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**REPORT TO THE ECONOMIC AND SOCIAL COUNCIL ON THE
SIXTY-FIRST SESSION OF THE COMMISSION**

Draft report of the Commission

Rapporteur: Ms. Deirdre KENT (Canada)

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* Documents E/CN.4/2005/L.10 and addenda will contain the chapters of the report relating to the organization of the session and the various items on the agenda. Resolutions and decisions adopted by the Commission, as well as draft resolutions and decisions for action by, and other matters of concern to, the Economic and Social Council will be contained in documents E/CN.4/2005/L.11 and addenda.

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**2005/9. Cooperation with representatives of United Nations
human rights bodies**

The Commission on Human Rights,

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

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

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

Recalling its resolution 2004/15 of 15 April 2004 and taking note with interest of the report of the Secretary-General on the question (E/CN.4/2005/31),

1. *Urges* Governments to refrain from all acts of intimidation or reprisal against:
 - (a) Those who seek to cooperate or have cooperated with representatives of United Nations human rights bodies, or who have provided testimony or information to them;
 - (b) Those who avail or have availed themselves of procedures established under United Nations auspices for the protection of human rights and fundamental freedoms and all those who have provided legal assistance to them for this purpose;
 - (c) Those who submit or have submitted communications under procedures established by human rights instruments;
 - (d) Those who are relatives of victims of human rights violations;

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

3. *Calls upon* States to ensure adequate protection from intimidation, violence and persecution for individuals and members of groups who seek to cooperate with the United Nations and representatives of its human rights bodies, and reaffirms the duty of all States to end impunity for such actions by bringing the perpetrators, including accomplices, to justice in accordance with international standards and providing an effective remedy for their victims;

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

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

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

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

8. *Decides* to consider the question again at its sixty-second session.

*50th meeting
14 April 2005*

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

2005/10. Situation of human rights in Myanmar

The Commission on Human Rights,

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

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms and the duty to fulfil the obligations they have undertaken under the various international instruments in the field,

Aware that Myanmar is a party to the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Prevention and Punishment of the Crime of Genocide, the Geneva Conventions, of 12 August 1949, on the protection of victims of war, as well as the Convention concerning Forced or Compulsory Labour, 1930 (No. 29) and the Convention concerning Freedom of Association and Protection of the Right to Organize, 1948 (No. 87) of the International Labour Organization,

Recalling its previous resolutions on the subject, the most recent of which is resolution 2004/61 of 21 April 2004, and those of the General Assembly, the most recent of which is resolution 59/263 of 23 December 2004,

Bearing in mind Security Council resolution 1325 (2000) of 31 October 2000 on women, peace and security, 1265 (1999) of 17 September 1999 and 1296 (2000) of 19 April 2000 on the protection of civilians in armed conflict and 1539 (2004) of 22 April 2004 on children in armed conflict,

Bearing in mind the report of the Secretary-General on children and armed conflict (A/59/695-S/2005/72),

Recalling resolution I adopted by the International Labour Organization at its eighty-eighth session, on 14 June 2000, concerning the practice of forced or compulsory labour in Myanmar,

Affirming that the will of the people is the basis of the authority of government and that the will of the people of Myanmar was clearly expressed in the elections held in 1990,

Affirming also that the establishment of a genuine democratic government in Myanmar is essential for the realization of all human rights and fundamental freedoms,

Recognizing that good governance, democracy, the rule of law and respect for human rights are essential to achieve sustainable development and economic growth, and that good governance includes the idea of transparent, responsible, accountable and participatory government at all levels,

Taking note of the reconvening of the National Convention on 17 February 2005, without the participation of the democratic opposition, and the suspension of the Convention on 31 March, while recognizing that the Government of Myanmar has announced that it would reconvene at the end of 2005,

1. *Welcomes:*

(a) The reports of both the Special Rapporteur on the situation of human rights in Myanmar (E/CN.4/2005/36) and of the Secretary-General (A/59/269 and E/CN.4/2004/30);

(b) The personal engagement and statements of the Secretary-General with regard to the situation of Myanmar;

(c) The efforts by the Government of Myanmar to release prisoners, and takes note of the recent release of some 19,906 prisoners, while noting that only 110 of them were political prisoners, as indicated by the Special Rapporteur in his statement to the Commission on 29 March 2005;

(d) The establishment by the Government of a committee for the prevention of military recruitment of under-age soldiers and the adoption in November 2004 of an outline plan of action to address the issues of under-age recruitment and child soldiers;

