

Chapter III

Human rights country situations

In 2006, human rights situations of concern, particularly regarding alleged violations and how best to assist and guide Governments and national institutions in combating them, were addressed by the General Assembly and the newly established Human Rights Council, as well as by special rapporteurs, the Secretary-General's special representatives and independent experts appointed to examine those situations. A marked escalation of armed conflict in the Darfur region of the Sudan, relations between Israel and Lebanon, and the situation in the occupied Palestinian Territories prompted the Council to convene four special sessions to consider each case. The first and third sessions, held in July and November, respectively, focused on the occupied Palestinian Territories, the second, in August, addressed the situation in Lebanon, and the fourth, in December, considered developments in Darfur. On each occasion, the Council established a high-level mission to assess or investigate the situation and report thereon. As a result of the situation in Lebanon following Israeli military action, the Assembly adopted resolution 61/154 condemning the violence and calling for international assistance to help rebuild the country and rehabilitate the victims.

In Myanmar, the Secretary-General's good offices in facilitating national reconciliation and democratization made relative progress, which encouraged the dispatch of a UN mission to the country to assess the situation and determine how to further help achieve an all-inclusive democracy founded on human rights and humanitarian norms. Building on that development, the Assembly, in resolution 61/232, called on the Government to end the systematic violations of human rights and fundamental freedoms and to release all political prisoners promptly and unconditionally, including the National League for Democracy leader, Aung San Suu Kyi, and others, who had been held for many years. In similar action, the Assembly called for an end to violations and other situations of serious concern in Belarus, the Democratic People's Republic of Korea and Iran.

Also in 2006, the Council, its special procedures and the Office of the High Commissioner for Human Rights strengthened advisory services and technical cooperation for advancing international

human rights principles and preventing violations in Afghanistan, Burundi, Cambodia, the Democratic Republic of the Congo, Haiti, Liberia, Sierra Leone, Somalia and Timor-Leste.

General aspects

In accordance with the procedure established by Economic and Social Council resolutions 1503(XLVIII) (1503 procedure) [YUN 1970, p. 530] and 2000/3 [YUN 2000, p. 596] to deal with communications alleging denial or violation of human rights, the Human Rights Council held closed meetings, on 25 September and 2 October, to examine the situation of human rights in Iran, Kyrgyzstan and Uzbekistan.

Human Rights Council action. On 2 October [A/62/53 (dec. 2/101)], the Human Rights Council acknowledged, in the case of Kyrgyzstan that, while the allegations it considered revealed gross human rights violations that were cause for serious concern, the country's new Government had taken positive steps to investigate the matter. Encouraging the Government to continue those efforts, the Council decided to discontinue consideration of the issue and asked the Secretary-General to communicate its decision to the Government.

In earlier action [A/61/53 (dec. 1/102)], the Council had decided to extend exceptionally for one year, subject to the review called for in General Assembly resolution 60/251 (see p. 757), the mandate of the 1503 procedure, along with the other special procedures of the Commission on Human Rights and the Subcommission on the Promotion and Protection of Human Rights. Accordingly, it requested them to continue to implement their mandates, with OHCHR support.

Strengthening country engagements

In a February report [E/CN.4/2006/10], the High Commissioner provided information on OHCHR efforts to strengthen country engagement and increase field operations in support of both rights-holders and duty-bearers in a timely and context-specific manner, in line with the strategic vision for

improving OHCHR future operations, contained in its 2005 Plan of Action [YUN 2005, p. 715]. A reform exercise was currently under way within OHCHR to better equip it to implement that new vision, including through the strengthening of geographic desks at headquarters, the establishment of standing capacities for rapid deployment of human rights fact-finding missions and greater collaboration with operational partners, such as UN agencies, country teams and peace missions. It also involved better coordination of various country engagement efforts and assessments among different stakeholders, with a view to defining the most appropriate type of field engagement for enhancing national human rights protection systems. OHCHR currently maintained an operational presence in some 40 countries, and where it did not have a direct presence, it had enhanced support at the regional level, such as in East and Southern Africa, the Middle East and the Gulf, the Pacific, South-East Asia and Latin America.

The High Commissioner, in her visits to a number of countries, including Uganda, as part of a wider UN engagement to assess the human rights situation, found that the main issues of concern in those countries related to impunity, the protection of civilians and gender-based violence. OHCHR made efforts to combat impunity and respond to the causes of violence and related human rights violations. Focusing on three African countries with active peacekeeping operations—Côte d'Ivoire, Liberia, Sierra Leone—had made it possible for OHCHR to develop a coherent strategy, aimed at providing substantial support to human rights units in integrated missions, as part of its 2006-2007 strategic management plan (see p. 766).

Africa

Burundi

Report of independent expert. On 19 September [A/61/360], the Secretary-General transmitted to the General Assembly the interim report of the independent expert on the situation of human rights in Burundi, Akich Okola (Kenya), covering his fifth mission to the country (29 May–10 June). The report focused on governance issues, the transitional justice system and the circumstances of political prisoners. It found that, although the situation was stabilizing following the 2005 elections, the Government's increasing intolerance towards the opposition had eroded progress made in normalizing the political climate. That trend was illus-

trated by constant harassment by security forces of political opponents and government critics. While the Government seemed occasionally sensitive to its human rights image, it faced tremendous challenges relating to persisting violations, a culture of impunity and the implementation of its programme of reconstruction and development in a context of widespread poverty and slow disbursement of funds pledged by the international community.

Human rights violations were reported on a daily basis, most of them being violations of the rights to life, physical integrity, freedom, safety and inviolability of the person, to freedom of opinion and expression, and to property. The rights of children and women also needed attention, as well as the plight of the Batwa minority. Some 53 persons were reportedly killed, some of whom were summarily executed. Reports of torture were widespread, allegedly inflicted by government forces, police officers, national intelligence agents and members of local administrations. Although efforts were being made to decrease those violations, tremendous challenges for the realization of a culture of human rights remained. The expert urged the Government to speed up the establishment of the transitional justice mechanisms, conclude its investigation of the Gatumba massacre [YUN 2004, p. 149] and ensure that the perpetrators were brought to justice, deal with increasing incidents of sexual violence, and consolidate democracy by demonstrating tolerance towards its critics. He also called on the international community to increase support to the country's justice system and expand humanitarian and development assistance.

The General Assembly took note of the expert's report on 19 December (**decision 61/529**).

In a report on his sixth mission (7–14 October) [A/HRC/4/5], the independent expert made further recommendations.

Democratic Republic of the Congo

Reports of independent expert. In a February report [E/CN.4/2006/113], the independent expert on the situation of human rights in the Democratic Republic of the Congo (DRC), Titinga Frédéric Pacéré (Burkina Faso), analysed information he had received in previous years and up to 10 January 2006. As part of the technical and legal assistance component of his mandate, the expert submitted to the Government an 11 January memorandum containing an analysis of the human rights situation in the country and related recommendations. The issues of concern included, among others, the 2005 massacres and human rights violations per-

petrated in South Kivu [YUN 2005, p. 178], cases of murder and assassination, the illegal exploitation of resources, the dire situation of children, insecurity, elections-related problems, population displacement, the management of public demonstrations and the administration of justice. He observed that the human rights situation remained a matter of concern throughout DRC, especially in the eastern region (Ituri, North Kivu and South Kivu) and in northern Katanga, where militias and other local and foreign armed groups, including the Congolese armed forces and the Mai-Mai (a community-based militia group), were committing atrocities and massive violations with impunity. Massacres of civilians, pillaging, mass rape of women and summary executions had undermined the Transitional Government's efforts to improve the situation. The precarious circumstances of unpaid or underpaid civil servants and public officials, the climate of impunity and the threats, harassments and killings to which journalists and human rights defenders were exposed fomented unrest and jeopardized peace prospects. To remedy the situation, the expert recommended speeding up the disarmament of Rwandan militias and their departure from Congolese territory; involving all shades of political opinion in the democratic process; ending the practice by law enforcement agencies of suppressing rallies and demonstrations; establishing mechanisms to combat the culture of impunity, eradicate corruption and end the embezzlement of salaries of public officials, soldiers and police officers; ensuring the independence of the judicial system by revising existing laws and allocating to the system a budget that would guarantee financial independence; and speeding up the return of internally displaced persons and refugees. Given the destitute state of the country's judicial system and the scale of the crimes perpetrated there for over a decade, it was important to establish, by decision of the Security Council, an international criminal tribunal for the DRC or mixed criminal chambers within existing Congolese courts to hear cases involving crimes committed before 1 July 2002.

By a September note, the Secretary-General [A/61/475] transmitted to the General Assembly the expert's progress report, pursuant to Assembly resolution 60/170 [YUN 2005, p. 737]. The report further elaborated on the ongoing and massive violations in virtually all spheres of human rights, as highlighted in the expert's February report (see above), and reiterated his earlier recommendations.

The Assembly took note of the expert's report on 19 December (**decision 61/529**).

Liberia

Report of independent expert. The independent expert on technical cooperation and advisory services in Liberia, Charlotte Abaka (Ghana), visited the country (20–26 February; 13–23 November) [A/HRC/4/6] to review developments there since 2005, including the security situation and the status of the Truth and Reconciliation Commission, the Independent National Human Rights Commission and the Legislature. The expert also examined issues relating to legal reform and the rule of law, the promotion and protection of human rights, and economic, social and cultural rights. She found that, despite a number of positive developments during the year, challenges remained, owing to the failure to effectively tackle some critical human rights issues, especially those affecting the most marginalized and vulnerable in society.

The year began on a promising note, with the enactment in January of amended legislation on rape, designed to give greater legal protection to victims. The act provided for a broader definition of rape, described the offence of gang rape and provided for a presumption against bail for those accused of first-degree rape. While the legislation still needed to be revised, it was encouraging that the proper legislative framework was being put in place. Another promising development was the inauguration, in February, of the Truth and Reconciliation Commission, one of the major mechanisms for national healing and reconciliation. The Commission began its work in October, with the statement-making process. Despite those encouraging initiatives, concerns included the failure of the police and the courts to properly implement the legislation on sexual crimes, which left victims without any effective protection or remedy and resulted in the widespread practice of out-of-court settlements between the victims and the alleged perpetrators. Such phenomenon, essentially a form of impunity, was a result of the impotence of the justice system, coupled with the country's dire social and economic conditions. In addition, the Truth and Reconciliation Commission had not been able to proceed with public hearings, because the basic administrative and technical procedures were not in place; therefore its functioning and competence had to be reviewed urgently. To function properly, the Commission needed to establish an effective secretariat and submit a strategy document to donors, as opposed to seeking funding for ad hoc activities. The failure to respect, protect and fulfil economic and social rights throughout the country, particularly for workers on the rubber plantations, made daily life for Liberians a constant struggle. As such, it was

encouraging that the principle that there could not be sustainable development without good governance had been placed at the centre of the Government's anti-corruption strategies.

The expert concluded that the Liberian society faced enormous human rights challenges on all fronts—civil, political, economic, social and cultural. While the authorities had demonstrated goodwill on several issues, their efforts had been undercut by slow progress and the lack of effective implementation, owing to the lack of capacity, competence and funds. It was incumbent on the Government to lead the way by putting in place concrete and targeted measures, but the international community had a duty to assist it. Foreign judges and prosecutors should be engaged to work as mentors, as a necessary step towards addressing deficiencies in the administration of justice. The expert also proposed the strengthening of the Law Faculty at the University of Liberia and the implementation of special measures to attract more female students; as well as a constitutional amendment to ensure that all international treaties became part of domestic law and the prompt abrogation of discriminatory legislation.

Workshop. A workshop (21 November) organized by the United Nations Mission in Liberia (UNMIL) discussed the follow-up to the expert's 2005 report [YUN 2005, p. 740] and gender-based violence, particularly the status of implementation of Liberia's amended Rape Act (see p. 934). Participants acknowledged that, while the revised legislation provided greater protection, its weak implementation pointed to a clear need for more effective training of investigators, prosecutors and judges. A revision of the legislation to address such vital issues as rape by juveniles and to render out-of-court settlements illegal was urgent. Civil society and government officials expressed serious concerns about UNMIL accountability in cases of alleged rape and sexual assault by members of the Mission. It was argued that those matters be clarified, as justice was needed to be seen to be done and people wanted to know that there was accountability by all.

Sierra Leone

Report of High Commissioner. In response to a 2005 Commission request [YUN 2005, p. 743], the High Commissioner submitted a February report [E/CN.4/2006/106] on assistance to Sierra Leone in the field of human rights, covering developments in 2005. The report examined human rights issues and challenges in the country relating to the right to life and security of the person; the status of amputees;

children's rights; gender-based violence and women's rights; the situation of refugees and internally displaced persons; and economic, social and cultural rights. It also discussed the human rights activities of UN bodies in the country, including those of the United Nations Mission in Sierra Leone (UNAMSIL), particularly regarding the monitoring of courts, police stations and prisons; training and capacity-building services; technical cooperation and advocacy; and assistance in efforts to establish a national human rights commission. In addition, it addressed the question of transitional justice and the related work of the Truth and Reconciliation Commission and the Special Court for Sierra Leone, established in 2002 to try those accused of crimes against humanity, war crimes and other serious violations of international humanitarian law [YUN 2002, p. 164].

The High Commissioner observed that Sierra Leone continued to enjoy relative peace and political stability. The Government authorized the Ministry of Justice to establish a human rights commission and had requested technical assistance in that regard. OHCHR responded favourably, and the process of selecting commissioners was under way. On the key issue of reconciliation, the High Commissioner noted the programmes implemented to sensitize the Government and the people to the findings and recommendations of the Truth and Reconciliation Commission. What was required was the actual implementation of those recommendations, without which healing and reconciliation would be compromised and peace undermined. The Government should implement all the recommendations characterized as "imperative", such as abolishing the death penalty, commuting all pending death sentences, repealing criminal sanctions related to freedom of expression and implementing the reparations programme for war-affected victims.

Overall, there was an increasing trend towards respect for human rights, especially civil and political rights. The decentralization of Government and the creation of new local government structures continued to enhance popular participation in governance and the exercise of political rights. However, the enjoyment of social and economic rights was still lagging, owing partly to the poor state of the economy, widespread poverty and high illiteracy levels. Also of major concern was the high level of unemployment, especially among the youth, with the majority of those affected being former combatants. Addressing those problems was one of the most daunting challenges confronting Sierra Leone and its people. The High Commissioner recommended that the human rights situation in the

country should continue to be monitored, investigated and documented. The capacity of government institutions, whose mandates impacted on human rights, including the police, prisons, judiciary, army and the ministries of justice, social welfare and gender and children affairs, should be strengthened to promote and protect those rights. In that context, the Government should speed up the establishment of the national human rights commission. The High Commissioner also advocated capacity-building programmes for stakeholders and key institutions, together with the incorporation of human rights education at all levels of the educational system. Those measures should aid the development of a nationwide culture of respect for human rights, create a robust and vibrant civil society and empower the people of Sierra Leone to identify, demand and assert the protection of their rights. As the task of combating impunity and promoting the rule of law primarily fell on national leaders, OHCHR encouraged all interested parties to call upon African leaders to jointly take a position on the surrender to the Special Court for Sierra Leone of former Liberian President Charles Taylor.

Somalia

Report of independent expert. In response to a 2005 Commission request [YUN 2005, p. 743], the independent expert on the situation of human rights in Somalia, Ghanim Alnajjar (Kuwait), submitted a report to the Human Rights Council [A/HRC/2/CRP.2] noting that, between March 2005 and February 2006, Somalia appeared to have moved forward on the difficult road to peace and security. Following the political progress made in 2005, with the establishment of the Transitional Federal Government and the Transitional Federal Parliament, and after several months of political wrangling over the safe relocation of the Government, the year 2006 began with the signing of the Aden Declaration on 5 January, followed by the convening of the Parliament's first session on 26 February. Nevertheless, the country remained characterized by widespread insecurity, extrajudicial killings, arbitrary arrests and detention, threats to press freedoms, violations of women's and children's rights, and infringements of economic, social and cultural rights. The humanitarian situation was also a cause for concern, with over 2 million people, mostly in south and central Somalia, in need of urgent humanitarian assistance due to the severe drought. Children in Somalia, except in Somaliland, had only 13 per cent access rate to education. Women continued to suffer discrimination, and the situation for internally displaced

persons was critical and could become worse. In February, over 4,200 people fled to Ethiopia. Human trafficking was also a significant problem. The expert said that the international community should support the Somali leaders and civil society in the crucial human rights work needed if peace and security were to prevail, including by ensuring technical and financial support to strengthen civil society, establishing independent national institutions, protecting internally displaced persons, establishing and upholding the rule of law, and protecting economic, social and cultural rights.

