Chapter III

Human rights violations

Alleged violations of human rights and international humanitarian law in a number of countries were examined in 2002 by the General Assembly, the Economic and Social Council, the Commission on Human Rights and its Subcommission on the Promotion and Protection of Human Rights, as well as by special rapporteurs, special representatives of the Secretary-General and independent experts appointed to examine the allegations.

General aspects

In accordance with a procedure established by Economic and Social Council resolution 1503 (XIVIII) (1503 procedure) [YUN 1970, p. 530] to deal with communications alleging denial or violation of human rights, the Working Group on Situations of the Commission on Human Rights, in closed meetings during March and April, examined the human rights situations in Chad, Liberia, Nigeria, Togo and Zambia, to decide whether or not to refer any of those situations to the Commission. The Commission decided to discontinue consideration of the situation of human rights in Nigeria, Togo and Zambia. (For details regarding the Commission’s decision on the 1503 procedure and sharing information with the UN Division for the Advancement of Women, see p. 611.)

(For information on the right to restitution, compensation and rehabilitation for victims of grave violations of human rights and fundamental freedoms, see p. 690.)

Africa

Burundi

Commission action. On 19 April [E/2002/25 (res. 2002/12)], the Commission on Human Rights, while noting efforts by Burundian authorities to ensure that established legal safeguards for human rights and international human rights standards were respected fully, expressed deep concern at the continuing violations of human rights and international humanitarian law. It enjoined all parties to the conflict to negotiate towards agreement on a ceasefire in order to implement the 2000 Arusha Agreement on Peace and Reconciliation [YUN 2000, p. 146]; urged them to end the use of children as soldiers; and enjoined them to work with international mediators on a ceasefire between the Transitional Government and the armed groups. The Transitional Government was urged to: ensure women’s equal participation in society and improve their living conditions; take further measures to end impunity; strengthen its Commission on Human Rights; and establish a security environment conducive to the work of aid organizations.

The Commission decided to extend the Special Rapporteur’s mandate for an additional year and requested her to submit an interim report to the General Assembly in 2002 and a report to the Commission in 2003, giving her work a gender-specific dimension. The Economic and Social Council approved the Commission’s decision and its requests to the Special Rapporteur on 25 July (decision 2002/246).

Note of Secretary-General. A September note of the Secretary-General [A/57/435] stated that the Special Rapporteur was unable to submit an interim report to the General Assembly, called for in Commission resolution 2002/12, as her sixth mission to the country had been delayed. She would make an oral presentation on the human rights situation in Burundi (see below).

Reports of Special Rapporteur. Special Rapporteur Marie-Thérèse A. Keita-Bocoum (Côte d’Ivoire), in an oral presentation to the General Assembly’s Third (Social, Humanitarian and Cultural) Committee on 6 November [A/C.3/57/SR.38], gave preliminary observations on the human rights situation in Burundi. She said that her most recent visit to the country had taken place in October (see p. 774), which did not allow enough time to prepare a written report. She noted an increase in violations of the right to life against civilians since July, violations of the new Code of Criminal Procedure and temporary displacements at a rate of 60,000 to 75,000 persons a month. The media faced limits on access to information, censorship and intimidation. The situation of the administration of justice had not changed, despite the hopes raised by reforms.
In a later report [E/CN.4/2000/43], the Special Rapporteur described more fully the human rights situation in Burundi, following her sixth mission to the country (16-25 October). She noted that progress on the political front was seriously compromised by the lack of a complete ceasefire. Following negotiations in October, a ceasefire agreement was signed on 2 December between the Transitional Government, which was formed in 2001 [YUN 2001, p. 148], and a faction of the National Council for the Defence of Democracy–Forces for the Defence of Democracy (CNDD-FDD) (see p. 138). The agreement ushered in a ceasefire, which was to take effect on 30 December. However, the scope of the ceasefire remained limited by the absence from the peace process of a wing of the Party for the Liberation of the Hutu People–National Liberation Forces, which continued to wage a relentless struggle around the capital, Bujumbura, and in the province of Bujumbura Rural. Certain CNDD-FDD combatants also carried on fighting despite the decision to enter into the ceasefire agreement.

The Special Rapporteur observed that the civil war in Burundi increasingly appeared as a war waged against civilians in order to gain control of the population, which was alternately harassed by government forces and armed rebel groups. Violent acts against civilians, including massacres, attacks, unlawful arrests, torture and detention, were carried out by State agents, armed rebel groups and persons unknown. The principal victims were not the belligerents, but children, women and older people. At the end of November, the total number of displaced persons exceeded 300,000. Many repatriates were victims of land disputes and insecurity, which forced them back into exile. The war and the economic crisis had caused violations of all economic, social and cultural rights, particularly the right to health and education. Women were better represented in political bodies and parties, but there was no radical change in their situation. Problems persisted in the administration of justice and the rule of law, particularly regarding prisoners and impunity, which continued unabated. Prison conditions were still harsh and the situation of women and child detainees remained difficult. Regarding human rights promotion, the government Commission on Human Rights encountered problems relating to rapid staff turnover and lack of financial resources. The Burundi Office of the United Nations High Commissioner for Human Rights (OHCHR) held workshops on the role of civil society and the promotion of peace, and a retreat on torture-related issues, but the resources of the Office were insufficient to address the situation in Burundi adequately.

In addition to her previous recommendations, the Special Rapporteur appealed to the parties to the conflict to respect civilians’ rights, not to recruit children as soldiers or auxiliaries, to end the hostilities and to implement agreements that they had signed. She requested the Burundian authorities to make inquiries regarding attacks by the government army against civilians to ascertain the number of victims, identify those responsible and bring the culprits to justice. She also asked them to restore trust between civilians and the army, establish institutions provided for by the Arusha Agreement, strengthen collaboration with OHCHR in Burundi to ensure better protection of repatriate and refugee rights, discontinue the recruitment of militias and the programme of civilian self-defence, reform the defence and security forces, and adhere to conventions on human rights and international humanitarian law, to which Burundi was party. The international community was encouraged to bring recalcitrant armed groups to the negotiating table, support the Government to encourage respect for and promotion of human rights and to secure lasting peace, support the efforts of the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Development Programme (UNDP), OHCHR/Burundi and other UN system agencies in Burundi, ensure more effective monitoring of violations of international humanitarian law and increase the amounts budgeted for human rights monitoring, protection, promotion and training, particularly the activities of OHCHR/Burundi.