(e) The ratification by Myanmar of the United Nations Convention against Transnational Organized Crime and two of its Protocols, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the Convention on 30 March 2004;

(f) The negotiations to conclude a ceasefire agreement between the Government of Myanmar and the Karen National Union, while noting that there have been a limited number of contacts since October 2004;

(g) The continued cooperation of Myanmar with the International Committee of the Red Cross;

(h) The access to the eastern part of Myanmar by the International Committee of the Red Cross and the Office of the United Nations High Commissioner for Refugees;

2. *Takes note* of the efforts of the Government of Myanmar to meet the HIV/AIDS challenge, and calls upon it to enhance its efforts in this regard and to support the effective implementation of the Joint Plan of Action on HIV/AIDS in cooperation with the relevant international agencies;

3. *Expresses its grave concern* at:

(a) The ongoing systematic violation of human rights, including civil, political, economic, social and cultural rights, of the people of Myanmar, in particular discrimination and violations suffered by persons belonging to ethnic minorities, women and children, especially in non-ceasefire areas;

(b) The fact that the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar as well as the Special Envoy of the Secretary-General for Myanmar have been unable to visit the country for more than a year, despite repeated requests;

(c) The ongoing systematic and consistent harassment of members of the National League for Democracy and other opposition activists, in particular the events of May 2003, and the fact that no full and independent inquiry has been initiated despite repeated requests;

(d) The extension of the house arrest of National League for Democracy General Secretary Aung San Suu Kyi and her deputy, Tin Oo, for another year and the persistent denial of their human rights and fundamental freedoms, including freedom of movement and association, as well as the continued detention of other senior leaders of the National League for Democracy and of the leadership of other political parties or ethnic minorities, particularly the recent detention of Khun Htun Oo and Sao Nyunt Lwin, Chairman and General Secretary respectively of the Shan Nationalities League for Democracy, and Sao Hso Ten, Chairman of the Shan State Peace Council;

(e) The continuing restrictions placed on the National League for Democracy and other political parties which prevented them from participating in the recently reconvened National Convention;

(f) Extrajudicial killings, rape and other forms of sexual violence persistently carried out by members of the armed forces, continuing use of torture, renewed instances of political arrests and continuing imprisonment and other detentions, including of prisoners whose sentences have expired; prisoners held incommunicado while awaiting trial; forced relocation; destruction of livelihoods and confiscations of land by the armed forces; forced labour, including child labour; trafficking in persons; denial of freedom of assembly, association, expression and movement; discrimination and persecution on the basis of religious or ethnic background; wide disrespect for the rule of law and lack of independence of the judiciary; unsatisfactory conditions of detention; systematic use of child soldiers; and violations of the rights to education and to an adequate standard of living, including food and medical care;

(g) The situation of the large number of internally displaced persons and the flow of refugees to neighbouring countries, and recalls in this context the obligations of Myanmar under international law;

(h) The renewed attacks by military forces on ceasefire groups, in violation of ceasefire agreements, and the subsequent and continuing violations of human rights, in particular the deterioration of the enjoyment of human rights by the affected populations;

(i) The fact that the Government of Myanmar has not yet undertaken all the relevant measures to allow the Joint Government of the Union of Myanmar-International Labour Organization Plan of Action for the Elimination of Forced Labour Practices in Myanmar to come into force, and that the senior military leadership failed to meet the International Labour Organization very High-Level Team during their visit from 21 to 23 February 2005, despite its mandate to evaluate the attitude of the Myanmar authorities at the highest level towards forced labour;

4. *Calls upon* the Government of Myanmar:

(a) To end the systematic violations of human rights in Myanmar, to ensure full respect for all human rights and fundamental freedoms, to end impunity and to investigate and bring to justice any perpetrators of human rights violations, including members of the military and other Government agents in all circumstances;

(b) To lift all restraints on peaceful political activity of all persons, including former political prisoners, by, inter alia, guaranteeing freedom of association and freedom of expression, including freedom of the media, and to ensure unhindered access to information for the people of Myanmar;

(c) To restore democracy and respect the results of the 1990 elections by, inter alia, releasing immediately and unconditionally the leadership of the National League for Democracy, including General Secretary Aung San Suu Kyi and members of the National League for Democracy detained on or after 30 May 2003, as well as the recently arrested Shan leadership, and to allow them to play a full role in bringing about national reconciliation and the transition towards democracy, and in this regard draws attention to the recommendation of the Special Rapporteur that only the full and unconditional release of all political prisoners would play a positive role in the process of national reconciliation and democratization;