Sudan

Periodic reports of High Commissioner. During the year, the High Commissioner issued five periodic reports on the human rights situation in the Sudan, collectively covering the period from mid-2005 to October 2006. In the January report, which addressed the 2005 developments, the High Commissioner highlighted the Government's efforts to capitalize on the signing of the Comprehensive Peace Agreement [YUN 2005, p. 301], to lay the foundation for a strong institutional human rights framework, including the adoption of an Interim National Constitution, which made international human rights treaties an integral part of its Bill of Rights, and called for an independent advisory human rights commission. Also highlighted were some of the difficulties that prevented those efforts from improving the practical human rights situation on the ground. The report on developments between December 2005 and April 2006 drew attention to specific human rights issues, including persisting sexual and gender-based violence in the Darfur region, the harassment of people expressing human rights concerns, torture and other inhumane treatment of detainees and impunity. The other report, covering the period from May to June 2006, assessed the deepening crisis in Darfur, following the conclusion and signing of the Darfur Peace Agreement (see p. 274), and the ongoing human rights and humanitarian law violations by the parties. The last two reports focused, respectively, on the brutal campaign conducted between August and September 2006 by militia groups against civilians in the Buram locality of South Darfur and the 29 October attack by armed men (Janjaweed) on several villages around the Jebel Moon Area in West Darfur (see p. 289), where hundreds of civilians were feared dead. Collectively, the High Commissioner's periodic reports indicated that Government efforts to improve the human rights situation in the country fell far short of what was envisaged under the peace

agreements and the Constitution, and the situation had further deteriorated, as violations persisted. In each report, the High Commissioner outlined the recommendations designed to assist the country in meeting its international and domestic human rights obligations, particularly with regard to the protection of civilians and the need to ensure their full enjoyment of all human rights.

Report of Special Rapporteur. By a 20 September note [A/61/469], the Secretary-General transmitted to the General Assembly the report of the Special Rapporteur on the situation of human rights in the Sudan, Sima Samar (Afghanistan), in accordance with Human Rights Council decision 1/102 (see p. 759), by which the Council extended for one year the mandates of the special procedures established by the former Commission on Human Rights. The report contained the Special Rapporteur's account of her March and August visits to the Sudan. She observed that Sudan's commitment to ending a history of human rights violations had been undermined by the lack of transparency in the reform process and the delays in implementing the 2005 Peace Agreement. Thus, despite other encouraging initiatives by the authorities to strengthen the national framework for promoting human rights, including by facilitating discussions between different stakeholders, bringing perpetrators of abuses to justice, adopting a plan for the protection of civilians in Darfur, improving the prison system, combating violence against women and improving relevant legislation, serious violations continued and threatened the consolidation of peace in the country. Freedoms of expression, association and assembly were being breached, as the security apparatus continued to arrest and detain people arbitrarily, with detainees often subjected to torture and ill-treatment and denied pre- and fair-trial guarantees. Especially targeted were human rights defenders, journalists, students, political opposition parties, internally displaced persons and tribal leaders. The Government also failed to protect economic, social and cultural rights, with widespread poverty and marginalization continuing to cause political unrest throughout the country.

The situation in the Darfur region deteriorated dramatically, despite the signing in May of the Darfur Peace Agreement. Violence escalated between the signatories and non-signatories of the Agreement, all of whom continued to commit serious breaches of human rights and humanitarian law. Darfur-based militias were also reportedly attacking civilians in neighbouring Chad and the Central African Republic. Against that background, impunity and the lack of disarmament were the greatest

obstacles to the prevention of future crimes. Efforts to establish accountability and ensure justice and reparation for victims and survivors of the conflict had so far proven inadequate.

The Special Rapporteur recommended that the warring parties respect their international human rights and humanitarian obligations, particularly regarding the protection of civilians. The Government should further protect all human rights and fundamental freedoms by creating conditions in the social, economic, political and other fields and providing legal guarantees to ensure that everyone could enjoy those rights. It should also investigate all reported violations and bring the perpetrators to justice, in order to end the culture of impunity; ensure that amnesty was not granted to perpetrators of large-scale attacks and that those responsible for the most serious violations were not absorbed into the regular armed forces or given government positions; and protect the physical security and freedom of movement of the people of Darfur. Other recommendations were also addressed to the Government of Southern Sudan and the international community.

On 19 December, the General Assembly took note of the report of the Special Rapporteur (**decision 61/529**).

Huan Rights Council action. On 28 November [A/62/53 (dec. 2/115)], the Council, by a recorded vote (25-11-10), called on all parties to end the violations of human rights and international humanitarian law, focusing especially on women, children and other vulnerable groups; enhance accountability and prevent impunity, as stipulated in the Darfur Peace Agreement; and ensure full and unfettered access by OHCHR monitors, in order to facilitate their duties to provide safe and unhindered delivery of humanitarian assistance to those in need in Darfur.

Communications. In a series of communications during the year [A/HRC/2/G/6; A/HRC/2/G/7; A/HRC/2/G/8; A/HRC/3/G/1], the Sudan reflected on the situation in the country, within the context of the deployment of international forces in Darfur, Security Council resolution 1706(2006) (see p. 282) and the country's efforts to implement the 2005 Comprehensive Peace Agreement and the 2006 Darfur Peace Agreement.

Special Human Rights Council session

On 30 November [A/HRC/S-4/1], Finland, on behalf of 35 Council members, requested that a special session be convened on the human rights situation in Darfur. The Council's fourth special session convened in December, in accordance with the terms of General Assembly resolution 61/251

(see p. 757). The first three special sessions took place in July (see p. 969), August (see p. 964) and November (see p. 969).

The fourth special session (Geneva, 12–13 December) held four meetings, at which it heard statements from numerous Council members, including the Sudan, and from intergovernmental and non-governmental organizations (NGOs) [A/HRC/S-4/5]. It also had before it communications from: the Chairperson of the International Commission of Inquiry on Darfur, established pursuant to Security Council resolution 1564(2004) [YUN 2004, p. 245], underlining the importance of the Commission's recommendations [A/HRC/S-4/2]; the Special Adviser to the Secretary-General on the prevention of genocide, emphasizing the need for urgent international action to prevent genocide and other crimes against humanity in Darfur [A/HRC/S-4/3]; and the Special Rapporteur on the situation of human rights in the Sudan (see above) [A/HRC/S-4/4]. The session also considered two notes from the Sudan, one dated 6 December [A/HRC/S-4/G/1], addressing the High Commissioner's observations regarding the country's human rights situation, and the other, dated 11 December [A/HRC/S-4/G/1], providing information on the observations on Darfur by regional and international officials, the number of deceased and displaced persons, government efforts to disarm the Janjaweed and other militias and combat violence against women, the impact and implementation of the Darfur Peace Agreement, the humanitarian situation in Darfur and child recruitment.

On 13 December, the Council adopted decision [A/62/53 (S-4/101)], by which it expressed concern regarding the seriousness of the human rights and humanitarian situation in Darfur and authorized the dispatch of a high-level mission to assess the situation and the country's needs, and report at the Council's fourth (2007) session. The Government was called upon to intensify its cooperation with the Council and its mechanisms, as well as with OHCHR.

Uganda

Following the establishment of an OHCHR office in Uganda and the signing of a memorandum of understanding between the Government and OHCHR, the High Commissioner submitted a March report [E/CN.4/2006/10/Add. 2] providing an overview of the situation of human rights in areas where the Office had established a field presence and which the High Commissioner had visited (7–14 January). The report focused mainly on the situation in northern (Acholiland) and north-eastern

(Karamoja subregion) Uganda, and on economic, social and cultural rights, as well as gender issues and women's rights.

Northern Uganda was the main theatre of the Government's 20-year conflict with the Lord's Resistance Army (LRA) (see p. 168), which had displaced an estimated 2 million people, some 1.5 million of whom lived in overcrowded camps, thereby presenting unique challenges to the enjoyment of human rights. The civilian population was also subjected to gross human rights abuses and violations committed by both sides, including abductions, extrajudicial executions, sexual violence and torture, all of which infringed upon the right to life, liberty and security of the person. Other infringements undermined the exercise of the freedom of movement and associated rights, the administration of justice, land rights, and the realization of the rights of women, who were subjected to gender-based violence, including rape, forced marriage, enslavement, killings, mutilation and starvation, as well as the rights of children, who were compelled to walk long distances daily to avoid abduction by the rebels.

In north-eastern Uganda, particularly in Karamoja, insecurity was rooted partly in the traditional culture of cattle rustling and its increasingly violent modern expressions, and partly in the persistent Government neglect, coupled by an unsuccessful disarmament programme, which resulted in serious security concerns, human rights violations, violence and a complete failure to protect civilians. Administration of justice structures and other central government services were virtually non-existent, resulting in the creation of a parallel system of traditional justice based on reprisals and revenge. Regarding economic, social and cultural rights, the High Commissioner drew attention to an overall poor standard of health, which reflected the country's high poverty level and the lack of adequate infrastructure, equipment and trained staff, and highlighted the challenges Uganda faced in addressing the HIV/AIDS epidemic. Considering gender issues, discrimination against women existed widely in all sectors, with traditional practices and persistent gender-based violence further affecting their rights. The High Commissioner's other key observations were the need to overcome the militarization of the civilian administration of justice and law enforcement by strengthening the police force; the importance of ensuring freedom of information and movement, as well as the voluntary and safe return of internally displaced persons in northern Uganda; and the need to reduce the marginalization of Karamoja by strengthening central government services to eradicate poverty, overcome insecurity and foster development.

The OHCHR strategy in Uganda was shaped by the need to respond to two distinct yet historically and economically interlinked situations. While the conflict-affected northern districts required human rights monitoring, reporting and analysis, as well as technical cooperation and strengthening of national capacities, the north-eastern region needed OHCHR to enhance civilian protection, assist in challenging impunity, help restore security through community-based mechanisms and facilitate inter-ethnic dialogue on peace and human rights education. The High Commissioner made recommendations to the Government, the Uganda Human Rights Commission, civil society and the international community regarding the urgent need for a comprehensive strategy for peace, justice and reconciliation for northern Uganda; security issues and the reinstallation of civilian administration of justice; the safe return of displaced persons; land rights issues; and the need to end the marginalization of Karamoja.

In a later report [A/HRC/4/49/Add.2], the High Commissioner further elaborated on the human rights situation in the conflict-affected areas of northern and north-eastern Uganda. It noted that multiparty elections on 23 February, which resulted in the re-election of President Yoweri Museveni, involved incidents of harassment and the arbitrary detention of opposition leaders, killings and apparent politically motivated judicial processes during the immediate pre-election period. Within the context of the peace talks between the Government and LRA, which began in mid-July, OHCHR advocated respect for human rights as an indispensable element for peace and justice, pointing out that granting amnesty for gross human rights violations would not favour the foundation for sustainable peace. In the first half of 2006, although the human rights situation in northern Uganda continued to be characterized by killings, restrictions on movement and the militarization of the civilian administration of justice, the process of establishing accountability for allegations of violations by members of the national and local defence forces improved relatively. There were also some progress in better protecting children's rights, as the Government pledged to cooperate with the Uganda Human Rights Commission, OHCHR and UNICEF towards eliminating the use and recruitment of children in armed forces. The improved security situation in northern Uganda enabled an estimated 300,000 internally displaced persons to leave the overcrowded camps and return to their parishes of origin, but a million others were expected to remain in camps during 2007. In Karamoja, the situation was less encouraging as pastoralist nomadic tribes continued to be affected by high

insecurity, owing to the proliferation of firearms, intertribal clashes and traditional cattle rustling, often resulting in criminal acts. The situation was further compounded by the virtual absence of central government services. Significant levels of human rights violations by the defence force also persisted against the civilian population, mostly in connection with the disarmament exercise.

For most of the year, the police in both regions remained underemployed and lacked the capacity and resources to maintain law and order in rural areas. As such, the defence force continued to carry out police functions, for which it was neither trained nor equipped. The combination of inadequate police presence, the lack of professional training and skills and allegations of corruption resulted in low confidence in the policing in conflict-affected areas, and human rights violations not being reported in most cases, particularly gender-based violence. Other problems related to the administration of justice structures and institutions, which were weak in the rural areas in both northern and north-eastern Uganda, and to land rights questions, fuelled by the consequences of displacement, the challenges of post-conflict housing construction and the weakening of traditional cultures. Also of concern were the reported plans by the authorities to promote development and poverty reduction through mechanized farming and the creation of a land market that might lead to further land rights-related disputes.

The High Commissioner recommended, among other things, integrating human rights and justice as key elements for sustainable peace; strengthening the political commitment and judicial processes to investigate, prosecute and punish any human rights violation by government agents; providing adequate security in the return areas for displaced persons; deploying additional personnel and resources to the civilian administration of justice in northern and north-eastern Uganda; establishing land dispute mechanisms capable of dealing with potential disputes arising from the return of displaced persons; and promoting a national dialogue on options for transitional justice.

Americas

Colombia

Reports of High Commissioner. The High Commissioner, in a 16 May report [E/CN.4/2006/9], described the human rights situation in Colombia during 2005 [YUN 2005, p. 885]. In a later report to

the Human Rights Council [A/HRC/4/48], she addressed the main human rights developments in that country in 2006, outlining major advances and challenges, the status of the implementation of the recommendations contained in her previous report and additional recommendations for improving the human rights situation there.

The High Commissioner found that the armed conflict between government forces and illegally armed groups, as well as related drug trafficking and other organized crimes, continued to affect Colombians, disrupting democratic institutions and hindering socio-economic development. The conflict was one of the major causes of human rights violations and breaches of international humanitarian law, as it obstructed the authorities' protection efforts and encouraged impunity. As such, the human rights situation in several Colombian regions remained critical, characterized by numerous violations of civil and political rights, including the rights to life and personal integrity, freedom and security, and due process and judicial guarantees. Many of the alleged perpetrators were members of the State security forces, particularly the army and police. Victims included those of indigenous and Afro-Colombian origins, social leaders, human rights defenders, peasants, women, children, union members, journalists and displaced persons. There were also profound violations of economic, social and cultural rights, as illustrated by the fact that 49.2 per cent of the population lived below the poverty line, of which 14.7 per cent lived in extreme poverty. Acute inequality, also a major problem facing the country, was reflected by a wide gap between social strata, income disparities and uneven access to economic, social and cultural rights.

The High Commissioner acknowledged the efforts by the authorities to implement the recommendations contained in her previous reports. They had adopted policies to improve the human rights situation, including by developing a related national plan of action, promulgating various bills designed to protect human rights, adopting measures for eradicating poverty and inequality, initiating reforms for parts of the justice system and developing a strategy to investigate alleged violations and address victims' needs. Noting the need to redouble efforts to create a more adequate basis for formulating public policies to strengthen human rights, the High Commissioner addressed 18 recommendations to the Government and other national institutions, civil society, the international community and illegally armed groups. She suggested, among other things, the continuing implementation of her previous recommendations, collaboration between

the Government and OHCHR in addressing challenges to human rights and international humanitarian law, dialogue between the Government and illegally armed groups as a way to achieve a lasting peace, according priority to human rights issues and victims' rights, and observance by members of the armed groups of international humanitarian legal norms prohibiting the murder of protected persons, attacks against civilians, sexual violence, recruitment of children, acts of terrorism, the use of landmines and forced displacement.

Annexed to the report were accounts of cases of human rights violations and breaches of international humanitarian law, and of the situation of groups in conditions of particular vulnerability and discrimination, as well as the activities of OHCHR in Colombia.

Communication. On 15 March [A/HRC/4/G/11], Colombia transmitted its comments on the High Commissioner's report (see above), highlighting the main advances and challenges in public policy and follow-up to the recommendations contained in that report, the process of demobilization and reinsertion of individuals and members of illegally armed groups, and the country's overall human rights situation.

(For information on the visit to Colombia by the Representative of the Secretary-General on internally displaced persons, see p. 923.)

Cuba

Report of Personal Representative. In a report to the Human Rights Council [A/HRC/4/12], the High Commissioner's Personal Representative on the situation of human rights in Cuba, Christine Chanet (France), reviewed factors hindering the realization of human rights in that country, particularly from the perspective of the economic, trade and financial embargo it had faced for over 40 years. As attempts to initiate dialogue with the Cuban authorities remained unsuccessful, the Representative relied on information from the thematic special rapporteurs of the former Commission on Human Rights, who had investigated the human rights issues in Cuba, and from NGOs. Additional insight on the situation came from the report of the Inter-American Commission on Human Rights.