Democratic Republic of the Congo

Commission action. On 19 April [res. 2002/14], the Commission on Human Rights, while welcoming a number of positive developments in the human rights situation in the Democratic Republic of the Congo (DRC) in 2001 [YUN 2001, p. 699], as well as preparations for the Inter-Congolese Dialogue (see p. 102), expressed concern at the adverse impact of the conflict on the human rights situation. It condemned all massacres and atrocities; cases of summary and arbitrary execution for the resumption of fighting in the east and around Moliro; and reprisals against civilians in areas controlled by the Congolese Rally for De-
mocracy and Rwanda, on the one hand, and by breakaway groups of the Congolese Liberation Front and Uganda, on the other. The Commission also expressed concern about the conflicts between the Hema and Lendu ethnic groups in Orientale province, the spread of small arms and light weapons and illicit distribution, circulation and trafficking of arms in the region, violations of freedoms of expression, opinion, association and assembly, acts of intimidation and persecution against church representatives and murders of such persons in eastern DRC, and the illegal exploitation of the country’s natural resources. Parties to the conflict were urged to facilitate the re-establishment of sovereignty and territorial integrity in accordance with the Lusaka Ceasefire Agreement [YUN 1999, p. 87] and relevant Security Council resolutions, protect human rights and respect international law, ensure the safety and freedom of movement of UN and associated personnel, cease military activity, end the recruitment and use of child soldiers, create conditions for the return of refugees and displaced persons, permit investigations of violations of human rights and international human rights law, and cooperate with the National Commission of Inquiry on alleged massacres of a large number of refugees and displaced persons, and with the Secretary-General and the UN High Commissioner for Human Rights, with a view to submitting a further report by the National Commission of Inquiry to the Secretary-General on the progress made in investigating the massacres. The Commission called on the Government to promote and protect human rights, reform and restore the judicial system, end impunity, create conditions for a democratization process, ensure respect for freedom of opinion and expression, remove remaining restrictions on the activities of non-governmental organizations (NGOs), strengthen cooperation with the human rights field office in the DRC, cooperate with the International Criminal Tribunal for Rwanda (ICTR) (see p. 1284) and ensure the security and freedom of movement of personnel of the United Nations Organization Mission in the DRC (MONUC) and other associated personnel.

The Commission decided to extend the Special Rapporteur’s mandate for an additional year and asked her to submit an interim report to the General Assembly in 2002, to report to the Commission in 2003 and to maintain a gender perspective in seeking and analysing information. It also requested the Special Rapporteurs on the human rights situation in the DRC and on extra-judicial, summary or arbitrary executions and a member of the Working Group on Enforced or Involuntary Disappearances to carry out, as soon as security considerations permitted and in cooperation with the National Commission of Inquiry, an investigation of alleged human rights violations and breaches of international humanitarian law in the DRC between 1996 and 1997, as well as a joint mission to investigate massacres in the DRC, with a view to bringing to justice those responsible and to report to the Assembly in 2002 and to the Commission in 2003. The Commission asked the Secretary-General to assist the Special Rapporteur and the joint mission, the High Commissioner to provide technical expertise to the joint mission, and the international community to support the DRC human rights field office.

The Economic and Social Council endorsed the Commission’s decisions and its requests to the Special Rapporteurs and the Working Group member on 25 July (decision 2002/248).

Notes by Secretariat. In a note of 8 January [E/CN.4/2002/48], the Secretariat stated that, in view of her late appointment (November 2001) [YUN 2001, p. 698] as the new Special Rapporteur on the situation of human rights in the DRC, Iulia Antoanella Motoc (Romania), would not be able to submit to the Commission a written report, as requested by the Commission in resolution 2001/19 [ibid.]. In a note of 16 January [E/CN.4/2002/47], the Secretariat stated that, upon completion of the Special Rapporteur’s mission to the DRC in February, she planned to make an oral presentation.

Reports of Special Rapporteur. In an oral report to the Commission on 28 March, the Special Rapporteur stated that prior to her visit to the DRC (see below) she had held consultations in Geneva (4-5 February) with the Permanent Representative of the DRC, OHCHR officials, diplomatic personnel and NGO representatives. The human rights situation in the DRC was fuelled by the persistence of armed conflict. While noting positive developments, including a presidential decision regarding a moratorium on the use of the death penalty, the release of 300 child soldiers and the commutation of penal sentences, the Special Rapporteur observed that the main human rights violations were linked to the administration of justice. Other areas of concern were the situation of women and children, economic and social rights, impunity, prison conditions, inhuman treatment by the police, the security of persons, freedom of expression, access to information, sexual violence as an instrument of war and the use of children as soldiers.

A September note by the Secretary-General [A/57/357] transmitted the Special Rapporteur’s interim report covering information on the situation of human rights in the DRC received before
20 September. The report was based on information from OHCHR/DRC and from representatives of institutions, churches, NGOs, political parties and various associations, as well as information she had gathered during her first visit to the DRC (13-19 February).

The Special Rapporteur reported that massive human rights violations were occurring in the DRC, especially in territories controlled by the rebels in the east of the country. She described the various conflicts, including those between the Government and the RCD and between the Government and the RCD/Goma, which had gathered during her first visit to the DRC.

In her conclusions, the Special Rapporteur welcomed the multiparty political agreement signed at Sun City for consensual transition in the DRC and the agreement between the DRC and Rwanda on a ceasefire, but noted that their implementation seemed difficult for all parties concerned. It was pointless, she said, to think about the democratization process until the war stopped. The Special Rapporteur recommended that all parties to the conflict pursue the inter-Congolese Dialogue and apply the signed agreements, give support to international organizations, particularly MONUC, cease incitement to ethnic hatred, apply the norms of humanitarian law and improve the situation of women and children. She urged the Government to cooperate with ICTR, improve the administration of justice and enhance women’s participation in public life.

The DRC and RCD/Goma needed to respect the sovereignty of the DRC, end extrajudicial executions and other measures that contributed to a climate of terror, cease reprisals against UN missions, especially MONUC, and end massive human rights violations and incitement to hatred. The DRC and MLC had to respect the sovereignty of the DRC, halt the human rights violations and protect vulnerable groups.

Joint mission. In August [A/57/340], the Secretary-General updated information regarding the joint mission described in Commission resolution 2002/14 (see p. 774). The Special Rapporteur, in February, held consultations with the Government to determine the extent to which it would support the mission. She intended to contact rebel groups to obtain their support and ensure security conditions on the ground. A process of consultations was initiated with other members of the joint mission to ascertain their availability. In December [E/CN.4/2003/44], the Secretary-General stated that the Special Rapporteur intended to visit the DRC to consult with rebel groups. Owing to the non-availability of financial resources and the growing insecurity in areas considered dangerous and inaccessible, particularly in the east, the joint mission had been unable to proceed.

(See also p. 705 for details of the visit to the DRC by the Special Rapporteur on extrajudicial, summary or arbitrary executions.)

GENERAL ASSEMBLY ACTION

On 18 December [meeting 77], the General Assembly, on the recommendation of the Third Committee [A/57/56/Add.3], adopted resolution 57/233 by recorded vote (92-2-81) [agenda item 109 (c)].

Situation of human rights in the Democratic Republic of the Congo

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 human rights instruments,

Reaffirming that all States Members of the United Nations 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 the field,

Aware that the Democratic Republic of the Congo is a party to several international human rights and humanitarian law instruments,

Recalling its previous resolutions on the subject, the most recent of which is resolution 56/173 of 19 December 2001, and those of the Commission on Human Rights, the most recent of which is resolution 2002/14 of 19 April 2002, as well as a report of the Secretary-General (A/57/255),

Recalling also the Ceasefire Agreement signed at Lusaka, as well as the Kampala disengagement plan, the Harare sub-plans for disengagement and redeployment, and the peace agreements signed at Pretoria and Luanda,

Encouraging all Congolese parties to use the present momentum to promote an all-inclusive conclusion of the inter-Congolese dialogue,
Noting that the promotion and the protection of human rights for all are essential for achieving stability and security in the region and will contribute to the creation of the environment necessary for cooperation among States in the region,

Concerned at all violations of human rights and international humanitarian law in the territory of the Democratic Republic of the Congo by parties to the conflict, as mentioned in the reports of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Democratic Republic of the Congo,

Concerned in particular at continuing violations of human rights and international humanitarian law in the eastern part of the Democratic Republic of the Congo, including in the Ituri region,

Concerned about the lack of procedural and substantive safeguards in the administration of justice in the Democratic Republic of the Congo,