(d) To cease the ongoing harassment of the National League for Democracy and other political parties and allow the reopening of the offices of the National League for Democracy throughout the country;

(e) To initiate a full and independent inquiry, with international cooperation, into the Depayin incident of 30 May 2003, as called for by the General Assembly;

(f) To release unconditionally and immediately all political prisoners with particular emphasis on the elderly and the sick, and to desist from arresting and punishing persons for their peaceful political activities;

(g) To fulfil its obligations to restore the independence of the judiciary and due process of law, and to take further steps to reform the system of the administration of justice;

(h) To ensure that the National Convention is fully inclusive of all political parties and representatives elected in the last election and all major ethnic nationalities not represented by a political party, and is held in a democratic atmosphere that allows for freedom of expression and guarantees the safety of all participants, while recalling that an inclusive approach at the National Convention is an essential step in the democratization process, as well as in the process of genuine national reconciliation and establishment of the rule of law;

(i) To enter into a substantive and structured dialogue with Aung San Suu Kyi and other leaders of the National League for Democracy intended to lead towards democratization and national reconciliation and at an early stage to include other political leaders in these talks, including representatives of the ethnic groups;

(j) To consider as a matter of high priority becoming party to all relevant instruments of international human rights law and international humanitarian law;

(k) To establish a national human rights commission in accordance with the Principles relating to the establishment of national institutions for the promotion and protection of human rights (the Paris Principles);

(l) To ensure that any future referendum and elections are conducted according to international standards for free and fair elections with the full participation of all political parties;

5. *Also calls upon* the Government of Myanmar:

(a) To pursue through dialogue and peaceful means the immediate suspension and permanent end of conflict with all ethnic groups in Myanmar;

(b) To resume the negotiations to conclude a ceasefire agreement with the Karen National Union and to follow up the negotiations with substantial political dialogue in order to ensure that the rights of ethnic nationalities are fully respected;

(c) To put an immediate end to the recruitment and use of child soldiers and to extend full cooperation to relevant international organizations in order to ensure the demobilization of child soldiers, their return home and their rehabilitation in accordance with Security Council resolutions 1460 (2003) of 30 January 2003 and 1539 (2004) of 14 April 2004 by the Army, but stresses the need for full implementation of the plan and the need to maintain close dialogue with the United Nations Children's Fund, as well as to cooperate with the Special Representative of the Secretary-General on Children and Armed Conflict;

(d) To end widespread rape and other forms of sexual violence persistently carried out by members of the armed forces, in particular against women belonging to ethnic minorities, and to investigate and bring to justice any perpetrators in order to end impunity for these acts;

(e) To end the systematic enforced displacement of persons and other causes of refugee flows to neighbouring countries, to provide the necessary protection and assistance to internally displaced persons, in cooperation with the international community, and to respect the right of refugees to voluntary, safe and dignified return monitored by appropriate international agencies;

(f) To ensure immediately safe and unhindered access to all parts of Myanmar for the United Nations and international humanitarian organizations and to cooperate fully with all sectors of society, especially with the National League for Democracy and other relevant political, ethnic and community-based groups, to ensure the provision of humanitarian assistance and to guarantee that it actually reaches the most vulnerable groups of the population;

6. *Further calls upon* the Government of Myanmar:

(a) To cooperate fully with the Special Envoy of the Secretary-General for Myanmar and the Special Rapporteur in order to bring Myanmar towards a transition to civilian rule, and to ensure that they are both granted full, free and unimpeded access to Myanmar and that no person cooperating with the Special Envoy, the Special Rapporteur and any international organization is subjected to any form of intimidation, harassment or punishment, and to review as a matter of urgency the cases of those currently undergoing punishment in this regard;

(b) Without further delay to cooperate fully with the Special Rapporteur to facilitate an independent international investigation of continuing reports of sexual violence and other abuse of civilians carried out by members of the armed forces in Shan and other states;

(c) To take immediate action to implement fully concrete legislative, executive and administrative measures to eradicate the practice of forced labour by all organs of Government, including the armed forces, and to implement fully the recommendations of the Commission of Inquiry established to examine the observance by Myanmar of the Convention concerning Forced or Compulsory Labour, 1930 (No. 29) of the International Labour Organization, and to take the action foreseen in the report of the very High-Level Team as presented to the Governing Body of the International Labour Office at its 292nd session in March 2005 in document GB.292/7/3, before the International Labour Conference of June 2005;