The Representative stated that the restrictions imposed by the embargo were depriving Cuba of vital access to medicines and new medical technology, food, chemicals for water treatment and adequate electricity. The consequential difficulties for Cubans were compounded by even tighter economic and financial restrictions imposed by the United States in

2004 [YUN 2004, p. 806], supplemented by significant limitations on the movement of persons and goods, including a drastic reduction in the frequency of family visits by Cuban-Americans and their capacity to send things to their families. Those restrictions constituted arbitrary interference in the private and family lives of individuals and a disproportionate hindrance to their freedom of movement, thereby infringing on the exercise of their fundamental rights. The embargo further affected the civil and political rights of citizens by provoking the authorities to adopt repressive laws, under which Cubans who allegedly communicated with foreign agents promoting pluralist political principles were liable to punishment. Of particular concern were the arbitrary detention of persons who supported changes in the electoral system and related legislative reforms, mostly writers, human rights defenders and members of opposition trade unions and political parties. Accused persons were often denied access to adequate defence. Particularly alarming were allegations of ill-treatment while in detention. While acknowledging some positive developments in the health and educational systems, efforts to combat discrimination against women in the workplace, ratification of human rights instruments and the release of 18 prisoners on health grounds, the Representative encouraged the authorities to eliminate restrictions on fundamental rights and freedoms of individuals. Accordingly, she recommended 10 measures, among them, halting the prosecution of those exercising the rights enshrined in the Universal Declaration of Human Rights, adopted by General Assembly resolution 217 A(III) [YUN 1948-49, p. 535]. Other recommendations were the release of detained persons who had not committed acts of violence against individuals or property; the reform of laws applied in the criminal prosecution of persons exercising their freedom of expression, demonstration, assembly and association, in order to bring those laws in line with the Universal Declaration of Human Rights; reform of the rules of criminal procedure and regulations relating to travel into and out of Cuba; upholding the moratorium on the death penalty, with a view to its abolition; and establishing a standing independent body empowered to hear complaints from those alleging that their rights were violated.

Guatemala

Reports of High Commissioner. In a February report [E/CN.4/2006/10/Add.1 & Corr. 2], the High Commissioner provided preliminary observations of the human rights situation in Guatemala, within the framework of the 2005 joint agreement

between the Government and OHCHR [YUN 2005, p. 374] establishing an OHCHR office in the country to monitor and report on human rights developments. Issues addressed in the report related to violence, the rule of law and impunity, poverty, economic, social and cultural rights, and equality and non-discrimination.

Although the cessation of the conflict and the signing of the peace accords [YUN 1996, p. 168] had ended decades of systematic human rights violations by the State, there was a shift in recent years from political violence to social violence, the High Commissioner noted. It was disquieting to observe the State's ineffectiveness in preventing and investigating acts of violence, as well as punishing those involved, and in embarking on public policies to reduce poverty, discrimination and the lack of opportunity. Combating violence resulting from organized crime and other criminal activities, including by youth gangs and illegal clandestine security bodies, had become a national priority owing to its impact on public security. The ongoing violence had also resulted in an increase in the number of homicides, with 5,338 cases being recorded in 2005. Of notable concern were acts of violence perpetrated by juveniles and by persons in the prison system, as well as against women. Attacks on human rights defenders had increased, the main victims being members of agricultural organizations, trade unions and development and environmental organizations. The State, by not providing the necessary security to prevent violence, had failed to discharge its human rights obligations. Its limited capacity to provide legal and institutional protection for women, in particular the impunity enjoyed by the aggressors and fear among the victims, demonstrated a lack of confidence in the State protection machinery.

The High Commissioner was also concerned at the high levels of poverty and inequality preventing broad segments of the population from enjoying their economic, social and cultural rights, and at the racial discrimination against indigenous communities, including the Maya, Xinca and Garífuna populations, which impeded the enjoyment of their identity and collective rights. On the positive side, however, the new Land Register Act recognized collective registration of ownership of communal lands by indigenous peoples.

The High Commissioner recommended 24 measures to the Government and civil society to help improve the country's human rights situation. Those measures related to prevention and protection issues, the rule of law and impunity, transitional justice, economic and social policy, equality and non-discrimination, the promotion of a culture

of human rights, and OHCHR technical cooperation and advisory services.

In a later report [A/HR4/49/Add.1], the High Commissioner described the activities of the OHCHR office in Guatemala in 2006, undertaken in an atmosphere marked by social tension, continuing violence and general insecurity. The office closely monitored the volatile situation hindering the full enjoyment of the right to life and made it imperative for the State to step up preventive measures, and investigate and punish threats to and violations of that right. In particular, it monitored the public security situation and its impact on human rights, the continuing challenges in combating impunity and strengthening the rule of law, the progress and difficulties in implementing the National Compensation Programme for victims of the conflict, the situation of indigenous peoples, the increasing political violence, and the situation of economic, social and cultural rights, and that of human rights defenders. The report noted that homicides had reached their highest level in 10 years, and OHCHR had received information on the alleged involvement of State security officers in extrajudicial executions, facilitated by a climate of impunity. Given the high level of violence, the State had not been able to draw up a public security policy consistent with human rights, while the justice system, despite its continuing modernization and reform programme, was still too weak to confront organized crime.

During the year, the OHCHR office was strengthened through the recruitment of new staff, making it possible to gather more information on the human rights situation in the country and to provide advisory services and technical cooperation to State institutions and civil society organizations. The High Commissioner recommended 18 measures relating to the legislative framework for human rights protection, public security, the rule of law and the need to combat impunity, the situation of indigenous peoples, political rights, violence against women, economic, social and cultural rights, the welfare of human rights defenders, public policy in human rights and OHCHR technical cooperation and advisory services.

(See pp. 870 and 873 respectively, for information on visits to Guatemala in 2006 by the Special Rapporteur on extrajudicial, summary or arbitrary executions and by the Working Group on involuntary disappearances.)

Haiti

Report of independent expert. In a report [A/HCR/4/3] summarizing the human rights situ-

ation in Haiti, independent expert Louis Joinet (France) examined the problems stemming from the growing insecurity in the country, including the deteriorating relations between the police and the judicial system, particularly the shortcomings in the police force, the judiciary and the prison system and the rising trend in violent organized crime. Also addressed were a suitable strategy for combating the impunity of what the expert described as “neo-criminals”, the need to reform the justice system and the office of the ombudsman and the importance of consolidating the progress made in addressing the status of and violence against women. While acknowledging Haiti’s return to constitutional legality, the expert observed that it was still a long way from being a consolidated State based on the rule of law. The goal was to reduce, as a matter of priority, the chronic malfunctions of the State and their impact on human rights in the areas of the police, the judicial system, prisons and more generally in efforts to combat the impunity of perpetrators of particularly serious crimes, such as drug trafficking, murders and kidnappings for ransom. To achieve that, it was necessary to strengthen, through vetting, the police and justice services and launch an ambitious plan of action to reform the judicial system.

The expert noted that, besides ill-treatment in cases of arrest, the police had frequently not observed the time limit for remand in custody, and certain police practices could give rise to dubious financial transactions and abuse of authority. The expert also drew attention to endemic corruption, and the lack of respect for legal principles, with district judges disregarding the legal time limits for the transmission of cases or those without legal competence releasing detainees. The non-observance of the procedure for renewing judges’ mandates, chronic absenteeism of certain magistrates, and negligence or professional laxity resulted in the slow process of justice, including extended detention. He deplored the overpopulation in the prison system, aggravated by the dilapidated state of buildings and the lack of safe drinking water and appropriate medical care. Major difficulties were also faced in combating organized crime, especially drug trafficking and an unprecedented wave of murders and kidnappings for ransom.

The expert recommended reinforcing the capacity of the inspection bodies of the police and judiciary to do their job effectively and reduce the malfunctions stemming from individual actions; reforming the judiciary and according high priority to finalizing the three bills relating to the reform of judiciary regulations, the Supreme Council of Justice and the

Judicial Training College; combating extended detention by providing, among other things, the possibility of imposing suspended sentences; providing better legal assistance; and reforming civil status, under the auspices of the National Identification Office, and the land register. He also proposed ways to improve the status of women, including by adopting decrees that categorized rape as a major crime, decriminalized adultery and rejected it as an extenuating circumstance in the murder of a wife or partner, decriminalized abortion, upheld the admissibility of paternity hearings, addressed the status of concubines and regulated domestic work.

By **decision 61/552** of 22 December, the General Assembly decided that the item on the situation of democracy and human rights in Haiti would remain for consideration during its resumed sixty-first (2007) session.

Asia

Afghanistan

Report of High Commissioner. In response to a 2005 Commission request [YUN 2005, 734], the High Commissioner submitted a March report [E/CN.4/2006/108] on the situation of human rights in Afghanistan and the achievements of related technical assistance. Based on the 2005 OHCHR Plan of Action [YUN 2005, p. 715], the report highlighted six main areas where human rights faced particular challenges: poverty, discrimination, armed conflict and violence, impunity, democracy deficits and weak institutions. It acknowledged incremental improvements on some critical issues, including the completion of the disarmament, demobilization and reintegration process, the successful conduct of parliamentary elections, particularly in the empowerment of women, and the application, for the first time, of vetting and complaints procedures to major government programmes. Further indications of progress were the adoption of a constitution, a democratically elected President, improvement in reconstruction efforts, the continuing return of refugees, vibrant media, operational schools in most areas and some functioning institutions, including the Afghanistan Independent Human Rights Commission. However, the overall human rights situation was of great concern, owing mainly to security conditions and weaknesses in governance. Impunity of factional commanders and former warlords, some of whom occasionally received support from the Government and Afghan leaders, undermined

justice reform, the freedom of expression, the electoral process, economic development and women's participation in public affairs.

The report determined that a litmus test for improvement would be the will and effort of the Government to implement the Action Plan on Peace, Reconciliation and Justice [ibid., p. 408]. Building on the gains of the past four years, Afghanistan should focus on developing an effective national human rights protection system and, in that context, OHCHR would intensify its technical cooperation programme. The High Commissioner advocated continuing support for the Afghanistan Independent Human Rights Commission; further recommended international political and economic support for the whole spectrum of human rights as reflected in the Afghanistan Compact and the outcome of the London Conference on the country (see p. 363); poverty reduction among the most marginalized and vulnerable sectors; adoption by the Government of a rights-based approach to customary law, in order to protect women and children from detrimental traditional practices; continuing international support to train judicial, police and other government officials in implementing human rights standards relating to women's rights; establishment of a functional, accessible and equitable justice system; appointment of qualified judges; and the introduction of a transparent and merit-based appointment and promotion, transfer and disciplinary mechanism in the judiciary.

Human Rights Council action. On 27 November [A/62/53 (dec. 2/113)], the Human Rights Council requested the High Commissioner to continue, in cooperation with the United Nations Assistance Mission in Afghanistan, to monitor the human rights situation in the country, expand advisory services and technical cooperation in human rights and the rule of law, and report thereon, paying special attention to the rights of women, and on technical assistance provided.

Cambodia

Reports of Special Representative. In an addendum [E/CN.4/2006/110/Add.1] to his previous report [YUN 2005, p. 736], the Secretary-General's Special Representative for human rights in Cambodia, Yash Ghai (Kenya), stated that there had been some encouraging developments, particularly in relation to creating an environment conducive to legitimate political activity in the country. Notable among them were the release from pre-trial detention of persons active in public life, the pardon and

restoration of parliamentary immunity granted to members of the Sam Rainsy Party and a statement from the Prime Minister in favour of decriminalizing defamation.

However, the Representative found a number of persisting challenges to the full enjoyment of human rights during his second mission to Cambodia (19-28 March) [A/HRC/4/36], which enabled him to examine the country's adherence to international human rights instruments, effective remedy for human rights violations, and the right to defend human rights and fundamental freedoms of expression, association and assembly. He also considered issues relating to impunity and accountability, rehabilitation and reconstruction of Cambodia from a human rights perspective, problems concerning access to land and livelihoods, and the moral and legal responsibility of the international community to support the country's efforts to strengthen human rights.

The Representative observed that, although overall security had improved following the end of civil conflict, the absence of effective government institutions, basic laws and an impartial judiciary, compounded by continuing impunity, threats against critics of the status quo, increasing landlessness and a growing number of displaced persons, left Cambodians insecure and vulnerable to systemic violations of their rights. Judges were subjected to political interference, murders of journalists and trade union leaders remained unresolved, government critics were being arrested and illegal land grabbing threatened the livelihood of the poor. Some of Cambodia's problems were all familiar, such as entrenched corruption at the highest level, a system based on patronage, the pillaging of natural resources, divide-and-rule tactics, the misuse of State structure to undermine political opposition and enrichment of the few to the neglect of the many. It was regrettable that the Government had not responded to the concerns raised by the special representatives and other UN entities. The international community should therefore press Cambodia to respect its human rights commitments and clearly declare its obligation to stop the abuse of rights and respect the independence of the judiciary.

The Representative also made recommendations relating to the rule of law and the protection of human rights and fundamental freedoms, access to land and livelihoods and adherence to international instruments, all of which, he noted, constituted the minimal elements of a plan of action for human rights in the country.

Democratic People's Republic of Korea

Meetings with Special Representative. In response to a 2005 Commission request [YUN 2005, p. 888], two notes by the Secretariat [E/CN.4/2006/32; A/HRC/4/60] described efforts to provide human rights advisory services to the Democratic People's Republic of Korea (DPRK). The High Commissioner had met with the country's representatives in Geneva on 28 November 2005 and 6 December 2006, during which the prospects for technical cooperation between OHCHR and DPRK were explored in such areas as treaty implementation. Stating that his country did not recognize the Commission resolution giving rise to the meeting, the DPRK representative took note of the High Commissioner's offer of technical assistance but was unable to accept it.

Reports of Special Rapporteur. In a January report [E/CN.4/2006/35], the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, Vitit Muntarbhorn (Thailand), described current concerns. While it was encouraging that the country was a party to key human rights treaties, major challenges remained, particularly regarding the rights to food and life. The food shortage affecting the country since the mid-1990s was not abating, and new policy measures to bring relief to the people had the unforeseen effect of a substantial rise in prices, mostly affecting the urban population who could not fend for themselves. Food shortages affected some 2 million people. Another major concern was the transgressions by the authorities of the right to security of the person, humane treatment, non-discrimination and access to justice. Reforms of the criminal code and criminal procedure code in previous years did not eliminate disturbing reports of appalling prison conditions, torture and inhuman and degrading treatment of prisoners. A related problem was the issue of abductions of foreigners by DPRK agents, including the unresolved cases of Japanese nationals. The ongoing breaches of freedom of movement, asylum and refugee protection were also of concern, as it remained impossible to move in or out of the country without official permission or the threat of penal sanctions. Those affected included DPRK nationals who had sought asylum in neighbouring countries and were forced to return without adequate guarantees of their safety. With regard to the right to self-determination, political participation, access to information, freedoms of expression, belief or opinion, and of association, conscience and religion, there was no ostensible improvement as the opaque and non-democratic nature of the State continued to militate against many of those rights. Of particular concern were the rights of women who were

victims of violence, and of children, ageing persons, persons with disabilities and minorities.

The report also summarized the outcome of the Special Rapporteur's visit to the Republic of Korea to assess the impact on that country of the human rights situation in DPRK. Based on lessons learned from the visit, the Special Rapporteur addressed recommendations to both countries for improving the human rights climate in the Korean peninsula as a whole. In particular, he encouraged them to maximize family reunification opportunities and urged DPRK to clarify and resolve the long-standing problem of missing persons, and facilitate access to humanitarian and food aid provided by the Republic of Korea. He also urged the Republic of Korea to continue to accept refugees from DPRK and aid their social recovery and reintegration, and called on DPRK to end transgressions against civil, political, economic, social and cultural rights and to implement effectively the human rights treaties to which it was a party, as well as the recommendations addressed to it by UN human rights mechanisms. The Special Rapporteur outlined additional measures and actions to be taken by DPRK and the international community to better guarantee and safeguard human rights in the country.

In September [A/61/349], the Secretary-General transmitted to the General Assembly the Special Rapporteur's report, which further elaborated on the main human rights challenges in DPRK, as highlighted in the Special Rapporteur's January report (see above). He observed that the situation had deteriorated by mid-year, owing to the missile tests conducted by DPRK in the face of global opposition, which compelled the Security Council to impose an arms embargo and other sanctions on the country (see p. 444). That affected much of the humanitarian aid destined for DPRK and had a serious impact on the population, who also suffered from the effects of major flooding during the year and the unwillingness of those countries that had previously provided refuge to give access to DPRK citizens. The Special Rapporteur concluded that the human rights situation in DPRK raised continuing cause for concern. To help close the gap between the formal recognition of human rights and the substantive implementation of applicable provisions, the Special Rapporteur addressed additional recommendations to the Government and the international community, most of which echoed the proposals contained in his January report.

Communications. In April [A/60/749] and June [A/61/97], DPRK alleged provocative actions by Japan regarding the issue of Japanese nationals abducted by DPRK agents, which DPRK maintained had already

been resolved between both countries. Recent and undisguised anti-DPRK manoeuvres by Japan constituted a flagrant violation of international human rights instruments, especially General Assembly resolution 60/251, which created the Human Rights Council.

In August [A/61/220], Japan stated that the DPRK allegations were groundless and the abduction issue was still unresolved.