Recalling its decision to request the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Democratic Republic of the Congo and on extrajudicial, summary or arbitrary executions and a member of the Working Group on Enforced or Involuntary Disappearances of the Commission to carry out a joint mission of investigation in the Democratic Republic of the Congo, while regretting that the security situation has not yet allowed such a mission,

1. Welcomes

(a) The Peace Agreement, signed at Pretoria on 30 July 2002, between the Governments of the Democratic Republic of the Congo and the Republic of Rwanda on the Withdrawal of the Rwandan Troops from the Territory of the Democratic Republic of the Congo and the Dismantling of the former Forces armées rwandaises and Interahamwe Forces in the Democratic Republic of the Congo and the programme of implementation of that Agreement;

(b) The Peace Agreement, signed at Luanda on 6 September 2002, between the Governments of the Democratic Republic of the Congo and the Republic of Uganda on the withdrawal of Ugandan troops from the Democratic Republic of the Congo and cooperation and normalization of relations between the two countries;

(c) The continuing dialogue between the authorities of the Democratic Republic of the Congo and Burundi, and expresses the hope that this will lead to the permanent normalization of relations between the two countries;

(d) The significant withdrawals of foreign troops from the territory of the Democratic Republic of the Congo;

(e) The release by the Government of the Democratic Republic of the Congo of some human rights defenders, its lifting of some restrictions on non-governmental organizations and its adoption of Law No. 001 of 17 May 2001, on political parties;

(f) The commitment by the Government of the Democratic Republic of the Congo to cooperate with United Nations agencies, non-governmental organizations and the World Bank to prepare for and implement demobilization and reintegration programmes, in particular for child soldiers;

(g) The ratification in 2001 by the Democratic Republic of the Congo of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict;

(h) The commitment of the Democratic Republic of the Congo to cooperate with the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 and the recent arrest and transferral to Arusha of a prominent suspect in the Rwandan genocide;

(i) The ratification in 2002 by the Democratic Republic of the Congo of the Rome Statute of the International Criminal Court;

(j) The reports of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Democratic Republic of the Congo and her visit to the country from 13 to 19 February 2002;

(k) The action taken by the human rights field office in the Democratic Republic of the Congo;

(l) The release and repatriation carried out under the auspices of the International Committee of the Red Cross in the Democratic Republic of the Congo, in conformity with international humanitarian law, of persons at risk because of their ethnic origin and of prisoners of war;

(m) The continued presence and increased deployment of the United Nations Organization Mission in the Democratic Republic of the Congo in support of the implementation of the Lusaka Ceasefire Agreement, the Pretoria and Luanda peace agreements and the relevant Security Council resolutions;

(n) The work of the Special Representative of the Secretary-General for the Democratic Republic of the Congo and Chief of the United Nations Organization Mission in the Democratic Republic of the Congo;

2. Condemns

(a) The continuing violations of human rights, fundamental freedoms and international humanitarian law, including acts of and incitement to ethnic hatred and violence and atrocities against civilian populations, generally committed with complete impunity;

(b) All massacres and atrocities committed in the Democratic Republic of the Congo, as constituting indiscriminate and disproportionate use of force, in particular those occurring in areas held by armed rebels or under foreign occupation, referring in this regard to the statement by the President of the Security Council of 23 July 2002 on the massacres that occurred in the region of Kisangani on 14 May 2002 and in the ensuing period, and urges that all perpetrators be brought to justice, referring in this regard to the statement by the President of the Security Council of 18 October 2002;

(c) The reprisals against civilian populations in parts of the country controlled by the Congolese Rally for Democracy, Rwanda and Uganda;

(d) The occurrence of cases of summary and arbitrary execution, disappearance, torture, beating, harassment and arrest, the persecution of individuals and the arbitrary detention for long periods of per-
sons, including journalists, opposition politicians, human rights defenders, people who have cooperated with the United Nations mechanisms and other members of civil society;

(e) The indiscriminate attacks on civilian populations and on hospitals in areas held by rebels and by foreign forces;

(f) The recruitment and use of child soldiers by armed forces and groups, including the abduction of children throughout the territory of the Democratic Republic of the Congo, in contravention of international human rights standards;

(g) The widespread use of sexual violence against women and children, including as a means of warfare;

(h) To cease, in accordance with all the relevant agreements and resolutions, all military activities in the country in order to facilitate, without delay, the repatriation of displaced persons and refugees, and to ensure the safety, security and freedom of movement of United Nations personnel and the unhindered access of humanitarian personnel to all affected populations throughout the territory of the Democratic Republic of the Congo;

(i) To cooperate fully with the National Commission of Inquiry on the alleged massacres of a large number of refugees and displaced persons in the Democratic Republic of the Congo and across its borders;

(j) To prevent conditions that might lead to further flows of displaced persons and refugees in the Democratic Republic of the Congo and to take and implement all necessary measures to create conditions for the voluntary return of all refugees and displaced persons;

(k) To ensure the safety, security and freedom of movement of United Nations and associated personnel and the unhindered access of humanitarian personnel to all affected populations throughout the territory of the Democratic Republic of the Congo;

(l) To cooperate fully with the National Commission of Inquiry on the alleged massacres of a large number of refugees and displaced persons in the Democratic Republic of the Congo and across its borders;

(m) To prevent conditions that might lead to further flows of displaced persons and refugees in the Democratic Republic of the Congo and to take and implement all necessary measures to create conditions for the voluntary return of all refugees and displaced persons;

(n) To ensure the safety, security and freedom of movement of United Nations and associated personnel and the unhindered access of humanitarian personnel to all affected populations throughout the territory of the Democratic Republic of the Congo;

(o) To cooperate fully with the National Commission of Inquiry on the alleged massacres of a large number of refugees and displaced persons in the Democratic Republic of the Congo and across its borders;

(p) To prevent conditions that might lead to further flows of displaced persons and refugees in the Democratic Republic of the Congo and to take and implement all necessary measures to create conditions for the voluntary return of all refugees and displaced persons;

(q) To ensure the safety, security and freedom of movement of United Nations and associated personnel and the unhindered access of humanitarian personnel to all affected populations throughout the territory of the Democratic Republic of the Congo;

(r) To cooperate fully with the National Commission of Inquiry on the alleged massacres of a large number of refugees and displaced persons in the Democratic Republic of the Congo and across its borders;

(s) To prevent conditions that might lead to further flows of displaced persons and refugees in the Democratic Republic of the Congo and to take and implement all necessary measures to create conditions for the voluntary return of all refugees and displaced persons;

(t) To ensure the safety, security and freedom of movement of United Nations and associated personnel and the unhindered access of humanitarian personnel to all affected populations throughout the territory of the Democratic Republic of the Congo;

(u) To cooperate fully with the National Commission of Inquiry on the alleged massacres of a large number of refugees and displaced persons in the Democratic Republic of the Congo and across its borders;

(v) To prevent conditions that might lead to further flows of displaced persons and refugees in the Democratic Republic of the Congo and to take and implement all necessary measures to create conditions for the voluntary return of all refugees and displaced persons;

(w) To ensure the safety, security and freedom of movement of United Nations and associated personnel and the unhindered access of humanitarian personnel to all affected populations throughout the territory of the Democratic Republic of the Congo;

(x) To cooperate fully with the National Commission of Inquiry on the alleged massacres of a large number of refugees and displaced persons in the Democratic Republic of the Congo and across its borders;

(y) To prevent conditions that might lead to further flows of displaced persons and refugees in the Democratic Republic of the Congo and to take and implement all necessary measures to create conditions for the voluntary return of all refugees and displaced persons;

