituted of the report of the Working Group on the review of Tuvalu (A/HRC/10/84), together with the views of Tuvalu concerning the recommendations and/or conclusions, as well as its voluntary commitments and its replies presented before the adoption of the outcome by the plenary to questions or issues that were not sufficiently addressed during the interactive dialogue in the Working Group (A/HRC/10/29, chap. VI).

32nd meeting
20 March 2009
[Adopted without a vote.]

10/117. Publication of reports completed by the Subcommission on the Promotion and Protection of Human Rights

At its 45th meeting, on 27 March 2009, the Human Rights Council decided, by a recorded vote of 29 to 3, with 15 abstentions, to adopt the following text:

“The Human Rights Council,

Bearing in mind that all mandates, mechanisms, functions and responsibilities of the Commission on Human Rights, including the Subcommission on the Promotion and Protection of Human Rights, were assumed, as of 19 June 2006, by the Council, in accordance with General Assembly resolution 60/251,

Recalling the functions of the Human Rights Council Advisory Committee as described by the Council in its resolution 5/1 of 18 June 2007,

Decides that all reports of the Subcommission on the Promotion and Protection of Human Rights mandated by the Commission on Human Rights that have been completed and submitted to the Office of the United Nations High Commissioner for Human Rights pursuant to the resolutions and decisions of the Subcommission at its fifty-eighth session be issued as United Nations documents.”

[See chapter V. The voting was as follows:

In favour: Argentina, Azerbaijan, Bahrain, Bangladesh, Bolivia, Bosnia and Herzegovina, Burkina Faso, Canada, Chile, Egypt, France, Gabon, Germany, Italy, Japan, Jordan, Mexico, Netherlands, Nicaragua, Pakistan, Qatar, Republic of Korea, Saudi Arabia, Slovakia, Slovenia, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay;

Against: Brazil, India, Mauritius;

Abstaining: Angola, Cameroon, China, Cuba, Djibouti, Ghana, Indonesia, Madagascar, Malaysia, Nigeria, Philippines, Russian Federation, Senegal, South Africa, Zambia.]

C. President's statement

PRST/10/1

At the 45th meeting, on 27 March 2009, the President of the Council read out the following statement:

“The Human Rights Council,

1. *Takes note* of the report of the first session of the Advisory Committee (A/HRC/10/2-A/HRC/AC/2008/1/2) and notes that some suggestions therein have been incorporated in the report of the Advisory Committee on its second session or other decisions and resolutions of the Council, and other suggestions could be considered in future sessions.
2. *Also takes note* of the report of the second session of the Advisory Committee (A/HRC/AC/2/2), which includes five suggestions related to the following:
 - (a) A draft declaration on human rights education and training;
 - (b) A draft set of principles and guidelines for the elimination of discrimination against persons affected by leprosy and their family members;
 - (c) Gender mainstreaming;
 - (d) Expert consultation on the issue of protection of civilians in armed conflict;
 - (e) A study on the food crisis.
3. *Notes that:*
 - (a) The first and the fifth suggestions have been addressed by draft resolutions A/HRC/10/L.16 and A/HRC/10/L.25, respectively, while the second suggestion has been addressed in the context of Council resolution 8/13;
 - (b) The suggestion for the Advisory Committee with regard to the gender mainstreaming may be addressed in the context of the work of the Council at its future sessions;

(c) With respect to the suggestion concerning the participation of an expert of the Advisory Committee in the expert consultation on the issue of protection of civilians in armed conflict, convened in accordance with Council resolution 9/9, with the understanding that it would be implemented within the existing resources.

It is my understanding that, after consulting with Member States, this procedure does not set any precedent for the future reports of the Advisory Committee which will be dealt with in accordance with Council resolution 5/1.”