GENERAL ASSEMBLY ACTION

On 19 December [meeting 81], the General Assembly, on the recommendation of the Third (Social, Humanitarian and Cultural) Committee [A/61/443/Add.3], adopted **resolution 61/174** by recorded vote (99-21-56) [agenda item 67 (c)].

Situation of human rights in the Democratic People's Republic of Korea

The General Assembly,

Reaffirming that States Members of the United Nations have an obligation to promote and protect human rights and fundamental freedoms and to fulfil the obligations that they have undertaken under the various international instruments,

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, its second periodic report on the implementation of the Convention on the Rights of the Child and its initial report on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women, as a sign of engagement in international cooperative efforts in the field of human rights,

Taking note of the concluding observations of the treaty monitoring bodies under the four treaties, the most recent of which were given by the Committee on the Elimination of Discrimination against Women in July 2005,

Recalling its resolution 60/173 of 16 December 2005 and Commission on Human Rights resolutions 2003/10 of 16 April 2003, 2004/13 of 15 April 2004 and 2005/11 of 14 April 2005, and mindful of the need for the international community to strengthen its coordinated efforts aimed at urging the implementation of those resolutions,

Taking note of the report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, including the specific concerns relating to women's rights, the rights of the child, the rights

of the elderly, the rights of persons with disabilities and refugee rights addressed therein,

1. *Expresses its very serious concern* at:

(a) The continued refusal of the Government of the Democratic People's Republic of Korea to recognize the mandate of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea or to extend cooperation to him;

(b) Continuing reports of systemic, widespread and grave violations of human rights in the Democratic People's Republic of Korea, including:

- (i) 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, the imposition of the death penalty for political reasons, the existence of a large number of prison camps and the extensive use of forced labour;
- (ii) The situation of refugees expelled or returned to the Democratic People's Republic of Korea and sanctions imposed 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, cruel, inhuman or degrading treatment or the death penalty, and urges all States to ensure respect for the fundamental principle of non-refoulement;
- (iii) All-pervasive and severe restrictions on the freedoms of thought, conscience, religion, opinion and expression, peaceful assembly and association, and on equal access to information and limitations imposed on every person who wishes to move freely within the country and travel abroad;
- (iv) Continuing violation of the human rights and fundamental freedoms of women, in particular the trafficking of women for the purpose of prostitution or forced marriage, forced abortions, and infanticide of children of repatriated mothers, including in police detention centres and camps;
- (v) Unresolved questions of international concern relating to the abduction of foreigners in the form of enforced disappearance, which violates the human rights of the nationals of other sovereign countries;
- (vi) The violations of economic, social and cultural rights, which have led to severe malnutrition and hardship for the population in the Democratic People's Republic of Korea;
- (vii) Continuing reports of violations of the human rights and fundamental freedoms of persons with disabilities, especially on the use of collective camps and of coercive measures that target the rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children;

2. *Expresses its strong 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;

3. *Expresses its very deep concern* at the precarious humanitarian situation in the country, compounded by the mismanagement on the part of the authorities, in particular the prevalence of infant malnutrition, which, despite recent progress, continues to affect the physical and mental development of a significant proportion of children, and urges the Government of the Democratic People's Republic of Korea, in this regard, to facilitate the continued presence of humanitarian organizations to ensure that humanitarian assistance is delivered impartially to all parts of the country on the basis of need in accordance with humanitarian principles;

4. *Strongly urges* the Government of the Democratic People's Republic of Korea to respect fully all human rights and fundamental freedoms and, in this regard, to implement fully the measures set out in the above-mentioned resolutions of the General Assembly and the Commission on Human Rights, and the recommendations addressed to the Democratic People's Republic of Korea by the United Nations special procedures and treaty bodies, and to extend its full cooperation to the Special Rapporteur, including by granting him full, free and unimpeded access to the Democratic People's Republic of Korea, and to other United Nations human rights mechanisms;

5. *Decides* to continue its examination of the situation of human rights in the Democratic People's Republic of Korea at its sixty-second session, and to this end requests the Secretary-General to submit a comprehensive report on the situation in the Democratic People's Republic of Korea and the Special Rapporteur to report his findings and recommendations.

RECORDED VOTE ON RESOLUTION 61/174:

In favour: Afghanistan, Albania, Andorra, Argentina, Australia, Austria, Bahamas, Belgium, Belize, Bhutan, Bosnia and Herzegovina, Brazil, Bulgaria, Burundi, Canada, Chile, Comoros, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Georgia, Germany, Ghana, Greece, Guatemala, Guinea-Bissau, Haiti, Honduras, Hungary, Iceland, Iraq, Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Latvia, Lebanon, Lesotho, Liberia, Liechtenstein, Lithuania, Luxembourg, Malawi, Maldives, Malta, Marshall Islands, Mexico, Micronesia, Moldova, Monaco, Montenegro, Morocco, Nauru, Netherlands, New Zealand, Nicaragua, Norway, Palau, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Romania, Samoa, San Marino, Saudi Arabia, Serbia, Slovakia, Slovenia, Solomon Islands, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Timor-Leste, Tonga, Turkey, Tuvalu, Ukraine, United Kingdom, United Republic of Tanzania, United States, Uruguay, Vanuatu.

Against: Algeria, Belarus, China, Congo, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Egypt, Guinea, Indonesia, Iran, Lao People's Democratic Republic, Libyan Arab Jamahiriya, Pakistan, Russian Federation, Sudan, Syrian Arab Republic, Uzbekistan, Venezuela, Viet Nam, Zimbabwe.

Abstaining: Angola, Antigua and Barbuda, Azerbaijan, Bahrain, Bangladesh, Barbados, Benin, Bolivia, Botswana, Brunei Darussalam, Burkina Faso, Cambodia, Cameroon, Cape Verde, Central African Republic, Colombia, Costa Rica, Côte d'Ivoire, Djibouti, Ethiopia, Guyana, India, Jamaica, Kenya, Kuwait, Kyrgyzstan, Madagascar, Malaysia, Mali, Mauritania, Mauritius, Mozambique, Myanmar, Namibia, Nepal, Niger, Nigeria, Qatar, Rwanda, Sao Tome and Principe, Senegal, Sierra Leone, Singapore, Somalia, South Africa, Sri Lanka, Suriname, Swaziland, Thailand, Togo, Trinidad and Tobago, Turkmenistan, Uganda, United Arab Emirates, Yemen, Zambia.

Iran

The General Assembly, while welcoming encouraging developments in Iran, such as the country's voluntary pledges and commitments on human rights and an October statement by the head of its judiciary regarding the protection of the rights of minors, expressed serious concern about ongoing violations in the country, among them, harassment, intimidation and persecution of human rights defenders and many others. Also of concern was the Government's failure to comply with international standards in the administration of justice. The Assembly called on Iran to take a number of remedial measures to improve the situation.

GENERAL ASSEMBLY ACTION

On 19 December [meeting 81], the General Assembly, on the recommendation of the Third Committee [A/61/443/Add.3], adopted **resolution 61/176** by recorded vote (72-50-55) [agenda item 67 (c)].

Situation of human rights in the Islamic Republic of Iran

The General Assembly,

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

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

Mindful that the Islamic Republic of Iran is a party to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Rights of the Child,

Recalling its previous resolutions on the subject, the most recent of which is resolution 60/171 of 16 December 2005, and recalling also Commission on Human Rights resolution 2001/17 of 20 April 2001,

Noting the submission by the Islamic Republic of Iran of voluntary pledges and commitments on human rights

in accordance with General Assembly resolution 60/251 of 15 March 2006,

Noting also the statements made by the Government of the Islamic Republic of Iran on strengthening respect for human rights in the country and promoting the rule of law, and noting further the relevant provisions of its Constitution,

1. Welcomes:

(a) The standing invitation extended by the Government of the Islamic Republic of Iran to all human rights thematic monitoring mechanisms in April 2002 and the cooperation extended to the special procedures during their visits, while regretting that no special procedure has been able to visit the Islamic Republic of Iran since July 2005 and expressing its hope that special procedures of the Human Rights Council will be able to visit in the near future;

(b) The report of the Special Rapporteur on violence against women, its causes and consequences on her visit to the Islamic Republic of Iran from 29 January to 6 February 2005;

(c) The report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living on his visit to the Islamic Republic of Iran from 19 to 31 July 2005;

(d) The statement by the head of the judiciary of the Islamic Republic of Iran in October 2006 in which he expressed his hope that judges will choose alternative punishments for minors instead of long jail terms for some offences;

(e) The announcement by the head of the judiciary in April 2004 of the ban on torture and the subsequent passage of related legislation by the parliament, which was approved by the Guardian Council in May 2004;

(f) The human rights dialogues between the Islamic Republic of Iran and a number of countries, while urging the Islamic Republic of Iran to intensify those dialogues and ensure that they are held regularly;

(g) The release of some prisoners held without due process of law;

(h) The cooperation with United Nations agencies in developing programmes in the fields of human rights, good governance and the rule of law;

2. Expresses its serious concern at:

(a) The continuing harassment, intimidation and persecution of human rights defenders, non-governmental organizations, political opponents, religious dissenters, political reformists, journalists, parliamentarians, students, clerics, academics, webloggers, union members and labour organizers, including through undue restrictions on the freedoms of assembly, conscience, opinion and expression, the threat and use of arbitrary arrest and prolonged detention, targeted at both individuals and their family members, the ongoing unjustified closure of newspapers and blocking of Internet sites and restrictions on the activities of unions and other non-governmental organizations, as well as the absence of many conditions necessary for free and fair elections;

(b) The persistent failure to comply fully with international standards in the administration of justice and, in

particular, the absence of due process of law, the refusal to provide fair and public hearings, the denial of the right to counsel and access to counsel by those detained, the use of national security laws to deny human rights, the prevalent atmosphere of impunity for officials who commit human rights abuses, the harassment, intimidation and persecution of defence lawyers and legal defenders, the adulteration of judicial files, the lack of respect for internationally recognized safeguards, inter alia, with respect to persons belonging to religious, ethnic or national minorities, officially recognized or otherwise, the application of arbitrary prison sentences and the violation of the rights of detainees, including the systematic and arbitrary use of prolonged solitary confinement, the failure to provide proper medical care to those imprisoned, the arbitrary denial of contact between detainees and their family members, and the death of detainees in unclear circumstances or resulting from general mistreatment while in custody;

(c) The continuing use of torture and cruel, inhuman or degrading treatment or punishment such as flogging and amputations;

(d) The continuing of public executions, including multiple public executions, and, on a large scale, of other executions, in the absence of respect for internationally recognized safeguards, and the issuing of sentences of stoning; and, in particular, deplores the execution of persons who were under the age of 18 at the time their offence was committed, contrary to the obligations of the Islamic Republic of Iran under article 37 of the Convention on the Rights of the Child and article 6 of the International Covenant on Civil and Political Rights and in spite of the announcement of a moratorium on juvenile executions;

(e) The continuing violence and discrimination against women and girls in law and in practice, the refusal of the Guardian Council to take steps to address this systemic discrimination and recent arrests of and violent crackdowns on women exercising their right of assembly;

(f) The increasing discrimination and other human rights violations against persons belonging to ethnic and religious minorities, recognized or otherwise, including Arabs, Azeris, Baluchis, Kurds, Christians, Jews, Sufis and Sunni Muslims; the escalation and increased frequency of discrimination and other human rights violations against members of the Baha'i faith, including reports of plans by the State to identify and monitor Baha'is, as noted by the Special Rapporteur on freedom of religion or belief; an increase in cases of arbitrary arrest and detention; the denial of freedom of religion or of publicly carrying out communal affairs; the disregard for property rights, including through de facto expropriation, as noted in the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living; the destruction of sites of religious importance; the suspension of social, educational and community-related activities and the denial of access to higher education, employment, pensions,

adequate housing and other benefits; and recent violent crackdowns on Arabs, Azeris, Baha'is, Kurds and Sufis;

3. *Calls upon* the Government of the Islamic Republic of Iran:

(a) To ensure full respect for the rights to freedom of assembly, opinion and expression and for the right to take part in the conduct of public affairs, in accordance with its obligations under the International Covenant on Civil and Political Rights, and, in particular, to end the harassment, intimidation and persecution of political opponents and human rights defenders, including by releasing persons imprisoned arbitrarily or on the basis of their political views; and to increase actions to promote and facilitate human rights education at all levels and to ensure that all those responsible for training lawyers, law enforcement officers, the personnel of the armed forces and public officials include appropriate elements of human rights teaching in their training programme;

(b) To ensure full respect for the right to due process of law, including the right to counsel and access to counsel by those detained, in criminal justice proceedings and, in particular, to ensure a fair and public hearing by a competent, independent and impartial tribunal established by law, to end harassment, intimidation and persecution of defence lawyers and legal defenders and to ensure equality before the law and the equal protection of the law without any discrimination in all instances, including for members of religious, ethnic, linguistic or other minority groups, officially recognized or otherwise;

(c) To eliminate, in law and in practice, the use of torture and other cruel, inhuman or degrading treatment or punishment, such as amputations and flogging and, as previously proposed by the elected Iranian parliament, to accede to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and to end impunity for violations of human rights that constitute crimes by bringing the perpetrators to justice in accordance with international standards, noting in this regard, inter alia, the updated set of principles for the protection and promotion of human rights through action to combat impunity;

(d) To abolish, in law and in practice, public executions and other executions carried out in the absence of respect for internationally recognized safeguards, in particular, as called for by the Committee on the Rights of the Child in its report of January 2005, executions of persons who at the time of their offence were under the age of 18, and to uphold the moratoriums on juvenile executions and executions by stoning and to introduce these moratoriums as law in order to completely abolish this punishment;

(e) To eliminate, in law and in practice, all forms of discrimination and violence against women and girls and, as previously proposed by the elected Iranian parliament, to accede to the Convention on the Elimination of All Forms of Discrimination against Women;

(f) To eliminate, in law and in practice, all forms of discrimination based on religious, ethnic or linguistic grounds and other human rights violations against persons belonging to minorities, including Arabs, Azeris,

Baha'is, Baluchis, Kurds, Christians, Jews, Sufis and Sunni Muslims, to refrain from monitoring individuals on the basis of their religious beliefs, to ensure that minorities' access to education is on a par with that of all Iranians and to address these matters in an open manner, with the full participation of the minorities themselves, to otherwise ensure full respect for the right to freedom of thought, conscience, religion or belief of all persons, and to implement the 1996 report of the Special Rapporteur on religious intolerance, which recommended ways in which the Islamic Republic of Iran could emancipate the Baha'i community;

4. *Encourages* the thematic procedures of the Human Rights Council, inter alia, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on freedom of religion or belief, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Representative of the Secretary-General on the situation of human rights defenders, the Working Group on Arbitrary Detention and the Working Group on Enforced or Involuntary Disappearances, to visit or otherwise continue their work to improve the situation of human rights in the Islamic Republic of Iran, and urges the Government of the Islamic Republic of Iran to live up to the commitment it made when it issued a standing invitation to special procedures by cooperating with them, and to illustrate how their subsequent recommendations have been addressed, including the recommendations of special procedures that have previously visited the country;

5. *Decides* to continue its examination of the situation of human rights in the Islamic Republic of Iran at its sixty-second session under the item entitled "Promotion and protection of human rights".

RECORDED VOTE ON RESOLUTION 61/176:

In favour: Albania, Andorra, Argentina, Australia, Austria, Bahamas, Belgium, Belize, Bosnia and Herzegovina, Bulgaria, Burundi, Canada, Chile, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Fiji, Finland, France, Germany, Greece, Guatemala, Haiti, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Japan, Kiribati, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Marshall Islands, Micronesia, Moldova, Monaco, Montenegro, Nauru, Netherlands, New Zealand, Nicaragua, Norway, Palau, Paraguay, Peru, Poland, Portugal, Romania, Samoa, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Tonga, Tuvalu, Ukraine, United Kingdom, United States, Vanuatu.

Against: Afghanistan, Algeria, Armenia, Azerbaijan, Bahrain, Bangladesh, Belarus, Brunei Darussalam, China, Comoros, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Egypt, Guinea, India, Indonesia, Iran, Kazakhstan, Kuwait, Kyrgyzstan, Lebanon, Libyan Arab Jamahiriya, Malaysia, Maldives, Mauritania, Morocco, Myanmar, Niger, Oman, Pakistan, Qatar, Russian Federation, Saudi Arabia, Senegal, Somalia, South Africa, Sri Lanka, Sudan, Syrian Arab Republic, Tajikistan, Togo,

Tunisia, Turkmenistan, Uzbekistan, Venezuela, Viet Nam, Yemen, Zimbabwe.