(z) To ensure the safety, security and freedom of movement of United Nations and associated personnel and the unhindered access of humanitarian personnel to all affected populations throughout the territory of the Democratic Republic of the Congo;
request the Special Rapporteur to report to the General Assembly at its fifty-eighth session;
(b) To request the Special Rapporteurs of the Commission on Human Rights on the situation of human rights in the Democratic Republic of the Congo and on extrajudicial, summary or arbitrary executions and a member of the Special Working Group on Enforced or Involuntary Disappearances of the Commission to carry out, as soon as security considerations permit and, where appropriate, in cooperation with the National Commission of Inquiry to investigate alleged human rights violations and breaches of international humanitarian law in the Democratic Republic of the Congo between 1996 and 1997, a joint mission to investigate all massacres carried out on the territory of the Democratic Republic of the Congo with a view to bringing to justice those responsible, and to report to the Commission on Human Rights at its fifty-ninth session and to the General Assembly at its fifty-eighth session;
(c) To request the Secretary-General to give the Special Rapporteurs and the joint mission all necessary assistance to enable them to discharge their mandate fully;
(d) To request the United Nations High Commissioner for Human Rights to provide the technical skills needed by the joint mission to discharge its mandate.

RECORDED VOTE ON RESOLUTION 57/233:

In favour: Albania, Andorra, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Bahamas, Barbados, Belgium, Belize, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Georgia, Germany, Greece, Grenada, Guatemala, Guyana, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Japan, Kazakhstan, Kuwait, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Maldives, Malta, Marshall Islands, Mauritius, Mexico, Micronesia, Monaco, Mongolia, Nauru, Netherlands, New Zealand, Nicaragua, Norway, Palau, Panama, Paraguay, Peru, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Saint Vincent and the Grenadines, Samoa, San Marino, Slovakia, Slovenia, Solomon Islands, Spain, Sweden, Switzerland, Tajikistan, The former Yugoslav Republic of Macedonia, Timor-Leste, Trinidad and Tobago, Turkey, Ukraine, United Kingdom, United States, Uruguay, Uzbekistan, Venezuela, Yugoslavia.

Abstaining: Algeria, Angola, Azerbaijan, Bahrain, Bangladesh, Belarus, Benin, Bhutan, Botswana, Brunei Darussalam, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, Chad, China, Comoros, Congo, Côte d’Ivoire, Cuba, Democratic People’s Republic of Korea, Democratic Republic of the Congo, Djibouti, Dominica, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Fiji, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Haiti, India, Indonesia, Iran, Jamaica, Jordan, Kenya, Lebanon, Lesotho, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Mali, Mauritania, Morocco, Mozambique, Myanmar, Namibia, Nepal, Nigeria, Oman, Pakistan, Papua New Guinea, Philippines, Qatar, Russian Federation, Saint Lucia, Sao Tome and Principe, Saudi Arabia, Senegal, Sierra Leone, Singapore, Somalia, South Africa, Sri Lanka, Sudan, Swaziland, Syrian Arab Republic, Thailand, Togo, Tunisia, United Arab Emirates, United Republic of Tanzania, Zambia, Zimbabwe.

The Committee adopted paragraph 1 (i) by a recorded vote of 125 to 1 (United States), with 26 abstentions. The Assembly retained the paragraph by a recorded vote of 136 to 1, with 30 abstentions.

Equatorial Guinea

Commission action. On 19 April [res. 2002/11], by a recorded vote of 32 to 1, with 20 abstentions, the Commission on Human Rights, welcoming the willingness of the Government of Equatorial Guinea to implement a national human rights action plan, encouraged the Government to agree on a comprehensive technical assistance programme with OHCHR. It called on UN agencies and specialized bodies, as well as donor countries and other international institutions, to assist the Government in strengthening national institutions that promoted and protected human rights and fundamental freedoms.

The Commission decided to end the Special Representative’s mandate and to examine the question of human rights technical assistance to Equatorial Guinea in 2003. On 25 July, the Economic and Social Council endorsed the Commission’s decision (decision 2002/245).

Communication. In a letter of 15 April [E/CN.4/ 2002/182] to the Chairperson of the Commission, Equatorial Guinea expressed concern that the Special Representative, Gustavo Gallón (Colombia), had addressed two rather dramatic letters to the Commission regarding detained persons who had intended to assassinate the head of Government and other high-ranking government members. Equatorial Guinea said those letters conveyed the impression that Mr. Gallón had taken the initiative on the issue and that the Government was preventing him from carrying out a humanitarian mission, when, in fact, the Government had informed him of the events and had suggested an alternative to the requested dates for Mr. Gallón’s visit. Equatorial Guinea assured the Commission that no one had been tortured or deprived of medical treatment or food and that the detainees would receive a just and public trial in a civilian court. Among the accompanying correspondence was a joint letter dated 15 March from the Special Representative, the Special Rapporteur on torture and the Chairman/Rapporteur of the Working Group on Arbitrary Detention to government ministers, citing sources who claimed the detainees were arrested without a warrant and were tortured during their detention incommunicado.

(See p. 716 for details of the visit to Equatorial Guinea by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.)

Sierra Leone

Commission action. On 22 April [res. 2002/20], the Commission welcomed the activities of the United Nations Mission in Sierra Leone (UNAMSIL) (see p. 148), the completion of the disarmament and demobilization process and the lifting of the national state of emergency, voluntary arms collection by civilians, the release of over 3,000 child soldiers, abductees and sepa-
rated children by the Revolutionary United Front and pro-Government civil defence militias, govern-
ment and civilian efforts to build the coun-
try’s human rights infrastructure, the planning
mission to establish the Special Court for Sierra
Leone (see p. 164) and human rights training
provided to national human rights monitors, po-
lice officers and military personnel of UNAMSIL.
It expressed deep concern at abuses of human
rights and violations of international humanita-
rian law, the targeting and abuse of women and
girls, reports of abducted children working in
diamond mines, the slow pace of the re integra-
tion phase of the disarmament, demobilization
and reintegration programme because of fund-
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Reports of High Commissioner. A February
report of the High Commissioner [A/57/284]
stated that the human rights situation in
Sierra Leone had improved as a result of the evo-
uution of the peace process, notably the Govern-
ment’s declaration of 18 January regarding the
end of armed conflict, the conclusion of disarm-
ament, the deployment of UNAMSIL throughout
the country, the gradual restoration of govern-
ment authority and the increased responsiveness
of government and rebel forces to human rights
concerns (see p. 148). On 16 January, the judi
dicature and the United Nations signed the Agree-
ment on the Establishment of a Special Court for
Sierra Leone [YUN 2000, p. 206]. The Secretary-
General had authorized preparations for the op-
eration of the Court, beginning with a mission to
Freetown from 7 to 18 January.