7. *Decides:*

(a) To extend the mandate of the Special Rapporteur, as contained in Commission resolution 1992/58 of 3 March 1992, for a further year and requests the Special Rapporteur to submit an interim report to the General Assembly at its sixtieth session and to report to the Commission at its sixty-second session and to integrate a gender perspective throughout his work;

(b) To request the Secretary-General to continue to give all necessary assistance to the Special Rapporteur to enable him to discharge his mandate fully;

8. *Decides* to continue consideration of this question at its sixty-second session;

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

“The Economic and Social Council, taking note of Commission on Human Rights resolution 2005/10 of 14 April 2005, endorses the Commission’s decision to extend the mandate of the Special Rapporteur on the situation of human rights in Myanmar, as contained in Commission resolution 1992/58 of 3 March 1992, for a further year, to request the Special Rapporteur to submit an interim report to the General Assembly at its sixtieth session, to report to the Commission at its sixty-second session and to integrate a gender perspective throughout his work.”

50th meeting
14 April 2005
[Adopted without a vote. See chap. IX.]

2005/11. Situation of human rights in the Democratic People’s Republic of Korea

The Commission on Human Rights,

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

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

Recalling its resolutions 2003/10 of 16 April 2003 and 2004/13 of 15 April 2004,

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

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

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

Taking note of the concluding observations of the Committee on Economic, Social and Cultural Rights on the reports submitted by the Democratic People's Republic of Korea, including suggested measures to guarantee the right to be free from hunger,

Welcoming the invitation by the Democratic People's Republic of Korea to members of the Committee on the Rights of the Child and to the Special Rapporteur on violence against women, its causes and consequences, to visit the country,

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

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

Welcoming the report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea (E/CN.4/2005/34),

Desiring to promote an open and constructive approach leading to concrete progress in the field of human rights,

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

(a) Torture and other cruel, inhuman or degrading treatment or punishment, public executions, extrajudicial and arbitrary detention, the absence of due process and the rule of law, imposition of the death penalty for political reasons, the existence of a large number of prison camps and the extensive use of forced labour;

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

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

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

2. *Expresses its grave concern* that the Government of the Democratic People's Republic of Korea has not accepted the mandate of the Special Rapporteur, as contained in Commission resolution 2004/13 of 15 April 2004, and has not extended any cooperation to the Special Rapporteur;

3. *Also expresses its concern* that the Government of the Democratic People's Republic of Korea has not engaged in technical cooperation activities with the United Nations High Commissioner for Human Rights and her Office, despite efforts by the High Commissioner to engage in a dialogue with the authorities of the Democratic People's Republic of Korea in this regard;

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

5. *Strongly urges* the Government of the Democratic People's Republic of Korea to address these concerns in an open and constructive manner, including:

(a) By immediately putting an end to the systemic, widespread and grave violations of human rights mentioned above;

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

(c) By accepting the mandate of the Special Rapporteur, extending its full and unreserved cooperation and assistance to the Special Rapporteur in the discharge of his mandate and, to this end, taking all necessary steps to ensure that the Special Rapporteur has free and unlimited access to any person in the Democratic People's Republic of Korea whom he might wish to meet;

(d) By ratifying human rights instruments to which the Democratic People's Republic of Korea is not yet a party, in particular the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention on the Elimination of All Forms of Racial Discrimination, and by implementing its obligations under the human rights instruments to which the Democratic People's Republic of Korea is a party, ensuring that all necessary measures are undertaken to this end;

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

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

(g) By cooperating with the United Nations system in the field of human rights and cooperating without restriction with the thematic procedures of the Commission on Human Rights relevant to the situation of the Democratic People's Republic of Korea, in particular with the Special Rapporteur on the right to food, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on freedom

of religion or belief, the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur on violence against women, its causes and consequences, the Working Group on Arbitrary Detention and the Working Group on Enforced or Involuntary Disappearances, as well as with international human rights organizations, including human rights defenders;

(h) By developing a constructive dialogue with the United Nations High Commissioner for Human Rights and her Office with a view to establishing technical cooperation programmes in the field of human rights, as well as consultations on human rights with other countries;