Abstaining: Angola, Antigua and Barbuda, Barbados, Benin, Bhutan, Bolivia, Botswana, Brazil, Burkina Faso, Cameroon, Cape Verde, Central African Republic, Colombia, Congo, Costa Rica, Côte d'Ivoire, Eritrea, Ethiopia, Georgia, Ghana, Guinea-Bissau, Guyana, Jamaica, Kenya, Lao People's Democratic Republic, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritius, Mexico, Mongolia, Mozambique, Namibia, Nepal, Nigeria, Panama, Papua New Guinea, Philippines, Republic of Korea, Rwanda, Sao Tome and Principe, Sierra Leone, Singapore, Solomon Islands, Suriname, Swaziland, Thailand, Trinidad and Tobago, Uganda, United Arab Emirates, United Republic of Tanzania, Uruguay, Zambia.

Myanmar

Reports of Special Rapporteur. In response to a 2005 Commission request [YUN 2005, p. 892], Special Rapporteur Paulo Sérgio Pinheiro (Brazil) submitted a February report on the human rights situation in Myanmar [E/CN.4/2006/34], based on information he had received as at 22 December 2005. He regretted that grave violations of civil and political rights persisted, including intimidation, harassment, arbitrary arrest and imprisonment of persons attempting to exercise those rights. The main targets were members of registered political parties, human rights defenders and democracy advocates. Since July 2005, some 44 people were believed to have been arrested and imprisoned for their political beliefs and activities, and trial procedures and detention conditions were serious cause for concern. There was also evidence of violations of the freedoms of religion and expression, as well as a wide range of economic and social rights. Calling attention to the marked decline in socio-economic conditions and the consequent increase in poverty countrywide, the Special Rapporteur noted that up to a quarter of the population currently lived below the poverty line. State-sponsored practices, such as the imposition of arbitrary taxes, extortion, land and crop confiscation, forced relocations, travel restrictions, financial penalties and the looting of possessions of civilians by military authorities, continued to have a devastating impact on livelihoods. Of particular concern was the deteriorating humanitarian situation, owing partly to the Government's restrictions on the access and activities of international humanitarian agencies in areas of conflict or places populated by ethnic groups, which affected the work of many on the ground, including the International Committee of the Red Cross and the World Food Programme. The Special Rapporteur was also concerned by ongoing internal displacement and the mass exodus of civilian communities, primarily due to the systematic human rights abuses and the con-

flict between the military authorities and non-State armed groups. As at late 2005, it was understood that some 540,000 people had been displaced in the eastern part of the country, the area most affected by the conflict and government violations.

The Special Rapporteur observed that meaningful political, economic, legislative and judicial reforms were essential for Myanmar to move out of its current quagmire. Economic reform, in particular, was necessary to redress the violation of economic rights in the country, and political reform geared towards resolving the armed conflict was equally necessary, given that the conflict had been the root cause of human rights abuses in Myanmar. While expressing support for the Secretary-General's call for the Government to initiate dialogue with all political parties and ethnic groups [YUN 2005, p. 892], the Special Rapporteur stressed the need to establish confidence in the transition process through the release of all political prisoners and other necessary action to ensure the free participation by all political representatives in that process.

By a 21 September note [A/61/369 & Corr.1], the Secretary-General transmitted to the General Assembly the Special Rapporteur's report covering the period from February to September. As he had not been permitted by Myanmar authorities to undertake a fact-finding visit to the country, the Special Rapporteur relied on information and insight from neighbouring countries. Accordingly, between 11 and 26 February, he visited India, Indonesia, Malaysia and Thailand. He was dismayed that no progress had been made towards genuine democratic reform within the framework of the National Convention, which adjourned in January after meeting for approximately two months. Recommendations put forward by UN bodies had been disregarded by the authorities, as the persecution of political opponents and many others continued, particularly the detention of Daw Aung San Suu Kyi and other members of her party. The culture of impunity remained the main obstacle to efforts to safeguard respect for human rights in the country and create a favourable environment for its realization. That had resulted in widespread and systematic violations, including summary executions, torture, forced labour, sexual violence and the recruitment of child soldiers. Other disturbing violations included restrictions on fundamental freedoms, including of movement, expression, association and assembly; military operations in ethnic areas; access to and control over land and natural resources; deteriorating economic and social conditions and consequent humanitarian challenges; and the Government's

failure to finalize its official recognition of and accession to relevant human rights instruments.

The Special Rapporteur, while reaffirming the validity of the recommendations contained in his February report (see above), urged the Government to free all political prisoners and end the harassment and persecution of political opponents and ethnic groups; resume dialogue with all political actors; bring to justice officials alleged to have committed human rights abuses; end the criminalization of the peaceful exercise of fundamental freedoms; establish, with international assistance, an independent and impartial judiciary; facilitate the activities of humanitarian agencies; and respect its obligations to protect civilians from armed conflict.

On 19 December, the General Assembly took note of the report of the Special Rapporteur (**decision 61/529**).

Reports of Secretary-General. In response to General Assembly resolution 60/233 [YUN 2005, p. 894], the Secretary-General submitted a February report [E/CN.4/2006/117] on his good offices' efforts in facilitating national reconciliation and democratization in Myanmar. He announced that, since efforts to engage with the authorities to address international concerns remained stalled, and after having been denied access to the country for approximately two years, his special envoy, Razali Ismail, had stepped down in January upon the expiration of his contract. As the Special Rapporteur (see above) had also not been allowed to visit the country since November 2003, political discussions with the Government took place only on limited occasions outside the country. The Secretary-General noted that representatives of the National League for Democracy (NLD) and other political parties had again not participated in the National Convention, which reconvened between December 2005 and January 2006, and that NLD leader, Daw Aung San Suu Kyi, who had spent approximately 10 years in detention, remained under house arrest. Overall, an estimated 1,147 political prisoners were being held either in prisons or interrogation centres throughout the country. Significant segments of the population faced extremely difficult socio-economic conditions and humanitarian challenges relating to the rapid rise of HIV/AIDS among vulnerable groups, food insecurity, limited health care, inadequate opportunities, forced labour practices and massive displacement owing to unrelenting conflicts in certain parts of the country. Despite the lack of progress in the national reconciliation process, the Secretary-General expressed continuing commitment to making his good offices available and pledged, in the event of progress, to mobilize international assist-

ance to support the authorities in national reconciliation and in the economic, social and political development of the country. He therefore appealed to them to resume promptly substantive political dialogue with representatives of all ethnic groups and political leaders. Following the initiation of dialogue, the remaining constraints on all political leaders should be lifted, NLD offices reopened and political prisoners released.

Also in accordance with resolution 60/233, the Secretary-General in October [A/61/504] further reported on his good offices, which aimed at facilitating national reconciliation and democratization in Myanmar. He noted the relative success in discussions with the Government, resulting in a mission to the country in May, led by the Under-Secretary-General for Political Affairs. The main objective was to meet the top leadership and relevant stakeholders to assess the situation first-hand and determine what more could be done to help move the country towards an all-inclusive democracy, sustainable development and national reconciliation. The mission also sought to address the issue of unhindered access for the delivery of humanitarian assistance to the people of Myanmar. The Secretary-General observed that, despite some follow-up developments that had taken place since the mission, more tangible progress was needed, as a genuine process of democratization and national reconciliation was yet to be launched. Although the Government had announced the resumption in October of the National Convention, which was encouraging, there was no indication that the process would be broadened to include representatives from NLD and certain ethnic political parties. The Secretary-General again called on the authorities to make reform efforts more inclusive and credible when the National Convention reconvened and during the subsequent phases of the road map process, including the drafting of a constitution and the holding of a national referendum. Those steps should start as soon as possible, beginning with confidence-building measures, such as the release of political prisoners and the removal of remaining constraints on political activities.

GENERAL ASSEMBLY ACTION

On 22 December [meeting 84], the General Assembly, on the recommendation of the Third Committee [A/61/443/Add.3], adopted **resolution 61/232** by recorded vote (82-25-45) [agenda item 67 (e)].

Situation of human rights in Myanmar

The General Assembly,

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

the International Covenants on Human Rights and other relevant 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 this field,

Reaffirming also its previous resolutions on the situation of human rights in Myanmar, the most recent of which is resolution 60/233 of 23 December 2005, those of the Commission on Human Rights, and the conclusions of the International Labour Conference of June 2006,

Bearing in mind Security Council resolution 1325(2000) of 31 October 2000 on women and peace and security, resolutions 1265(1999) of 17 September 1999 and 1296(2000) of 19 April 2000 on the protection of civilians in armed conflict and resolution 1612(2005) of 26 July 2005 on children and armed conflict, the report of the Secretary-General on children and armed conflict and the Security Council discussion on the situation in Myanmar held on 29 September 2006,

Recognizing that respect for human rights, the rule of law, democracy and good governance are essential to achieving sustainable development and economic growth, and affirming that the establishment of a genuine democratic government in Myanmar is essential for the realization of all human rights and fundamental freedoms,

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,

1. *Welcomes:*

(a) The reports of the Special Rapporteur on the situation of human rights in Myanmar and his oral presentations, and the reports of the Secretary-General;

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

(c) The visits of the Under-Secretary-General for Political Affairs to Myanmar in May and November 2006 at the invitation of the Government of Myanmar, and his meetings with senior government officials as well as leaders of the National League for Democracy, including Aung San Suu Kyi;

(d) The efforts of the United Nations and other international humanitarian organizations to deliver urgently needed humanitarian assistance to the most vulnerable people in Myanmar;

(e) The establishment by the Government of Myanmar of a committee for the prevention of military recruitment of underage soldiers and the adoption in November 2004 of an outline plan of action to address the issues of underage recruitment and child soldiers, and the declared willingness of the Government to cooperate with the United Nations and other international organizations to address these issues;

(f) The recent submission by the Government of Myanmar of replies to a number of official communications by the United Nations special procedures on human rights;

(g) The initial measures to combat impunity concerning forced labour, including the six-month moratorium on arrests of individuals who report forced labour and the release of two prominent detainees;

(h) The launching of the Three-Disease Fund with the aim of tackling the severe problems of HIV/AIDS, tuberculosis and malaria in Myanmar;

2. *Expresses grave concern at:*

(a) The ongoing systematic violations of human rights and fundamental freedoms of the people of Myanmar, as described in resolution 60/233 and previous resolutions of the General Assembly and of the Commission on Human Rights, as well as the reports of the Special Rapporteur on the situation of human rights in Myanmar and of the International Labour Organization, including discrimination and violations suffered by persons belonging to ethnic nationalities of Myanmar, including extrajudicial killings, rape and other forms of sexual violence persistently carried out by members of the armed forces; the continuing use of torture, deaths in custody, political arrests and continuing imprisonment and other detention; the continuing recruitment and use of child soldiers and the use of landmines; forced labour, including child labour; trafficking in persons; the denial of freedom of assembly, association, expression and movement; wide disrespect for the rule of law; the confiscation of arable land, crops, livestock and other possessions; and the prevailing culture of impunity;

(b) The attacks by military forces on villages in Karen State and other ethnic States in Myanmar, leading to extensive forced displacements and serious violations of the human rights of the affected populations;

(c) The continuing restrictions on activities of the National League for Democracy and other political parties, and the consistent harassment of their members, as well as of persons belonging to ethnic nationalities and of student leaders, including the extension of the house arrest of the General Secretary of the National League for Democracy, Aung San Suu Kyi, and her deputy, Tin Oo;

(d) The absence of progress towards genuine democratic reform, including the measures hindering representatives of the National League for Democracy and other political parties from participating in an effective and meaningful manner in the National Convention;

(e) The fact that the Special Rapporteur on the situation of human rights in Myanmar and the former Special Envoy of the Secretary-General for Myanmar have been unable to visit the country for almost three years, despite repeated requests;

(f) The continuing denial of the freedom of human rights defenders to pursue their activities;

3. *Strongly calls upon* the Government of Myanmar:

(a) To end the systematic violations of human rights and fundamental freedoms in Myanmar, to fully implement the recommendations of the Special Rapporteur, the General Assembly, the Commission on Human Rights, the International Labour Organization and other United Nations bodies aimed at ensuring full respect for all human rights and fundamental freedoms in Myanmar,

and to allow human rights defenders to pursue their activities unhindered and to ensure their safety, security and freedom of movement in that pursuit;

(b) To take urgent measures to put an end to the military operations targeting civilians in the ethnic areas, and the associated violations of human rights and humanitarian law against persons belonging to ethnic nationalities, including widespread rape and other forms of sexual violence persistently carried out by members of the armed forces, and to facilitate a fact-finding mission comprising representatives of relevant United Nations agencies to help to identify measures to alleviate the humanitarian and human rights consequences of the conflict in Karen State and other ethnic States in Myanmar;

(c) To put an immediate end to the continuing recruitment and use of child soldiers, to intensify measures to ensure the protection of children affected by armed conflict, to fully implement the 2004 plan of action, including by intensifying cooperation with the United Nations agencies, in particular the United Nations Children's Fund, and to consider as a matter of high priority signing and ratifying the Optional Protocols to the Convention on the Rights of the Child;

(d) To end the systematic forced displacement of large numbers 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 in accordance with international law, including international humanitarian law;

(e) To end impunity, and to this end:

(i) To investigate and bring to justice any perpetrators of human rights violations, including members of the military and other government agents in all circumstances;

(ii) To facilitate a genuinely independent investigation of continuing reports of sexual violence, in particular against women belonging to ethnic nationalities, and other abuse of civilians carried out by members of the armed forces in Shan, Karen, Mon and other States;

(iii) To facilitate a genuinely independent investigation into the attack perpetrated near Depayin on 30 May 2003;

(f) To release all political prisoners immediately and unconditionally, including National League for Democracy leaders Aung San Suu Kyi and Tin Oo, and Shan Nationalities League for Democracy leader Khun Htun Oo and other Shan leaders, as well as former student leaders Min Ko Naing, Ko Ko Gyi, Htay Kywe, Min Zeya and Pyone Cho; to desist from arresting and punishing persons for their peaceful political activities, and to ensure that discipline in prisons does not amount to torture or cruel, inhuman or degrading treatment or punishment, and that conditions of detention otherwise meet international standards, and include the possibility of visiting any detainee, including Aung San Suu Kyi, and to investigate cases of death in custody;

(g) 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 for free and independent media, and to ensure unhindered access to information for the people of Myanmar;

(h) To urgently resolve the serious issues identified by the International Labour Organization concerning compliance with international labour standards, including to give clear assurances that no action will be taken against persons lodging complaints of forced labour, to resolve outstanding allegations of forced labour, to establish a credible mechanism for dealing with individual complaints of forced labour, to respect the International Labour Organization presence in Myanmar and strengthen it when necessary and ensure the safety, security and freedom of movement of the International Labour Organization liaison officer;

(i) To cooperate fully with the Special Rapporteur, including by granting him full, free and unimpeded access to Myanmar, and with other United Nations human rights mechanisms, and to ensure that no person cooperating with the Special Rapporteur or any international organization is subjected to any form of intimidation, harassment or punishment;

(j) 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 those organizations so as to ensure that humanitarian assistance is delivered in accordance with humanitarian principles and reaches the most vulnerable groups of the population in accordance with international law, including applicable international humanitarian law;

(k) To continue to take action to fight the HIV/AIDS epidemic, tuberculosis and malaria;

4. *Calls upon* the Government of Myanmar:

(a) To permit all political representatives and representatives of ethnic nationalities to participate fully in the political transition process without restrictions, and, to this end, to resume, without further delay, dialogue with all political actors, including the National League for Democracy and representatives of ethnic nationalities, to complete the drafting of the Constitution and to ensure that the drafting process responds to the concerns of the ethnic nationalities and to set a clear timetable for the transition to democracy;

(b) To pursue through dialogue and peaceful means the immediate suspension and permanent end of conflict with all ethnic nationalities in Myanmar, and to allow the full participation of representatives of all political parties and representatives of ethnic nationalities in an inclusive and credible process of national reconciliation;

(c) 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 administration of justice;

5. *Requests* the Secretary-General:

(a) To continue to provide his good offices and to pursue his discussions on the situation of human rights

and the restoration of democracy with the Government and the people of Myanmar, including all relevant parties to the national reconciliation process in Myanmar, and to offer technical assistance to the Government in this regard;

(b) To give all necessary assistance to enable his Special Envoy, once appointed, and the Special Rapporteur to discharge their mandates fully and effectively;

(c) To report to the General Assembly at its sixty-second session on the progress made in the implementation of the present resolution;

6. *Decides* to continue the consideration of the question at its sixty-second session, on the basis of the report of the Secretary-General and the interim report of the Special Rapporteur.

RECORDED VOTE ON RESOLUTION 61/232:

In favour: Afghanistan, Albania, Andorra, Angola, Argentina, Armenia, Australia, Austria, Bahamas, Belgium, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burundi, Canada, Chile, Congo, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Georgia, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Japan, Kazakhstan, Kuwait, Latvia, Lebanon, Liechtenstein, Lithuania, Luxembourg, Malta, Mauritius, Mexico, Micronesia, Moldova, Monaco, Morocco, Nauru, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Palau, Panama, Paraguay, Peru, Poland, Portugal, Republic of Korea, Romania, Saudi Arabia, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, Ukraine, United Kingdom, United Republic of Tanzania, United States, Uruguay.