In an August report [A/57/284], the High Com-
mis sioner noted remarkable progress in the im-
plementation of the peace process, which had
opened the country to human rights work in
terms of addressing past abuses and viola-
tions, advocacy, capacity-building, education and
institution-building. Internally displaced per-
sons and refugees had started to return and na-
tional elections were held on 14 May. OHCHR, in
collaboration with UNAMSIL, had designed and
was implementing technical cooperation projects
aimed at sustaining progress made thus far in
the area of human rights, and developing the
capacity of national actors to protect and pro-
mote human rights. In the light of allegations of
sexual misconduct by UNAMSIL peacekeepers,
UNAMSIL took steps to reinforce existing prevent-
ive measures for the protection of women and
children, and strengthened reporting procedures
for sexual abuse, violence and exploitation
of children and women. Human rights monitors
identified sites containing human remains in
the villages of Taindicome and Nonkoba in the
Masimera chiefdom of Port Loko, in Tumbodu
in Kamara chiefdom, in Kailahun and in Koina-
dugu town. In response, OHCHR engaged a team
of forensic experts to conduct preliminary inves-
tigations of the identified mass graves. Some pro-
gress was made in the restoration of the judi-
dicature and the United Nations signed the Agree-
ment on the Establishment of a Special Court for
Sierra Leone [YUN 2000, p. 206]. The Secretary-

The Economic and Social Council, on 25 July,
edorsed the Commission’s requests to OHCHR
to dispatch a forensic team and to the High Com-
mis sioner to submit reports (decision 2002/253).
Reconciliation Commission was inaugurated on 5 July and was expected to operate for 15 months, with a possible six-month extension. The High Commissioner recommended that OICHR continue to support the UNAMISIL human rights section and the Truth and Reconciliation Commission. She advocated giving priority to an independent, objective and impartial judiciary and, in addition to legal and institutional change, in-stilling a culture of tolerance and respect for human rights.

On 18 December, the General Assembly took note of the report (decision 57/533).

In a later report [E/CN.4/2003/35], the High Commissioner reported that, in accordance with Commission resolution 2002/20 (see p. 779), OICHR deployed a team of three forensic experts, which conducted visits to 52 sites in the districts of Bombali (10), Koindagugu (4), Kailahun (5), Kenema (29) and Port Loko (12) to assess allegations of mass graves and burial sites. No archaeological exhumations were carried out. However, the team made recommendations on the preservation of the sites for future investigations.

Sudan
Commission action. On 19 April (res. 2002/16), by a recorded vote of 25 to 24, with 4 abstentions, the Commission welcomed the agreement between the Government of the Sudan and the Sudan People’s Liberation Movement to protect civilians and civilian facilities from military attacks, signed in Khartoum on 10 March; the demobilization and repatriation of some 3,500 child soldiers, the cooperation extended by the Government and the Sudan People’s Liberation Movement/Army (SPLM/A) to UN humanitarian agencies, and the Government’s commitment to establish an independent national commission on human rights and to embark on a programme of civic education in democracy. However, the Commission expressed deep concern at the extension of the state of emergency until year’s end, the impact of the ongoing armed conflict and the continuing serious violations of human rights, fundamental freedoms and international humanitar-ian law by all parties to the conflict and in areas under government control. The parties were urged to respect and protect human rights, fundamental freedoms and humanitarian law; implement the Khartoum agreement of 10 March; stop the use of tribal militias that committed human rights abuses; grant unhindered access to international agencies and humanitarian organizations; cease the recruitment of children under the age of 18 as soldiers and fulfil its commitments concerning the protection of children affected by war; and allow an independent investigation into the murder of four Sudanese nationals abducted in 1999 while travelling with a team from the International Committee of the Red Cross (ICRC) and killed while in the custody of SPLM/A.

The Commission called on the Government to comply with its obligations under international human rights instruments to which it was a party; ratify the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment [YUN 1984, p. 815], the 1979 Convention on the Elimination of All Forms of Discrimination against Women [YUN 1979, p. 895] and the 1977 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction [YUN 1997, p. 503]; embark on a process of democratization; liberalize the system for maintaining public order; ensure respect for freedom of religion and for the freedoms of opinion and expression, association and assembly; raise the age of criminal responsibility for children; ensure that capital punishment was not imposed for crimes other than the most serious; prevent and stop abductions of women and children in southern Sudan; end impunity for human rights violations; and create a legal framework to facilitate the establishment of human rights organizations.

The Commission decided to extend the Special Rapporteur’s mandate for an additional year and asked him to submit an interim report to the General Assembly in 2002 and to report to the Commission in 2003, applying a gender perspective. The Secretary-General was asked to assist him. On 25 July, the Economic and Social Council endorsed the Commission’s decision and its request to the Special Rapporteur (decision 2002/250).

Reports of Special Rapporteur. As requested by the Commission in April, Special Rapporteur Gerhart Baum (Germany), in an August report to the General Assembly [A/57/326], described the human rights situation in the Sudan, based on his visit to the region (Cairo, Egypt, 26-28 February; Khartoum, Sudan, 1-3 March). He also visited Nairobi, Kenya (14-17 March), where he was informed that SPLM/A-controlled areas continued to be administered by the military in spite of some progress in enhancing civil society structures. The Special Rapporteur welcomed, within the peace talks led by the Intergovernmental Authority on Development, the signing on 20 July of the Machakos Protocol on the issues of self-determination and religion and State, thus far the stumbling blocks in the peace negotiations (see p. 217).
The Special Rapporteur observed that the human rights situation in the Sudan had not improved. Main issues of concern were related to the continued state of emergency, the amendments made to the National Security Forces Act and the impunity enjoyed by the security services, the persistence of press censorship and the limited room for political activities on the part of opposition parties. The deterioration of the situation in Darfur in western Sudan, which pointed to the worsening of the socio-economic situation, the ongoing local conflict—in which the Fur and Massaleit tribes opposed Arabs from Darfur and neighbouring Chad—and drought, which exacerbated the fight among tribes over land and pastures, the establishment of special courts and recent death sentences had raised concern. An increase in military activities was observed, and the plight of civilians, particularly internally displaced persons, remained serious. The Special Rapporteur regretted that many instances of flight restrictions or denial had occurred, restricting access to southern Sudan. He received information pointing to grave human rights abuses linked to oil exploitation, aimed at depopulating the oil-rich areas to ensure their control. Other human rights violations were related to intimidation of journalists, lack of freedom of religion, arbitrary arrests and court procedures. The Special Rapporteur called on the Government to act on urgent appeals regarding human rights violations and recommended adopting a wealth-sharing arrangement for oil revenues through a transparent process. Other recommendations included bringing security police under the rule of law, empowering women to play an active role in the peace process and ending the practice of impunity. He called on SPLM/A to work for the development of genuine democratic structures and appealed to it and allied militias to prevent human rights violations.

The Special Rapporteur, in London on 12 and 13 August, met with international and London-based Sudanese NGOs and individuals to discuss the human rights situation in the Sudan; in Cairo, he met with UNHCR representatives; in Nairobi, he discussed with SPLM/A representatives issues relating to strengthening civil society and democratization; in the Sudan, he looked into the issue of the special courts (29 September–10 October); and in New York and Washington, D.C. (4-14 November), he met with government officials, the UN Secretary-General, the High Commissioner for Human Rights and other UN officials, international NGOs, church representatives and government representatives, including of the European Union (EU) [E/CN.4/2003/42]. The focus of his visit to the Sudan was the peace process and its implications for the human rights situation. In addition to the Machakos Protocol (see p. 781), the Special Rapporteur welcomed the signing on 15 October by the Government and SPLM/A of a memorandum of understanding on the cessation of hostilities, on 26 October of a procedural agreement on unfettered humanitarian access during November/December, and on 18 November of a memorandum of understanding on aspects of government structures.