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

(j) By upholding international human rights standards together with democratic pluralism and the rule of law, with greater space for civil society participation at all levels of decision-making and implementation, and establishing a national human rights commission or equivalent;

(k) By resolving, clearly and transparently and urgently, all the unresolved questions relating to the abduction of foreigners in the form of an enforced disappearance, which remains a grave violation of human rights, including by ensuring the immediate return of abductees;

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

6. *Requests* the international community:

(a) To urge the Government of the Democratic People's Republic of Korea to extend full and unreserved cooperation to the Special Rapporteur;

(b) To continue to urge the Government of the Democratic People's Republic of Korea to ensure that humanitarian assistance, especially food aid, destined for the people of the Democratic People's Republic of Korea is distributed in accordance with humanitarian principles and that representatives of international humanitarian actors are allowed to travel throughout the country to monitor this distribution;

(c) To urge States to ensure respect for the fundamental principles of asylum;

7. *Requests* the Special Rapporteur to continue his efforts to establish direct contact with the Government and with the people of the Democratic People's Republic of Korea, to report on the situation of human rights in the Democratic People's Republic of Korea and on the Government's compliance with its obligations under international human rights instruments, including through visits to the country and information received from all relevant actors, such as Governments, non-governmental organizations and any other parties who have knowledge of these matters;

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

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

10. *Decides* to extend the mandate of the Special Rapporteur, as contained in Commission resolution 2004/13 of 15 April 2004, for a further year;

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

12. *Requests* the Special Rapporteur to report his findings and recommendations to the General Assembly at its sixtieth session and to the Commission at its sixty-second session;

13. *Urges* other United Nations bodies, in particular the General Assembly, to take up the question of the situation of human rights in the Democratic People's Republic of Korea if the Government does not extend cooperation to the Special Rapporteur and if improvement of the situation of human rights in the country is not observed;

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

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

“The Economic and Social Council, taking note of Commission on Human Rights resolution 2005/11 of 14 April 2005, endorses the Commission's decision to extend the mandate of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, as contained in Commission resolution 2004/13 of 15 April 2004, for a further year. The Council further approves the request to the Special Rapporteur to report his findings and recommendations to the General Assembly at its sixtieth session and to the Commission on Human Rights at its sixty-second session and the request to the Secretary-General to give the Special Rapporteur all necessary assistance in the discharge of his mandate.”

*50th meeting
14 April 2005*

[Adopted by a recorded vote of 13 to 9,
with 14 abstentions. See chap. IX.]

2005/12. Situation of human rights in Cuba

The Commission on Human Rights,

Recalling its resolutions 1990/48 of 6 March 1990, 1991/68 of 6 March 1991, 1992/61 of 3 March 1992, 1993/63 of 10 March 1993, 1994/71 of 9 March 1994, 1995/66 of 7 March 1995, 1996/69 of 23 April 1996, 1997/62 of 16 April 1997, 1999/8 of 23 April 1999,

2000/25 of 18 April 2000, 2001/16 of 18 April 2001, 2002/18 of 19 April 2002, 2003/13 of 17 April 2003, 2004/11 of 15 April 2004 and its decision 1988/106 of 10 March 1988 concerning the situation of human rights in Cuba,

Aware that all people are entitled to respect for their human rights as set forth in the Universal Declaration of Human Rights,

Bearing in mind that the United Nations High Commissioner for Human Rights has appointed a Personal Representative,

1. *Invites* the Personal Representative of the High Commissioner for Human Rights to report to the Commission on the current status of the situations addressed in the above-mentioned resolutions of this Commission;

2. *Decides* to consider this matter further at its sixty-second session under the same agenda item, in connection with which the Personal Representative of the High Commissioner will submit her report.

*50th meeting
14 April 2005*

[Adopted by a recorded vote of 21 to 17,
with 15 abstentions. See chap. IX.]