Against: Algeria, Azerbaijan, Bangladesh, Belarus, Brunei Darussalam, Cambodia, China, Cuba, Egypt, Guinea, India, Indonesia, Iran, Lao People's Democratic Republic, Libyan Arab Jamahiriya, Malaysia, Myanmar, Pakistan, Russian Federation, Sudan, Syrian Arab Republic, Uzbekistan, Venezuela, Viet Nam, Zimbabwe.

Abstaining: Antigua and Barbuda, Bahrain, Barbados, Belize, Benin, Bhutan, Botswana, Burkina Faso, Cape Verde, Colombia, Comoros, Costa Rica, Democratic People's Republic of Korea, Djibouti, Ethiopia, Fiji, Ghana, Guinea-Bissau, Guyana, Jamaica, Jordan, Kenya, Kyrgyzstan, Malawi, Mali, Mauritania, Mozambique, Namibia, Nepal, Niger, Philippines, Qatar, Rwanda, Sierra Leone, Singapore, Solomon Islands, South Africa, Sri Lanka, Suriname, Swaziland, Thailand, Trinidad and Tobago, United Arab Emirates, Yemen, Zambia.

Nepal

Reports of High Commissioner. Pursuant to a 2005 Commission request [YUN 2005, p. 741], the High Commissioner submitted a February report [E/CN.4/2006/107] on the situation of human rights and the activities of her Office in Nepal during the period from 1 September 2005 to January 2006. She observed that, despite a marked reduction in killings during a four-month unilateral ceasefire by the Communist Party Nepal-Maoist (CPN), which lasted until early January 2006, OHCHR-Nepal continued to receive information about the killing of

civilians and members of security forces, as well as abductions, other violence and threats against government officials, teachers, journalists and human rights defenders perpetrated by both sides. Arbitrary arrest and detention of suspected CPN members or sympathizers also persisted, reinforced by the absence of guarantees in the country's anti-terrorist legislation. Allegations received by OHCHR-Nepal indicated that torture was routine, despite the Government's denials of its systematic nature and statements that it was taking appropriate action.

It was regrettable that the efforts of the security forces were not adequate to investigate violations and hold accountable those responsible, and that relatively light sentences were imposed in the few cases in which action was taken. Also of major concern were the activities of armed groups, such as extortion, assaults and killings of suspected Maoists. In some cases, the State had tolerated or colluded with those groups. Children's rights to life, physical integrity, health and education were repeatedly violated by both sides. Women did not fare any better, as they suffered several conflict-related and other human rights abuses, including torture in the course of search operations by both sides, and were affected by discriminatory legislation and practices, despite recent action by the Supreme Court. Public protests intensified in January, when the authorities introduced an extensive ban on demonstrations to prevent one in the capital, Kathmandu, and arrested more than 100 political and civil society leaders at their homes. Blanket bans on demonstrations were imposed also in many municipalities to prevent the exercise of the right to freedom of peaceful assembly. Restrictions on the freedom of expression included a media ordinance, which entrenched Government efforts to ban the broadcasting of news on FM radio stations, and a consistent pattern of threats and harassment of journalists by the authorities in rural districts. In a related development, a government-imposed code of conduct for NGOs instituted constraints on the membership, objectives and functioning of related organizations, including those of human rights defenders. The conflict aggravated poverty, social inequalities and discrimination, with the rights to health, food and other economic, social and cultural rights all at risk. In addition to monitoring and investigating human rights violations, OHCHR-Nepal provided advisory services and support to a variety of partners in the country, particularly the authorities. It continued to work with the National Human Rights Commission and convened and chaired the United Nations Inter-Agency Human Rights Protection Working Group.

By a September note [A/61/374], the Secretary-General transmitted the High Commissioner's report on the human rights situation and OHCHR activities in Nepal, which examined the protest movement launched on 5 April by the Seven-Party Alliance (SPA) (see p. 449) and associated political developments and their impact on human rights. The protests led to the reinstatement of the House of Representatives, facilitated the formation of a coalition Government and a cessation of military operations in the conflict, the restoration of democratic rights and the relaunching of peace talks between the Government and CPN. Both parties requested UN assistance in a number of areas, including the monitoring of the ceasefire and human rights. A major improvement in the human rights situation was the restoration, for the most part, of the rights to freedom of association, expression and assembly, and the related lifting of bans on demonstrations, except in one area of Kathmandu, and the release of all political detainees. The cessation of hostilities resulted in an end to conflict-related violations, including extrajudicial executions, detention, torture and ill-treatment in army barracks of those suspected of links to CPN. The parties also reached a series of agreements, which included broad references underlining the importance of human rights, and respect for international human rights and humanitarian law in the conduct of security forces and CPN activists. Nonetheless, problems persisted with regard to the activities of other armed groups that were involved in killings and abductions, accountability for past violations, which became a key issue of debate in the peace process, the problem of internal displacement resulting from violations of human rights and international humanitarian law and the social exclusion and marginalization of such vulnerable groups as women, children and ethnic minorities.

The High Commissioner concluded that the improvements made in human rights remained fragile and any setback to the peace process risked a negative and potentially devastating impact on that situation. Major challenges revolved around law enforcement and the justice system and the weakness or absence of enforcement agencies in terms of their limited capacity or will to maintain law and order and protect civilians. Strengthening them would be essential for ensuring that the electoral process for a Constituent Assembly could be organized without fear, intimidation or more serious abuses. However, holding to account those responsible for violence and human rights violations, thereby ending the climate of impunity on both sides, had to be a priority.

On 19 December, the General Assembly took note of the report of the High Commissioner (**decision 61/529**).

Human Rights Council action. On 27 November [A/62/53 (dec. 2/114)], the Human Rights Council welcomed the significant improvement of human rights in Nepal, in the light of the success of the democratic movement and the conclusion of a comprehensive peace agreement stressing commitment to human rights and including the establishment of a truth and reconciliation commission. Underlining the need to address the challenges ahead, such as the consolidation of the rule of law and the strengthening of protection for victims of human rights violations, the Council called on all stakeholders to ensure full respect for human rights, welcomed the Government's cooperation with OHCHR and the Council's special procedures, and asked the High Commissioner to report in 2007.

Sri Lanka

On 29 November [A/62/53 (dec. 2/116)], the Human Rights Council deferred to its fourth (2007) session consideration of a draft decision on Sri Lanka [A/HRC/2/L.37] put forward by Finland on behalf of the European Union (EU), by which the Council would express concern at the recent escalation of violence in Sri Lanka and the increasing violations of human rights and humanitarian law, and call upon the parties to put an immediate end to those violations and guarantee access and protection of humanitarian workers.

Timor-Leste

Commission of Inquiry. In October [S/2006/822], the High Commissioner submitted to the Secretary-General, for transmission to the Security Council, the report of the Independent Special Commission of Inquiry for Timor-Leste established under the auspices of the High Commissioner to investigate the April/May events (see p. 415), which escalated into a serious crisis that claimed many lives and wounded numerous others, and during which egregious human rights violations were allegedly committed.

Turkmenistan

Report of Secretary-General. In response to General Assembly resolution 60/172 [YUN 2005, p. 897], the Secretary-General submitted an October report on the situation of human rights in Turkmenistan [A/61/489]. The report described

efforts to implement resolution 60/172 highlighting cooperation with numerous UN treaty bodies and entities, as well as other organizations and institutions, among them, OHCHR, the special procedures established by the Commission on Human Rights and assumed by the Human Rights Council, the Organization for Security and Cooperation in Europe (OSCE), the International Committee of the Red Cross and the International Labour Organization (ILO). It also highlighted specific human rights issues, including restrictive laws that affected the work of human rights defenders and reports of intimidation, harassment, constant surveillance, arbitrary arrests, imprisonment and ill-treatment and reprisals against relatives. Also of concern were restrictions on the freedoms of movement and association, of expression and the media, and of thought, conscience, religion or belief, as well as the substandard prison conditions and reports of torture, the lack of confidence in the judicial system and violations of women's rights.

The Secretary-General concluded that gross and systematic violations of human rights were continuing, despite the Government's gestures and demonstrated readiness to engage with the international community and the human rights mechanisms. He called upon the Government to report to UN treaty bodies on the implementation of human rights instruments in the country; cooperate with the thematic mechanisms of the Council by extending invitations to visit the country; improve the environment for human rights defenders and ensure that those currently held in custody were afforded the full protection of international human rights instruments to which Turkmenistan was a party; stop the use of torture; and ensure that all prisoners had access to lawyers of their choice and independent observers.

On 19 December, the General Assembly took note of the Secretary-General's report (**decision 61/529**).

Uzbekistan

Communications. On 24 March [E/CN.4/2006/G/12], Uzbekistan circulated its comments on the High Commissioner's report on the OHCHR investigative mission to neighbouring Kyrgyzstan, where survivors of the violent events in May 2005 in the Uzbek city of Andijan had fled [YUN 2005, p. 899]. Uzbekistan complained that the mission report distorted the true situation and was based on statements by individuals who had participated in terrorist activities and escaped from detention. In a 30 June aide-memoire [A/60/914], it outlined its

observations on the issues raised in General Assembly resolution 60/174 [YUN 2005, p. 900] on the human rights situation in the country.

Report of Secretary-General. In response to Assembly resolution 60/174, and as a follow-up to the findings of the 2005 OHCHR mission, the Secretary-General submitted an October report on the situation of human rights in Uzbekistan [A/61/526]. The report described developments in the aftermath of the Andijan incidents, in particular the implementation of the recommendations of the OHCHR mission, the trial of those involved, the situation of eyewitnesses and others who reported on the incidents and the Government's cooperation with UN human rights bodies and mechanisms and with other organizations and institutions. Encouraging developments included the Government's accession to important human rights instruments and the submission of integral periodic reports to the treaty bodies, and presidential decrees introducing habeas corpus and abolishing the death penalty with effect from 1 January 2008. However, no response had been received from the Government regarding permission to conduct an international investigation into the Andijan incidents, as recommended by the OHCHR mission. It was particularly disturbing that OHCHR and other international organizations had not been given access to the country to conduct investigations. Meanwhile, worrisome violations of human rights persisted in relation to fair and accessible trials, the question of torture, freedom of religion or belief, the conduct of the electoral process, the treatment of NGOs, the protection of journalists and human rights defenders and the functioning of an independent media.

While welcoming the encouraging initiatives taken by the Government, the Secretary-General concluded that its lack of response to the call for the establishment of an international commission of inquiry and the ongoing allegations of human rights violations demonstrated that the country's human rights situation had not improved. He called upon the Government to implement fully and promptly the recommendations of the OHCHR mission, particularly the granting of permission to establish a commission of inquiry into the Andijan events. The Government should also implement fully the recommendations contained in the April report on related trials issued by the OSCE and its Office for Democratic Institutions and Human Rights, protect and safeguard the rights of eyewitnesses and their families, as well as of journalists, human rights defenders and other members of civil society, facilitate access to returning asylum-seekers and refugees, and cooperate with the High Commissioner's

Regional Representative and the Human Rights Council's special procedures.

By **decision 61/529** of 19 December, the General Assembly took note of the Secretary-General's report.

Europe and the Mediterranean

Belarus

Report of Special Rapporteur. The Special Rapporteur on the situation of human rights in Belarus, Adrian Severin (Romania), reported [A/HRC/4/16] to the Human Rights Council that the Government of Belarus, as in previous years, had not responded positively to his requests to visit the country. To fulfil his mandate, he had to rely on information gathered during his mission in early 2006 to the Russian Federation and on consultations and discussions in Geneva, Strasbourg and Brussels with delegates, NGOs, UN specialized agencies, OSCE and the Council of Europe. The report described the status of civil, political, economic, social and cultural rights, all of which, it noted, had deteriorated steadily. There were systematic violations of citizens' rights to participate effectively in the conduct of public affairs. Human rights protection mechanisms remained extremely weak, as there was neither a national human rights institution nor a genuine, independent legislative branch, and the judicial system was subservient to the executive branch. Illustrating the problem was the fact that the March presidential elections, in which the incumbent President claimed victory with over 80 per cent of the vote, reportedly did not comply with standards for democratic elections (see below). Other major problems concerned the justice system, particularly the application of the death penalty, with Belarus being the only country in Europe that still applied it, the harsh conditions of pre-trial detention, the practice of torture and other inhuman treatment, as well as the excessive use of force by the police. There were also reports of numerous violations of the freedoms of opinion and expression, the media, assembly and association, and religion, as well as breaches of economic and social rights and of the rights of women and other minorities.

The Special Rapporteur reaffirmed the validity of the conclusions and recommendations contained in his 2005 report [YUN 2005, p. 902], which had been reinforced by identical assessments from other special procedures and Euro-Atlantic organizations. As opposed to the Government's failure to implement

those recommendations, the Special Rapporteur acknowledged the cooperation of the Belarusian political opposition and civil society and proposed that they be encouraged and supported. He asked the Council to request OHCHR to establish a group of legal experts to investigate the disappearance and murders of several politicians and journalists and collaborate with other international organizations to convene an international conference on the situation of human rights in Belarus. He further recommended, among other measures, the establishment of an international fund for promoting human rights in the country, an extension of his mandate in terms of time, scope and means, and enhanced cooperation between regional organizations and the United Nations and between the Council and OHCHR.

Communication. On 7 June, the OSCE Office for Democratic Institutions and Human Rights published the findings of its election observation mission, which monitored the 19 March presidential elections in Belarus. The mission identified shortcomings in the exercise and made recommendations for improvement.

The General Assembly, in resolution 61/175 (see below), urged the Belarusian Government to rectify those shortcomings and bring the country's electoral processes in line with international standards, particularly those of OSCE.

GENERAL ASSEMBLY ACTION

On 19 December [meeting 81], the General Assembly, on the recommendation of the Third Committee [A/61/443/Add.3], adopted **resolution 61/175** by recorded vote (72-32-69) [agenda item 67 (c)].

Situation of human rights in Belarus

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations, the provisions of the Universal Declaration of Human Rights, the International Covenants on 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 Protocols 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 thereto

on the sale of children, child prostitution and child pornography,

Recalling Commission on Human Rights resolutions 2003/14 of 17 April 2003, 2004/14 of 15 April 2004 and 2005/13 of 14 April 2005, and Human Rights Council decision 1/102 of 30 June 2006,

Concerned that the presidential election of 19 March 2006 was severely flawed and fell significantly short of the commitments of Belarus to the Organization for Security and Cooperation in Europe to hold a free and fair election, and that the situation of human rights in Belarus in 2005 was steadily deteriorating, as documented in the final report of the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe and in the report of the Special Rapporteur on the situation of human rights in Belarus,

Noting that the Belarusian authorities have decided to hold local elections on 14 January 2007, and expressing its hope that those will be free and fair, in full respect of international electoral standards,

1. *Expresses deep concern:*

(a) About the failure of the Government of Belarus to cooperate fully with all the mechanisms of the Human Rights Council, in particular with the special rapporteurs on the situation of human rights in Belarus, while noting the serious concern relating to the deterioration of the human rights situation in Belarus expressed by seven independent human rights experts of the United Nations in a statement issued on 29 March 2006;

(b) That in spite of detailed recommendations by the Organization for Security and Cooperation in Europe and dialogue between the Government and the Organization for Security and Cooperation in Europe following previous elections, Belarus again failed to meet its commitments to hold free and fair elections, including through the arbitrary use of State power against opposition candidates, routine harassment, the detention and arrest of political and civil society activists, the obstruction of the access of opposition candidates to State media, the negative portrayal in the State media of opposition candidates and activists, including human rights defenders, and the serious shortcomings of the vote count, which lacked minimum transparency;

(c) About continuing reports of harassment, arbitrary arrest and detention of up to one thousand persons, including opposition candidates, before and after the election of 19 March 2006;

(d) About the continuing and expanding criminal prosecutions, lack of due process and closed political trials of leading opposition figures and human rights defenders;

(e) About the continuing harassment and detention of Belarusian journalists covering local opposition demonstrations, and that senior officials of the Government of Belarus were 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(2004) of 28 April 2004 by the Parliamentary Assembly of the Council of Europe;

(f) About the decision of the Belarusian authorities to revoke the teaching licence of the European Humanities University in Minsk and to terminate the lease of its buildings, forcing the University in Belarus to close down;

(g) About persistent reports of harassment and closure of non-governmental organizations, national minority organizations, independent media outlets, religious groups, opposition political parties, independent trade unions and independent youth and student organizations, and the harassment and prosecution of individuals, including students engaged in the promotion and protection of human rights, the rule of law and democracy;

2. *Urges* the Government of Belarus:

(a) To bring the electoral process and legislative framework into line with international standards, especially those of the Organization for Security and Cooperation in Europe, demonstrate such commitment through the upcoming local elections in January 2007 and rectify the shortcomings of the electoral process, identified by the Office for Democratic Institutions and Human Rights in its report of 7 June 2006, including, inter alia, election laws and practices that restrict campaigning opportunities for de facto opposition candidates, arbitrary application of electoral laws, including on registration of candidates, obstruction of the right of access to the media, biased presentation of the issues by the State media and falsification of vote counts;

(b) To cease politically motivated prosecution, harassment and intimidation of political opponents, pro-democracy activists and human rights defenders, students, independent media, religious organizations, educational institutions and civil society actors; and to cease the harassment of students and to create the conditions whereby they can continue their studies in Belarus;

(c) To respect the rights to freedom of speech, assembly and association and to release immediately all political prisoners and other individuals detained for exercising those rights;

(d) To suspend from their duties officials implicated in any case of enforced disappearance, summary execution and torture or other cruel, inhuman or degrading treatment or punishment, pending investigation of those cases, and to ensure that all necessary measures are taken to investigate fully and impartially such cases and to bring the alleged perpetrators to justice before an independent tribunal, and, if found guilty, to ensure that they are punished in accordance with the international human rights obligations of Belarus;

(e) To investigate and hold accountable those responsible for the mistreatment and detention of domestic and foreign journalists in connection with the election of 19 March 2006 and post-election demonstrations;

(f) To uphold the right to freedom of religion or belief, including the ability to maintain communications with individuals and communities in matters of religion and belief at the national and international levels;

(g) To investigate and hold accountable those responsible for the mistreatment, arbitrary arrest and incarceration of civic and political activists leading up to and following the presidential election of March 2006 and to release immediately and unconditionally all political prisoners;

(b) To carry out all other steps called for by the Commission on Human Rights in its resolution 2005/13;

3. *Insists* that the Government of Belarus cooperate fully with all the mechanisms of the Human Rights Council, in particular with the Special Rapporteur appointed pursuant to Commission on Human Rights resolution 2004/14 and whose mandate was extended in Commission resolution 2005/13, as well as with the Representative of the Organization for Security and Cooperation in Europe on freedom of the media.