The Special Rapporteur noted that human rights NGOs were more visible, organized and keen to participate in the peace process. However, students who were involved in human rights and/or political activities, as well as opposition political party members, continued to be harassed. Of serious concern were the role of the security apparatus as the main entity responsible for human rights abuses and the impunity enjoyed by security officers. Violations regarding freedom of the press and freedom of religion persisted, as did restrictions on humanitarian access. While no major waves of further displacement had occurred, the situation of internally displaced persons remained a cause for concern, and assistance was urgently needed from the Government and the international community. Although still limited, the number of abductions of women was reduced, following the restructuring of the Committee for the Elimination of Abductions of Women and Children. Further challenges were women’s dismissal from public office, harassment by security officers, corporal punishment on conviction of adultery, female genital mutilation and sub-standard education for girls. No significant progress had been made on the situation of children; areas of concern were street children, juvenile justice, child exploitation and forced recruitment in war zones. The Special Rapporteur examined the situation of the special courts in Darfur. He was informed that the accused had the right to be represented by “a lawyer as a friend” whereby the lawyer indicated to the accused what he should say; in order to reach a conclusion as fast as possible and avoid procedural complexities. No time was allowed for cross-examination and some prisoners were not given any reasons for being sentenced to death. The Special Rapporteur was told that the reasons for establishing special courts were the presence of gangsters and armed bandits, drug traders, trade in weapons and tribal clashes, and that without the special courts, tribes would resort to revenge. As for the right to appeal, the decision of the head of the judiciary was final, except for death sentences and amputations. The Special Rapporteur recommended devoting
more energy and resources to development and that those interventions be community-based. A long-term, comprehensive, unified approach was the only way for any peace initiative to succeed.

**GENERAL ASSEMBLY ACTION**

On 18 December [meeting 77], the General Assembly, on the recommendation of the Third Committee [A/57/S56/Add.3], adopted resolution 57/230 by recorded vote (80-62-33) [agenda item 109 (c)].

**Situation of human rights in the Sudan**

The General Assembly,

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

Mindful that the Sudan 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, the African Charter on Human and Peoples’ Rights and the Geneva Conventions of 12 August 1949 for the protection of victims of war,

Recalling its previous resolutions on the situation of human rights in the Sudan, and taking note of Commission on Human Rights resolution 2002/16 of 19 April 2002,


Noting with appreciation the recent developments in the peace talks led by the Intergovernmental Authority on Development, and expressing its firm belief that human rights should become a key element in the peace talks in view of the link between sustainable peace and respect for human rights,

1. Welcomes

(a) The Machakos Protocol of 20 July 2002 and the announcement that both parties have agreed to a cessation of hostilities in all areas following the signature of the memorandum of understanding between the Government of the Sudan and the Sudan People’s Liberation Army/Movement on the resumption of negotiations on peace in the Sudan, the agreement on procedures for the unimpeded access of humanitarian aid signed by the Government of the Sudan, the Sudan People’s Liberation Army/Movement and the United Nations, and the two memorandums signed at the conclusion of the second round of peace talks on 18 November 2002;

(b) The extension of the ceasefire agreement in the Nuba Mountains, signed on 19 January 2002 by the Government of the Sudan and the Sudan People’s Liberation Army/Movement, as well as the Khartoum agreement to protect civilians and civilian facilities from military attacks, signed by the two parties on 10 March 2002;

(c) The commitment of the Government of the Sudan to facilitate the establishment of an independent national institution on human rights;

(d) The recent visit of the Secretary-General to the Sudan;

(e) The interim report of the Special Rapporteur on Human Rights on the situation of human rights in the Sudan and the cooperation extended by the Government to the Special Rapporteur during his visits to the Sudan in February, March and October 2002;

(f) The cooperation extended by the Government of the Sudan and the Sudan People’s Liberation Army/Movement to other United Nations mandate-holders in the field of human rights, as well as their recent cooperation with the United Nations and other humanitarian agencies, to mitigate the effects of war on civilians, and emphasizes the need to adhere to the principle of full, safe and unhindered access and to strengthen the support provided to such agencies;

(g) The commitment of the Government of the Sudan to embark on a programme of civic education in democracy and to create an inter-party liaison mechanism in order to foster democratization;

(h) The establishment by the Government of the Sudan of an advisory council for Christians and its commitment to appoint Christians to senior executive positions in the Ministry for Religious Affairs and to promote inter-religious dialogue;

(i) Decree 14/2002 of 25 January 2002 of the President of the Sudan, by which the Committee for the Eradication of Abduction of Women and Children was re-established and further empowered, the Committee’s facilitation of flights for the repatriation of abducted children and the intention of the Government to hold tribal conferences in the Kordofan and Darfur regions, as well as the facilitation and support provided by the Government and the Sudan People’s Liberation Army/Movement to the International Eminent Persons Group, which investigated slavery, abduction and forced servitude in the Sudan during its visit in April and May 2002, the report issued by the Group on 22 May 2002 and the commitment of the Government and the Sudan People’s Liberation Army/Movement to consider implementing the recommendations of the Group;

(j) The signing of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict;

2. Expresses its deep concern at:

(a) The impact of the ongoing armed conflict on the situation of human rights and its adverse effects on the civilian population, in particular women, children and internally displaced persons, and at the continuing serious violations of human rights, fundamental freedoms and international humanitarian law by all parties to the conflict;

(b) The decision of the Government of the Sudan to maintain the state of emergency until the end of 2002;

(c) The occurrence of restrictions on freedom of thought, conscience, religion and belief and on freedom of association, assembly, opinion and expression;

(d) The cases of torture and ill-treatment of civilians, extrajudicial summary or arbitrary execution, arbitrary arrest, detention without trial and corporal punishment in its cruelest forms;

(e) The negative role of undisciplined southern militias, armed and supported by all parties to the conflict, which are responsible for killings, torture, kidnappings, rape, the burning of villages, the destruction of crops and the theft of livestock;
4. Calls upon the Government of the Sudan:
(a) To comply fully with its obligations under international human rights instruments to which the Sudan is a party, to promote and protect human rights and fundamental freedoms and to respect its obligations under international humanitarian law;
(b) To fulfill its commitments to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to sign and ratify the Convention on the Elimination of All Forms of Discrimination against Women, and to consider ratifying the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction;
(c) To end the state of emergency now that the stated reasons for its imposition have been resolved, namely, through the constitutional amendment allowing the Presidential appointment of governors, and to make further efforts to promote an environment conducive to a genuine process of democratization that reflects the aspirations of the people and ensures their full participation;

(f) The forced conscription and displacement, enforced or involuntary disappearances and other acts of intimidation and harassment directed against the population;
(g) The violation of the rights of women, including discrimination against women and girls, the harassment of women by security forces and the serious human rights abuses, such as killings, rape, abduction and female genital mutilation;
(h) The violations of the rights of the child, including the recruitment and use of children as soldiers and the subjection of children to forced labour, in contravention of human rights and international law;
(i) The extensive use of the death penalty, contrary to the obligations assumed by the Government of the Sudan under the provisions of the International Covenant on Civil and Political Rights and other human rights instruments, the use of special courts, especially in Darfur, with military personnel appointed as judges and in lack of legal rights and protection, the occurrence of group sentencing and the imposition of the death penalty on persons below 18 years of age at the time of the commission of their crime, contrary to the obligations assumed by the Government of the Sudan under the Convention on the Rights of the Child, all of which raises serious doubts regarding the validity of the legal processes;
(j) The abduction of women and children by tribal groups and other militias;
(k) The numerous and repeated difficulties encountered by United Nations and humanitarian staff in carrying out their mandate in the Sudan and the conditions imposed on humanitarian organizations, in contravention of humanitarian principles, in particular the denial of access to them, which has had grave consequences for the civilian population affected by the armed conflict and led to the withdrawal of many such organizations prior to the agreement on procedures for unimpeded access of humanitarian aid;
(l) The forced displacement of populations in the Sudan as a result of the armed conflict, in particular in areas surrounding the oilfields;
(m) The extension of indiscriminate aerial bombardment of civilian targets and indiscriminate artillery shelling of the civilian population, as well as the use of civilian premises for military purposes;