2005/13. Situation of human rights in Belarus

The Commission on Human Rights,

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

Reaffirming that all States have an obligation to promote and protect human rights and fundamental freedoms and to fulfil their international obligations,

Mindful that Belarus is a party to the International Covenant on Civil and Political Rights and the Optional Protocol thereto, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination,

the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocol thereto, and the Convention on the Rights of the Child and the Optional Protocol to the Convention on the sale of children, child prostitution and child pornography,

Recalling its resolution 2003/14 of 17 April 2003 and 2004/14 of 15 April 2004,

Welcoming the visit of the Working Group on Arbitrary Detention to Belarus,

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

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

1. *Expresses deep concern:*

(a) That senior officials of the Government of Belarus have been implicated in the enforced disappearance and/or summary execution of three political opponents of the incumbent authorities in 1999 and of a journalist in 2000 and in the continuing investigatory cover-up, as documented in the report adopted in resolution 1371 of 28 April 2004 by the Parliamentary Assembly of the Council of Europe and endorsed by the Committee of Ministers of the Council of Europe on 30 September 2004;

(b) At the findings of the final report of the Election Observation Mission of the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe of 9 December 2004, which stated that the parliamentary elections of 17 October 2004 in Belarus fell significantly short of commitments under the Organization for Security and Cooperation in Europe, that the referendum of 17 October 2004 to eliminate term

limits on the presidency took place with unrestrained Government bias in favour of the referendum, and that the Belarusian authorities failed to create the conditions, particularly as concerns freedom of expression and freedom of the media, to ensure that the will of the people serves as the basis of the authority of government;

(c) About the report of the Representative of the Organization for Security and Cooperation in Europe on Freedom of the Media, dated 10 March 2005, which raises serious concerns regarding the grave situation of the independent media in Belarus, in particular the declining number of registrations of independent newspapers and the increased pressure on the media through judicial, extrajudicial and economic means;

(d) About the findings detailed in the report of the Special Rapporteur on the situation of human rights in Belarus appointed under resolution 2004/14 (E/CN.4/2005/35);

(e) About continuing reports that as of 1 February 2005 the Government of Belarus is enforcing excessive legal requirements and requesting substantial monetary sums for registration and continued operation of non-governmental organizations;

(f) About the conclusions of the Commission of Inquiry appointed under article 26 of the Constitution of the International Labour Organization to examine the Observance by the Government of the Republic of Belarus of the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) and the Right to Organize and Collective Bargaining Convention, 1949 (No. 98);

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

(h) About the revocation of the licence of the European Humanities University and the continued pressure exerted by the Belarusian authorities on the University and other academic institutions;

(i) About the failure of the Government of Belarus to cooperate fully with all the mechanisms of the Commission, as requested by the Commission in its resolutions 2003/14 and 2004/14, in particular with the Special Rapporteur on the situation of human rights in Belarus;

(j) About the politically motivated prosecution of a leading opposition figure;

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

2. *Urges* the Government of Belarus:

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

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

(c) To ensure effective protection of the rights of persons deprived of liberty, as recommended by the Working Group on Arbitrary Detention;

(d) To bring the electoral process and legislative framework into line with international standards, especially those of the Organization for Security and Cooperation in Europe, including as regards the freedom of expression, to facilitate the involvement of the Office for Democratic Institutions and Human Rights in all elections and to live up to its commitments under the Organization for Security and Cooperation in Europe;

(e) To implement fully the recommendations of and to establish an ongoing dialogue with the Special Rapporteur as well as the Representative of the Organization for Security and Cooperation in Europe on Freedom of the Media;

(f) To cease harassment of non-governmental organizations, political parties, trade unions, independent media, educational institutions, religious organizations and democracy and human rights activists; to undertake a review of domestic laws and practices regarding the compulsory registration of non-governmental organizations and ensure that such laws and regulations are implemented or amended to conform with its international human rights obligations;

(g) To release individuals detained for politically motivated reasons;

(h) To carry out the recommendations of the International Labour Organization Commission of Inquiry and the recommendations of the Working Group on Arbitrary Detention without further delay;

(i) To respect the right to freedom of assembly and association;

(j) To provide public information regarding the execution of those sentenced to death;

(k) To increase its efforts to combat human trafficking and to protect the victims of human trafficking, in particular women being trafficked for the purposes of sexual exploitation;

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

4. *Decides* to extend the mandate of the Special Rapporteur for a further year, from within existing resources and requests him to continue his efforts to establish direct contacts with the Government and with the people of Belarus, with a view to examining the situation of human rights in Belarus and following any progress made towards the elaboration of a programme on

human rights education for all sectors of society, in particular law enforcement, the judiciary, prison officials and civil society, and to report to the Commission on Human Rights at its sixty-second session;

5. *Requests* the Secretary General to give the Special Rapporteur all necessary assistance in the discharge of his mandate;

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

*50th meeting
14 April 2005*

[Adopted by a recorded vote of 23 to 16,
with 14 abstentions. See chap. IX.]