RECORDED VOTE ON RESOLUTION 61/175:

In favour: Afghanistan, Albania, Andorra, Argentina, Australia, Austria, Bahamas, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Chile, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, El Salvador, Estonia, Fiji, Finland, France, Georgia, Germany, Greece, Guatemala, Haiti, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Marshall Islands, Micronesia, Moldova, Monaco, Montenegro, Netherlands, New Zealand, Nicaragua, Norway, Palau, Paraguay, Peru, Poland, Portugal, Republic of Korea, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Timor-Leste, Tonga, Turkey, Tuvalu, Ukraine, United Kingdom, United States, Uruguay, Vanuatu.

Against: Algeria, Armenia, Bangladesh, Belarus, China, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Egypt, Ethiopia, India, Indonesia, Iran, Kazakhstan, Kyrgyzstan, Lebanon, Libyan Arab Jamahiriya, Malaysia, Mauritania, Morocco, Myanmar, Pakistan, Qatar, Russian Federation, South Africa, Sudan, Syrian Arab Republic, Tajikistan, Uzbekistan, Venezuela, Viet Nam, Zimbabwe.

Abstaining: Angola, Antigua and Barbuda, Bahrain, Barbados, Belize, Benin, Bhutan, Botswana, Brazil, Brunei Darussalam, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Djibouti, Ecuador, Eritrea, Ghana, Guinea, Guinea-Bissau, Guyana, Jamaica, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritius, Mexico, Mongolia, Mozambique, Namibia, Nepal, Niger, Nigeria, Panama, Papua New Guinea, Philippines, Rwanda, Samoa, Sao Tome and Principe, Saudi Arabia, Senegal, Sierra Leone, Singapore, Solomon Islands, Somalia, Sri Lanka, Suriname, Swaziland, Thailand, Togo, Trinidad and Tobago, Turkmenistan, Uganda, United Arab Emirates, United Republic of Tanzania, Yemen, Zambia.

Cyprus

Report of Secretary-General. In response to a 2005 Commission request [YUN 2005, p. 902] and in accordance with Human Rights Council decision 2/102 (see p. 760), the Secretary-General transmitted an OHCHR report [A/HRC/4/59], which provided

an overview of human rights issues in Cyprus, covering the period up to 28 December 2006. The report noted that human rights concerns there stemmed from the division of the island and related mainly to the freedom of movement, human trafficking, discrimination, property rights, the question of missing persons, the right to education and freedom of religion. Restrictions on the freedom of movement applied particularly in military zones in the northern part of the country, where some areas were completely inaccessible, even to relatives of the inhabitants. There was also the disturbing trend of implementing policies that impinged on the ability of organizations and individuals to carry out activities and projects designed to contribute to bi-communal contacts and cooperation throughout the island. As a result, UN entities, particularly UNDP, were hampered in implementing projects that benefited both Greek and Turkish Cypriots in areas of common concern. Also disturbing was the fact that a number of serious human rights violations remained unpunished, especially regarding law enforcement agencies, due mostly to the lack of cooperation between both sides. Other issues of concern pertained to the problem of discrimination, the loss of property rights and the right to an effective remedy. While acknowledging the measures being taken to address the issues of missing persons, the right to education, freedom of movement and the preservation and restoration of cultural and religious rights, the report underlined specific challenges to the status of economic rights. Despite the relative narrowing of the gap in standards of living between the Greek Cypriots and the Turkish Cypriots, overall economic opportunities in the northern part of the island remained limited. It was hoped, however, that the situation might yet improve with the implementation within the year of the European Council regulation establishing an instrument of support for encouraging the economic development of the Turkish Cypriot community, and with the pending adoption of a regulation on direct trade. The overall human rights situation would greatly benefit from a comprehensive settlement of the Cyprus problem, given the obstacle which the persisting *de facto* partition posed to the enjoyment of human rights.

Communication. On 12 May [A/HRC/2/G/2], Turkey transmitted the Turkish Cypriot views on the Secretary-General's report covering the 2005 developments on human rights issues in Cyprus [YUN 2005, p. 902].

Middle East

Lebanon

Special Human Rights Council session

The second special session of the Human Rights Council was held on 11 August in Geneva, at the request of Tunisia [A/HRC/S-2/1], on behalf of the Group of Arab States and the Organization of the Islamic Conference, and backed by 23 States members of the Council. Convened in accordance with General Assembly resolution 60/251 (see p. 757), the session considered and took action on gross human rights violations by Israel in Lebanon, including the Qana massacre (see p. 579), the countrywide targeting of innocent civilians and the destruction of vital civilian infrastructure, which occurred during the Israel-Lebanon conflict (see p. 574).

The second special session held three meetings, at which it heard statements from numerous Council members, including from the parties concerned, intergovernmental organizations and NGOs [A/HRC/S-2/2]. Addressing the session, the High Commissioner noted that the increasing toll of civilian deaths and injuries in Lebanon and Israel, the massive displacement of populations and the destruction of civilian infrastructure in Lebanon required the Council's intervention to impress upon the parties the urgent need to comply with their obligations under international human rights and humanitarian law. Highlighting the sanctity of the right to life, which was the most basic human right, the High Commissioner drew attention to the actions by both parties in violating that right, particularly Israel's 30 July attack on a residential building in Qana and Hizbullah's unrelenting shelling of densely populated centres in Northern Israel. The High Commissioner suggested that the requested inquiry into those incidents should be concerned primarily with the plight of victims and lay the foundation for possible measures of reparation and accountability.

The Council, by a recorded vote of 27 to 11, with 8 abstentions, adopted resolution [A/61/53 (S-2/1)], by which it condemned Israeli violations of human rights and breaches of international humanitarian law in Lebanon, including the bombardment of Lebanese civilian populations, and the massacres in Qana and other Lebanese towns, which resulted in thousands of deaths and injuries, mostly of children and women, and the displacement of 1 million civilians. It called upon Israel to abide by its obligations under international human rights law

and humanitarian law, especially the Convention on the Rights of the Child, and asked all concerned parties to respect those same laws, refrain from violence against the civilian population and treat all detainees in accordance with the 1949 Geneva Conventions. The Council established a high-level commission of inquiry, comprising eminent experts on both human rights and humanitarian law, to investigate the systematic targeting and killing of civilians by Israel in Lebanon, examine the types of weapons used by Israel and their conformity with international law, assess the extent and impact of Israeli attacks on human life, property and the environment and report thereon in September. The international community was asked to provide Lebanon with humanitarian and financial assistance to help deal with the humanitarian challenges, including the rehabilitation of victims, the return of displaced persons and the restoration of essential infrastructure.

Commission of Inquiry on Lebanon

The three members of the Commission of Inquiry on Lebanon (João Clemente Baena Soares, Mohamed Chande Othman, Stelios Perrakis) were appointed on 1 September by the Human Rights Council President, pursuant to Council resolution S- 2/1 (see above), based on their expertise in human rights and international humanitarian law, and their integrity, impartiality and independence. The Commission, which visited Lebanon from 23 September to 7 October, 17 to 21 October, and 23 November, submitted its report and findings to the Council [A/HRC/3/2].

The report provided an overview of the 33-day conflict and its historical background, addressed applicable legal principles and analysed the impact of the conflict on life in Lebanon. The Commission observed that the principle of humanity and humanitarian considerations (Martens clause) was not respected during the conflict. Consequently, the conflict had a devastating effect, especially in southern Lebanon, resulting in the death of some 1,191 persons, 4,409 others injured and more than 900,000 displaced from their homes. It further observed a significant pattern of excessive, indiscriminate and disproportionate use of force against Lebanese civilians and other targets by the Israeli Defence Forces (IDF), which failed to distinguish civilians from combatants, and civilian objects from military targets, in violation of international humanitarian law. The IDF did not give effective warning, as legally required, and where warnings were given, they often did not allow sufficient time for the population to leave. In any event, civilians

remained at risk of being attacked if they left and lacked access to safe humanitarian exit corridors. There were also various cases of direct attacks on medical and relief personnel, who faced many obstacles and IDF-imposed constraints in reaching civilians in need of medical care and humanitarian assistance. One of the most striking aspects of the conflict was the massive displacement of civilians, owing mainly to a climate of fear and panic from IDF warnings, threats and attacks. The Commission highlighted a number of concerns about the protection of those affected, which the Government estimated at nearly a quarter of the population, of whom approximately 735,000 sought shelter within Lebanon, while another 230,000 fled abroad.

Also of concern were the cases of persons who were detained, mistreated and/or abducted and transferred to Israel before their release; the impact of the conflict on vulnerable groups, including women, children, the elderly and migrant workers; and the extensive damage to civilian infrastructure in Lebanon, which hampered the free movement of the displaced, the transportation of humanitarian assistance and the delivery of many vital social services and devastated the environment. The damage to buildings and other facilities was so severe that the Commission considered it would take Lebanon years to rebuild, with the help of the international community. The Commission was not persuaded by Israel's reasons for attacking civilian infrastructure and found no justification for the 30 direct attacks by the IDF on the United Nations Interim Force in Lebanon (UNIFIL) (see p. 578), which resulted in deaths and injuries to UN personnel. While none of the weapons used by the IDF was deemed illegal under international humanitarian law, the Commission determined that the way in which some weapons were used in some instances, particularly cluster munitions, was excessive and not justified by any reason of military necessity and violated international humanitarian law. It also found evidence of Hizbullah using towns and villages, as well as UNIFIL posts, as deliberate "shields" for the firing of its rockets, but found no evidence that it had used human shields.

The Commission concluded that the conflict gave rise to two pertinent issues: Israel's international responsibility under international law, international humanitarian law and human rights; and the accountability of individuals for serious humanitarian and human rights violations. It addressed to the Council recommendations on five broad areas, including the need for humanitarian assistance and reconstruction efforts in Lebanon. Considering the consequences of the conflict and its

effects on the Lebanese population, notably in the south, the Commission proposed that the Council promote initiatives and call for the mobilization of the international community to assist Lebanon and its people. The Council should encourage UN organs, agencies and institutions to work together in a comprehensive and coordinated programme with the Government to improve living conditions and enable the population to fully enjoy their human rights. It should further encourage the UN system and the Bretton Woods Institutions (the World Bank Group and the International Monetary Fund) to facilitate reconstruction efforts in the country; call on the Secretary-General to evaluate the humanitarian assistance provided to civilians by the UN system and other relief organizations; call for the mobilization of professional and technical expertise in coping with the ecological disaster on the marine environment on the Lebanese coast and beyond; and establish a follow-up procedure on the measures to be taken for the rebuilding of Lebanon and for reparations to victims. Other recommendations addressed action to meet the needs of vulnerable groups, ways to promote respect for international humanitarian law, the urgent need to include cluster munitions in the list of weapons banned under international humanitarian law, and the importance of promoting the legal means for individuals to redress violations of international humanitarian law and human rights.

Human Rights Council action. On 8 December [A/62/53 (res. 3/3)], the Human Rights Council took note of the report of the Commission of Inquiry (see above) and asked the High Commissioner to consult with the Government of Lebanon on its findings and on the relevant recommendations contained therein, and to report to the Council in 2007.

(See pp. 903 and 907, respectively, for information on the September visits to Lebanon by the Special Rapporteur on the right to food, and to Israel and Lebanon jointly by the Special Rapporteurs on extrajudicial, summary or arbitrary executions, on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, on adequate housing as a component of the right to an adequate standard of living, and the Representative of the Secretary-General on the human rights of internally displaced persons.)

GENERAL ASSEMBLY ACTION

On 19 December [meeting 81], the General Assembly, on the recommendation of the Third Committee [A/61/443/Add.2], adopted **resolution 61/154** by recorded vote (112-7-64) [agenda item 67 (b)].

The human rights situation arising from the recent Israeli military operations in Lebanon

The General Assembly,

Reaffirming the Universal Declaration of Human Rights and the Vienna Declaration and Programme of Action of 1993, and recalling 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 other human rights instruments,

Guided by relevant human rights instruments and international humanitarian law, in particular the Hague Conventions of 1899 and 1907 respecting the Laws and Customs of War on Land, which prohibit attacks on and bombardment of civilian populations and objects and lay down obligations for general protection against dangers arising from military operations against civilian objects, hospitals, relief materials and means of transportation,

Recalling the commitments of the High Contracting Parties to the Geneva Conventions of 12 August 1949 and the Additional Protocols thereto of 1977,

Recalling also the World Declaration on the Survival, Protection and Development of Children and the Plan of Action for Implementing the World Declaration on the Survival, Protection and Development of Children in the 1990s adopted by the World Summit for Children, held in New York on 29 and 30 September 1990,

Stressing that the right to life constitutes the most fundamental of all human rights,

Emphasizing that human rights law and international humanitarian law are complementary and mutually reinforcing,

Bearing in mind Security Council resolution 1701(2006) of 11 August 2006 and the statement by the President of the Council of 30 July 2006,

Bearing in mind also Human Rights Council resolution S-2/1 entitled "The grave situation of human rights in Lebanon caused by Israeli military operations", adopted by the Council at its second special session on 11 August 2006,

1. *Condemns* all acts of violence against civilians, including the bombardment by Israeli military forces of Lebanese civilians causing extensive loss of life and injuries, including among children, immense destruction of homes, properties, agricultural lands and vital civilian infrastructure, and the displacement of up to one million Lebanese civilians and outflows of refugees fleeing heavy shelling and bombardment directed against the civilian population, thus exacerbating the magnitude of human suffering in Lebanon;

2. *Emphasizes* the importance of the safety and well-being of all children;

3. *Expresses deep concern* about the negative consequences, including the mental and psychological impact, of the Israeli military operations for the well-being of Lebanese children;

4. *Emphasizes* that attacks against civilians, wherever they may occur, are contrary to international humanitarian law and constitute flagrant violations of human

rights, condemns the killing of children, women, the elderly and other civilians in Lebanon, underlines that there should be no impunity for such acts, and calls particularly upon Israel to abide scrupulously by its obligations under human rights law, in particular the Convention on the Rights of the Child, and international humanitarian law;

5. *Deplores* the death of more than 1,100 civilians, one third being children, as a result of the Israeli military operations in Lebanon;

6. *Strongly condemns* the deliberate use by Israel of cluster munitions in Lebanon, most of which had been used in the seventy-two hours directly preceding the cessation of hostilities and after the adoption of Security Council resolution 1701(2006), which left over one million unexploded cluster bomblets, threatening the lives of children and civilians and adversely affecting recovery and rebuilding efforts;

7. *Deplores* the environmental degradation caused by Israeli air strikes against power plants in Lebanon and their adverse impact on the health and well-being of children and other civilians;

8. *Calls upon* the international community to urgently provide the Government of Lebanon with financial assistance in support of the national early recovery, reconstruction and enhancing the national economy, including the rehabilitation of victims, return of displaced persons and restoration of the essential infrastructure, and expresses its appreciation to the Member States, United Nations bodies and intergovernmental, regional and non-governmental organizations that have provided and continue to provide assistance to the people and Government of Lebanon.