3. Urges all parties to the conflict in the Sudan:
(a) To seize the prospect of peace to ensure continuing progress in the fields of human rights, democratization and the rule of law and create a climate of mutual trust and confidence that will be the basis for a viable peace and facilitate reconciliation;
(b) To respect and protect human rights and fundamental freedoms, to respect fully international humanitarian law, in particular the need to ensure the protection of civilians and civilian premises, thereby facilitating the voluntary return, repatriation and reintegration of refugees and internally displaced persons to their homes, and to ensure that those responsible for violations of human rights and international humanitarian law are brought to justice;
(c) To adhere to agreements signed within the framework of the Machakos Protocol, to take necessary measures to facilitate the peace negotiations and to work actively towards the establishment of a just and viable peace, based on respect of human rights and the principles of democratization and the rule of law, within the context of the Intergovernmental Authority on Development peace process;
(d) To enhance the implementation of the Khartoum agreement to protect civilians and civilian facilities from military attacks, and in particular urges the Government of the Sudan to cease immediately all indiscriminate aerial bombardments of and attacks against the civilian population and civilian installations, and the Sudan People’s Liberation Army/Movement to cease immediately the indiscriminate artillery shelling of the civilian population, the use of civilian premises for military purposes, the misappropriation of humanitarian assistance and the diversion of relief supplies, including food, from their civilian recipients;
(e) To refrain from undertaking military activities as a demonstration of their willingness to seek a peaceful solution to the long-standing conflict and to adhere to a comprehensive ceasefire as part of a just peace negotiation process;
(f) To stop the support provided to and use of tribal militias that commit grave human rights abuses;
(g) To continue adhering to the agreement on procedures for unimpeded access of humanitarian aid to secure full, safe and unhindered access to all international agencies and humanitarian organizations in order to facilitate by all possible means the delivery of humanitarian assistance, in conformity with relevant provisions of international humanitarian law, to all civilians in need of protection and assistance and to continue to cooperate with the Office for the Coordination of Humanitarian Affairs of the Secretariat and Operation Lifeline Sudan;
(h) Not to use or recruit children under the age of 18 as soldiers, to continue demobilizing child soldiers, to refrain from the practice of forced conscription and to fulfill the commitments made concerning the protection of children affected by war, including cessation of the use of anti-personnel landmines, attacks on sites at which there is usually a significant presence of children and the abduction and exploitation of children, as well as to ensure access to and the return of displaced and unaccompanied minors and to reunite them with their families;
(d) To end impunity for human rights violations and to try perpetrators in accordance with the rule of law, as well as to strengthen the role of the Advisory Council on Human Rights in the investigation of all reported human rights violations, including acts of torture;

(e) To fulfill its commitment to establish an independent national institution on human rights and to create a general legal framework that will facilitate the establishment of organizations in the field of human rights and to further encourage and support the Advisory Council on Human Rights in enhancing the promotion of human rights in the Sudan through its various activities, including its advisory services and advocacy activities;

(f) To ensure full respect for freedom of religion and conscience, and in this regard to take measures to end discrimination based on religion;

(g) To ensure full respect for freedom of association, assembly, opinion, thought and expression throughout the territory of the Sudan, and to implement fully existing legislation, in particular the Associations and Political Parties Act;

(h) To raise the age of criminal responsibility for children in order to take into account the observations of the Committee on the Rights of the Child;

(i) To continue and to reinforce its efforts to prevent and stop the abduction of women and children that is taking place within the framework of the conflict in southern Sudan;

(j) To make concerted efforts to restrain the activities of the Murahalen and other tribal militias, to stop financing and equipping them and to uphold suspension of the use of the government train to Bahr-el-Ghazal until such time as peace is established;

(k) To cease the forced displacement of populations by any means, in particular in areas surrounding the oilfields, to continue its efforts to address effectively the worsening problem of internally displaced persons, including by implementing the commitments made to the Representative of the Secretary-General on internally displaced persons and by ensuring their access to effective protection and assistance;

(l) To liberalize the system for maintaining public order;

(m) To implement the Standard Minimum Rules for the Treatment of Prisoners;

(n) To ensure that capital punishment will not be imposed for crimes other than the most serious and will not be pronounced in disregard of the obligations assumed under the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child and the provisions of United Nations safeguards;

(o) To make further efforts to implement the commitment made to the Special Representative of the Secretary-General for Children and Armed Conflict not to recruit children under the age of 18 as soldiers and to enforce national laws that prevent the recruitment of children in armed conflicts;

5. Encourages:

(a) The Government of the Sudan to continue its cooperation with the United Nations in the field of human rights through the Special Rapporteur of the Commission on Human Rights and the Office of the United Nations High Commissioner for Human Rights and its expert in Khartoum entrusted with the task of advising the Government on the development of national capacity to promote and protect human rights;

(b) The Sudan People’s Liberation Army/Movement to allow the people-to-people peace process to develop freely and unhindered and to consider it an important contribution to the peace process;

6. Calls upon the international community to expand its support for activities aimed at improving respect for human rights and humanitarian law in the Sudan, in particular those of the Committee for the Eradication of Abduction of Women and Children, to continue assisting national efforts to build up democratic and civil society structures in the Sudan and to consider how to expand the Office of the United Nations High Commissioner for Human Rights to include a monitoring role;

7. Besides to continue its consideration of the situation of human rights in the Sudan at its fifty-eighth session, under the item entitled “Human rights questions”, in the light of additional elements provided by the Commission on Human Rights.

RECORDED VOTE ON RESOLUTION 57/230:

In favour: Albania, Andorra, Argentina, Australia, Austria, Bahamas, Barbados, Belgium, Belize, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Fiji, Finland, France, Georgia, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Japan, Kazakhstan, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Marshall Islands, Mexico, Micronesia, Monaco, Namibia, Nauru, Netherlands, New Zealand, Nicaragua, Norway, Palau, Panama, Paraguay, Peru, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Samoa, San Marino, Slovakia, Slovenia, Solomon Islands, Spain, Sweden, Switzerland. The former Yugoslav Republic of Macedonia, Timor-Leste, United Kingdom, United States, Uruguay, Venezuela, Yugoslavia.

Against: Algeria, Azerbaijan, Bahrain, Bangladesh, Benin, Brunei Darussalam, Burundi, Cameroon, Canada, Chad, China, Comoros, Congo, Côte d’Ivoire, Cuba, Democratic People’s Republic of Korea, Democratic Republic of the Congo, Djibouti, Egypt, Equatorial Guinea, Ethiopia, Gabon, Gambia, Guinea, Haiti, India, Indonesia, Iran, Jordan, Kuwait, Lebanon, Libyan Arab Jamahiriya, Malaysia, Maldives, Mali, Mauritania, Morocco, Mozambique, Myanmar, Nepal, Nigeria, Oman, Pakistan, Papua New Guinea, Qatar, Russian Federation, Rwanda, Saint Lucia, Saudi Arabia, Sierra Leone, Somalia, South Africa, Sudan, Suriname, Swaziland, Syrian Arab Republic, Togo, Tunisia, Ukraine, United Arab Emirates, Viet Nam, Zimbabwe.