RECORDED VOTE ON RESOLUTION 61/154:

In favour: Afghanistan, Algeria, Antigua and Barbuda, Argentina, Armenia, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Benin, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Burkina Faso, Cambodia, Cape Verde, Chile, China, Colombia, Comoros, Congo, Côte d'Ivoire, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Dominica, Ecuador, Egypt, El Salvador, Eritrea, Gabon, Gambia, Ghana, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, India, Indonesia, Iran, Iraq, Jamaica, Jordan, Kazakhstan, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritania, Mauritius, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Niger, Nigeria, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Qatar, Russian Federation, Saint Lucia, Saint Vincent and the Grenadines, Sao Tome and Principe, Saudi Arabia, Senegal, Sierra Leone, Singapore, Somalia, South Africa, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Tajikistan, Thailand, Timor-Leste, Togo, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, United Arab Emirates, United Republic of Tanzania, Uruguay, Uzbekistan, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.

Against: Australia, Canada, Israel, Marshall Islands, Micronesia, Palau, United States.

Abstaining: Albania, Andorra, Angola, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Burundi, Cameroon, Central African Republic, Costa Rica, Croatia, Cyprus,

Czech Republic, Denmark, Dominican Republic, Estonia, Ethiopia, Fiji, Finland, France, Georgia, Germany, Greece, Honduras, Hungary, Iceland, Ireland, Italy, Japan, Kenya, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Moldova, Monaco, Montenegro, Netherlands, New Zealand, Nicaragua, Norway, Papua New Guinea, Poland, Portugal, Republic of Korea, Romania, Samoa, San Marino, Serbia, Slovakia, Slovenia, Solomon Islands, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Tonga, Tuvalu, Ukraine, United Kingdom, Vanuatu.

Territories occupied by Israel

In 2006, human rights questions, including cases of violations in the territories occupied by Israel following the 1967 hostilities in the Middle East were addressed by the Human Rights Council. Political and other aspects were considered by the General Assembly, its Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories (Committee on Israeli Practices), and other bodies (see PART ONE, Chapter VI).

Report of Secretary-General. In response to a 2005 request of the Commission on Human Rights [YUN 2005, p. 904], the Secretary-General reported that he had brought the Commission's resolution on the occupied Syrian Golan to the attention of all Governments, specialized agencies, regional intergovernmental organizations and international humanitarian organizations [E/CN.4/2006/27]. It was also communicated to the Committee on Israeli Practices, the Committee on the Exercise of the Inalienable Rights of the Palestinian People (Committee on Palestinian Rights) and the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). Related activities undertaken by the UN Department of Public Information and its Information Centres and Services were contained in the report on the work of the Committee on Israeli Practices (see p. 536).

Note by Secretariat. By a 9 January note [E/CN.4/2006/28], submitted in response to a 2005 Commission request to the High Commissioner on the issue of Palestinian pregnant women giving birth at Israeli checkpoints [YUN 2005, p. 904], the Secretariat stated that, since the High Commissioner's 2005 report on the issue [ibid., p. 905], no further replies had been received from the Permanent Mission of Israel and the Permanent Observer Mission of Palestine to the United Nations regarding the implementation of the Commission's resolution.

Reports of Special Rapporteur (January). In a January report [E/CN.4/2006/29], Special Rapporteur John Dugard (South Africa) described the human rights situation in the Occupied Palestinian Territory, against the backdrop of Israel's successful evac-

uation of settlers and the withdrawal of its defence forces from the Gaza Strip and parts of the West Bank [YUN 2005, p. 515]. While acknowledging that as an important step towards resolving the conflict in the region, the Special Rapporteur noted that the withdrawal did not by itself end the occupation of the territory. Israel still retained effective control over the territory through its restrictions of the airspace, territorial sea and external land boundaries, and continued to assert military power by means of sonic booms and repeated air strikes which, although targeting militants, had killed and injured innocent bystanders. Israel also continued its construction of a wall within the Palestinian territory, in defiance of the 2004 Advisory Opinion of the International Court of Justice [YUN 2004, p. 465], causing great hardship to Palestinian communities within the vicinity of the wall, many of which were denied access to family, hospitals and schools in the West Bank and their lands beyond the wall. Consequently, many were leaving their homes, compelled to be internally displaced. The construction of the wall, which was also affecting the character of East Jerusalem, was intended to reduce the number of Palestinians in the city by transferring them to the West Bank. Little progress was made in operationalizing the register or mechanism for compiling and compensating those suffering as a result of the wall. Elsewhere, Israeli policies were designed to drive Palestinians from the Jordan Valley area, as Palestinian land was confiscated, homes destroyed, access denied to non-Jordan Valley residents and water and electricity services curtailed. Other human rights violations continued, notably the situation of some 9,000 prisoners in Israeli jails, further restrictions to the freedom of movement, high unemployment, extreme poverty and difficulties concerning health and education facilities, as well as the effect of the occupation on women. Noting that the primary responsibility for resolving the Israeli/Palestinian conflict rested with the Middle East Quartet (Russian Federation, United States, European Union, United Nations), the Special Rapporteur observed that the Quartet's road map, which formed the basis for negotiations, was outdated. A new road map was needed that would take account of current political realities and be anchored in respect for human rights and the rule of law in the conflict resolution process.

Human Rights Council action. On 30 June [A/61/53 (dec. 1/106)], the Human Rights Council, by a recorded vote of 29 to 12, with 5 abstentions, requested the relevant special rapporteurs to report on the issue during its next session, at which it would undertake substantive consideration of the human

rights violations and implications of the Israeli occupation of Palestine and other Arab territories.

Special Rapporteur's visit (June). In a later visit to the Occupied Palestinian Territory (9-17 June) [A/HRC/2/5], the Special Rapporteur found that the human rights situation there had deteriorated substantially, following the abduction of an Israeli soldier by Palestinian militants, the firing of Qassam rockets into Israel and Israel's military response, causing numerous deaths and injuries. Israel's siege of Gaza took the form of the bombardment and destruction of public utilities, including all six transformers of the only power plant there, the main water pipelines and sewage networks, and frequent closure of the only fuel pipeline into the Gaza Strip. The substantial reduction in electricity, fuel and water supply impacted severely on the daily life of Palestinians. Israel also bombarded several public buildings and facilities. Many Palestinians were forced to flee their homes and were sheltered by UNRWA. The Israeli military incursions were accompanied by heavy shelling and the bombardment of houses, resulting in the deaths of many civilians. The attacks on the el-Maghazi refugee camp from 19 to 31 July were typical of those incursions.

In other developments, the 500,000 Palestinians living near the wall required permits to cross it, with about 40 per cent of permit applications refused. Israel also continued to use the wall to implement its policy of "de-Palestinization" of Jerusalem, while Israeli settlements in the West Bank and East Jerusalem continued to expand, in violation of the Fourth Geneva Convention. The difficulties facing Palestinians in terms of restricted access to their lands and social services were exacerbated by the proliferation of checkpoints, which rose from 376 in 2005 to 500 as at June 2006. The demolition of houses remained a regular feature of the occupation, with the family life of Palestinians further undermined by a number of Israeli laws and practices. At least 4 out of 10 Palestinians lived below the official poverty line. Rising unemployment, which stood at 40 per cent, was aggravated by the fact that the public sector, accounting for 23 per cent of total employment in the Palestinian territory, was unpaid because of the withholding of funds owed to the Palestinian Authority by the Israeli Government. In addition, the United States and the European Union cut off funds to the Palestinian Authority, on the grounds that Hamas, elected to office in January 2006, was listed under their laws as a terrorist organization.

In his conclusions, the Special Rapporteur observed that Israel had violated the prohibition of the indiscriminate use of military power against

civilians and civilian objects, and its use of force was disproportionate and excessive. It was therefore in violation of important norms of human rights and international humanitarian law. While it was readily conceded that Israel faced a security threat and was entitled to defend itself, it should not be forgotten that the root cause of that threat was the continuing occupation of land belonging to a people who wished to exercise its right to self-determination in an independent State. It was unfortunate that the Middle East Quartet had resorted to punitive measures to compel Hamas to change its ideological stance or bring about a regime change. Questioning whether the UN position in that regard was consistent with the UN Charter, the Special Rapporteur stressed that the Organization needed to show more concern for the human rights of Palestinians and appealed to the wider international community to address their plight.

The report of the Special Rapporteur on his June visit to the Occupied Palestinian Territory was transmitted to the General Assembly by the Secretary-General in a September note [A/61/470].

On 19 December, the Assembly took note of the report of the Special Rapporteur (**decision 61/529**).

Human Rights Council special sessions

At the request of Tunisia [A/HRC/S-1/1], backed by 21 Member States, the Human Rights Council held its first special session to consider the escalation of the situation in the Palestinian and other occupied Arab territories. The session, convened in accordance with General Assembly resolution 60/251 (see p. 757), was held on 5 and 6 July, during which statements were heard from Council members, representatives of the concerned parties, observer States and intergovernmental organizations.

On 6 July, the Council, by a recorded vote of 29 to 11, with 5 abstentions, adopted resolution [A/61/53 (S-1/1)], as orally amended, by which it expressed concern at violations of the Palestinian people's rights caused by the Israeli occupation, including the extensive Israeli military operations against Palestinians there. It demanded that Israel end its military occupation, abide by international humanitarian and human rights laws, refrain from imposing collective punishment on Palestinian civilians, release arrested Palestinians and treat detained persons in accordance with the Geneva Conventions. Calling for a negotiated solution to the crisis, the Council decided to dispatch an urgent fact-finding mission to the Occupied Palestinian Territory, headed by the Special Rapporteur,

and recommended that the Assembly endorse its decision.

In his report on his December visit to the Occupied Palestinian Territory [A/HRC/4/17], the Special Rapporteur stated that Beit Hanoun in northern Gaza, with a population of 40,000, was subjected to a six-day Israeli military action in November, during which 82 Palestinians, half of them civilians, were killed by the IDF and more than 260 injured and hundreds of males between the ages of 16 and 40 arrested. Residents were confined to their homes as a result of a curfew, while tanks and bulldozers destroyed 279 homes, as well as public buildings, electricity networks, schools and hospitals. The 8 November assault culminated with the shelling of a home, killing 19 persons and wounding 55 others. Israel justified the attack on Beit Hanoun as a defensive operation aimed at preventing the launching of Qassam rockets into Israel, thousands of which had been fired into civilian areas, killing two Israelis and wounding 30 others. The Special Rapporteur said that such actions could not be condoned and constituted a war crime; however, Israel's response had been disproportionate.

On 10 November [A/HRC/S-3/1], Bahrain and Pakistan, with the support of 24 Council members, requested the convening of a further Council special session to consider and take action on the gross human rights violations resulting from Israeli military incursions in the Occupied Palestinian Territory, including the recent one in northern Gaza and the assault on Beit Hanoun.

The Council convened its third special session on 15 November [A/HRC/S-3/2], and by a recorded vote of 32 to 8, with 6 abstentions, adopted resolution [A/62/53 (res. S-3/1)], in which it condemned the Israeli killing of Palestinian civilians, including women, children and medics in Beit Hanoun and other Palestinian towns and villages, and called for the perpetrators to be brought to justice. Denouncing the massive destruction of Palestinian homes, property and infrastructure, the Council expressed alarm at the gross and systematic violations of human rights of the Palestinian people by Israel and called for urgent international action to put an end to those violations and protect the Palestinian civilians, in compliance with international human rights and humanitarian laws. It also decided to dispatch urgently a high-level fact-finding mission, to be appointed by the Council President, to Beit Hanoun to assess the situation of victims, address survivors' needs and make recommendations on ways to protect Palestinian civilians against any further Israeli assaults. The mission was asked to report no later than the middle of December on progress in

fulfilling its mandate, with the assistance of the Secretary-General and the High Commissioner.

Further developments

Communication. In a January letter to the High Commissioner [E/CN.4/2006/G.4], Syria drew attention to Israeli practices aimed allegedly towards the partitioning of the occupied Syrian village of Al-Ghajar, through the displacement of its inhabitants and the construction of a separation wall between the inhabitants and their own lands, in violation of international law.

Human Rights Council action. By a recorded vote of 32 to 1, with 14 abstentions, the Human Rights Council, on 27 November [A/62/53 (res. 2/3)], expressed concern at the suffering of citizens in the Occupied Syrian Golan due to the violation of their fundamental human rights since the Israeli military occupation of 1967. It called on Israel to comply with relevant General Assembly and Security Council resolutions, desist from changing the physical character, demographic composition, institutional structure and legal status of the occupied Syrian Golan, stop imposing Israeli citizenship and identity cards on Syrian citizens, and refrain from repressive measures and other practices mentioned in the report of the Committee on Israeli Practices (see p. 536). Emphasizing that displaced persons in those territories should be allowed to return to their homes and recover their property, the Council determined that all legislative and administrative measures and actions taken or to be taken by Israel, which purportedly altered the character and legal status of the Occupied Syrian Golan, were null and void and violated international law. It called on Member States not to recognize any such measures and asked the Secretary-General to bring the resolution to the attention of Governments, competent UN organs, specialized agencies, as well as international and regional intergovernmental and humanitarian organizations, and to report on it in 2007.

On 27 November [res. 2/4], the Council, by a recorded vote of 45 to 1, with 1 abstention, expressed grave concern at the continuing Israeli settlement and related activities, which changed the physical character and demographic composition of the occupied territories, including East Jerusalem and the Syrian Golan, and at the continuing construction of the wall inside the Occupied Palestinian Territory. It urged Israel to reverse the settlement policy, prevent any new installation of settlers, and demanded that it implement the recommendations regarding the settlements outlined in a 2001 report of the High Commissioner [YUN 2001, p. 776], and comply with its legal obligations, as mentioned in

the 2004 Advisory Opinion of ICJ [YUN 2004, p.465]. Welcoming the Palestinian truce initiative and its acceptance by Israel, which came into effect on 26 November (see p. 524), the Council urged the parties to maintain the truce, as it could pave the way for genuine negotiations towards a just resolution of the conflict. It also called on Israel to implement serious measures, including the confiscation of arms and enforcement of criminal sanctions, aimed at preventing acts of violence by Israeli settlers, and to guarantee the safety and protection of Palestinian civilians and property in the Occupied Palestinian Territory, including East Jerusalem.

On 8 December [res. 3/1], the Council, by a recorded vote of 34 to 1, with 12 abstentions, regretted that its resolution of 6 July on the human rights situation in the Occupied Palestinian Territory, adopted at its first special session (see p. 969), had not been implemented and called for its speedy implementation, including the dispatch of an urgent fact-finding mission. It also asked the Special Rapporteur to report in 2007 on the implementation of the resolution.

Further reports of Special Rapporteur. On 20 December [A/HRC/4/116], the Special Rapporteur reported that he had not been able to undertake the fact-finding mission requested in Council resolutions S-1/1 (see p. 969) and S-3/1 (see above) because of the failure of the Government of Israel to consent to such a mission, despite efforts between July and September to obtain its cooperation. However, he was able to obtain the required consent in his capacity as Special Rapporteur, which enabled him to undertake another visit to the Occupied Palestinian Territory in December. He found that violations of human rights law and international humanitarian law persisted in Gaza, the West Bank and other areas. Continuing military incursions and attacks had destroyed or damaged homes, schools, hospitals, mosques, public buildings, bridges, water pipelines, electricity networks and agricultural lands. In Gaza, where Beit Hanoun was particularly affected by heavy attacks that either killed or wounded many civilians, economic sanctions continued to have a major impact on the people. In the West Bank, Israel's construction of the wall and the unrelenting proliferation of checkpoints remained serious obstructions to the freedom of movement and to other social values.

Numerous other human rights challenges highlighted in the Special Rapporteur's earlier reports also persisted. Those responsible for committing war crimes by firing shells and rockets into civilian areas without any apparent military advantage

should be apprehended and prosecuted. That applied to Palestinians who fired Qassam rockets into Israel, as well as to members of the IDF who had committed such crimes on a much greater scale. While individual accountability was important, the responsibility of the State of Israel for the violation of peremptory norms of international law in its actions against the Palestinian people should not be overlooked. Elements of Israel's military occupation of the Occupied Palestinian Territory

constituted forms of colonialism, and were contrary to international law. Thus, a further advisory opinion should be sought from ICJ on the legal consequences of such prolonged occupation. The Occupied Palestinian Territory was the only instance of a developing country that was denied the right to self-determination, and the failure of developed States to put an end to that situation jeopardized the future of international protection of human rights.