(See p. 760 for details of the visit to the Sudan by the Special Representative of the Secretary-General on internally displaced persons.)

Zimbabwe

On 19 April [E/2002/25], Nigeria made a motion that no action be taken on a draft text introduced in the Commission by Spain on behalf of the EU, which, among other things, expressed concern at the adverse impact of actions by the Government of Zimbabwe on the security of its citizens and the continuing human rights violations and attacks on fundamental freedoms, often committed with impunity by agencies and supporters...
of the Zimbabwean ruling party. Nigeria’s motion was carried by 26 votes to 24, with 3 abstentions.

**Americas**

**Colombia**

**Commission action.** The Commission Chair-
person, in a 26 April statement, said the Commis-
sion respected the President of Colombia’s 20
February decision to end the process of dialogue,
negotiation and signing of agreements with the
Revolutionary Armed Forces of Colombia, whose
acts of violence demonstrated its unwillingness
to advance the peace process. The Commission
welcomed the dialogue and negotiation under
way between the Government and the National
Liberation Army. While noting improvements in
the human rights performance of the armed
forces, it remained concerned at continued re-
ports of human rights violations attributed to the
armed and security forces. The Commission de-
ployed attacks against the life, physical integrity
and safety and freedom of movement of human
rights defenders, trade union leaders, church
dignitaries and indigenous and Afro-Colombian
communities. It was concerned at reported bre-
aches of the presumption of innocence by
abuse of pre-trial detention and unjustified de-
lays by the judiciary. The Government was urged
to address the illegal cultivation of crops for nar-
cotic drugs and drug trafficking and to revitalize
the economy. The High Commissioner was asked
to report in 2003.

**Report of High Commissioner.** The High
Commissioner reported on the 2002 human
rights situation in Colombia, based on informa-
tion collected by OHCHR/Bogotá [E/CN.4/2003/13].

In 2002, the Office received 1,435 complaints,
of which 1,106 were accepted. It made 183 field
visits outside Bogotá, Cali and Medellin, where
sub-offices were established. The Office pub-
lished a book on the interpretation of interna-
tional human rights standards and publications
on the rights of indigenous peoples and on free-
dom of opinion and expression. A CD-ROM ver-
sion of the recommendations of international
human rights bodies to the Government 1980-
2002 was updated and published. In furtherance
of its policy of promotion and dissemination, the
Office took part in many activities, including
seminars, forums, workshops and conferences.

The High Commissioner highlighted the seri-
ous impact of the armed conflict on the human
rights situation and the challenges that the con-
flict posed for an effective State response to the
humanitarian crisis. She noted the significant de-
terioration of the armed conflict and the increas-
igning cruelty of combat methods used by illegal
armed groups, which aggravated the vulnerabil-
ity of civilians. Drug trafficking and the eco-
nomic crisis also impacted negatively on human
rights. Regarding civil and political rights, extra-
judicial executions, acts of torture, cruel, inhu-
man or degrading treatment, enforced disappear-
ances, illegal or arbitrary arrests, unlawful
impediments to free internal movement, en-
forced displacements, arbitrary or illegal inter-
ference in privacy and the home, and breaches of
due process and judicial guarantees were re-
corded. Reports of violations attributed to the
security forces significantly increased. Difficult-
ies associated with economic, social and cultural
rights were manifest in profound economic and
social exclusion, widespread poverty and deep
inequality, as reflected in high unemployment,
insufficient educational coverage, shortcomings
in health services and social security, and a reduc-
ion in State-subsidized housing. Despite some
legislative advances regarding the rights of
women and children, an integral policy regard-
gender issues was lacking, and sexual dis-
crimination and marginalization persisted, as did
sexual and family violence. Recurrent and mas-
sive violations of international humanitarian law
included killings, death threats, attacks on civil-
ians, acts of terrorism, hostage-taking, enforced
displacement, attacks on medical personnel and
facilities, attacks on civilian property and the use
of anti-personnel mines. Although responsibility
for most of the unlawful behaviour was attrib-
uted to the guerrillas and paramilitary groups,
an increased number of complaints were as-
signed to the security forces.

Areas of special concern or importance to
OHCHR were the maintenance of the rule of law
and the adoption and implementation of a new
security policy, measures related to the state of
internal commotion, the actions of the security
forces in rehabilitation and consolidation zones,
the situation in the former demilitarized zone,
the rise and strengthening of paramilitary
groups, the shortcomings of the judicial system
and its failings against impunity, unsatisfactory
prison conditions, enforced displacement, vic-
timization of ethnic groups and problems related
to the freedoms of association, opinion and ex-
pression, conscience and religion, and political
rights.

The report concluded that no significant pro-
gress had been made towards implementing in-
ternational recommendations on human rights
protection, armed conflict, the rule of law and
impunity, ratification of international instruments, conformity of domestic legislation with international principles and rules, economic, social and cultural rights, the promotion of a human rights culture and technical advice and cooperation. However, some positive developments were noted, such as the ratification of the Rome Statute [YUN 1998, p. 1299] of the International Criminal Court (despite the Government’s reservation on the competence of the Court on war crimes), the passage of legislation making it a crime to traffic in humans, the evaluation of the protection programmes of the Interior Ministry, the adoption of legislation to comply with the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction [YUN 1997, p. 503] and the creation of the Anti-personnel Landmines Observatory, and the adoption of measures to widen the territorial coverage of early warning systems and strengthen governmental participation in those systems.

Recommendations to national authorities, all parties to the internal armed conflict and representative sectors of civil society to improve the human rights situation in Colombia covered the prevention of abuses and human rights protection, the internal armed conflict, the rule of law and impunity, economic and social policies, the promotion of a culture of human rights and the advisory and technical cooperation activities of OHCHR.

Communication. In response to the High Commissioner’s report [E/CN.4/2003/G/64], Colombia considered that some assessments were not consonant with the real institutional efforts made and the current situation in the country. It believed that emphasis had to be placed on the search for solutions. Colombia presented an analysis of the High Commissioner’s recommendations and guidelines to implement them. It expressed willingness to implement those aimed at improving the situation, with the support of OHCHR and the international community.

Cuba

On 19 April [res. 2002/18], by a recorded vote of 23 to 21, with 9 abstentions, the Commission invited Cuba to make progress regarding the human, civil and political rights situation in the country and encouraged it to accede to the 1966 International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights [YUN 1966, pp. 423 & 489]. It requested the High Commissioner to send a personal representative to Cuba with a view to establishing cooperation between her Office and the Government to implement the Commission’s resolution and urged Cuba to facilitate the visit.

On 25 July, the Economic and Social Council endorsed the Commission’s request to the High Commissioner (decision 2002/251).

Asia and the Pacific

Afghanistan

Commission action. On 22 April [res. 2002/19], the Commission, commending steps taken by the Afghan Interim Authority to promote and protect human rights, noted with deep concern cases of arbitrary arrest and detention and of summary trials, violations of women’s and girls’ human rights and reports of abuses against certain ethnic groups. It called on the Interim Authority, its successors and all Afghan groups to respect human rights and fundamental freedoms without discrimination, adhere to their obligations under human rights instruments and international humanitarian law, demobilize and re integrate war-affected children, facilitate effective remedies to victims of human rights abuses, treat suspects and convicted or detained persons in accordance with international law and refrain from arbitrary detention, facilitate the voluntary return and reintegration of Afghan refugees and internally displaced persons, and ensure the safety, security and free movement of diplomatic, UN, UN-associated, humanitarian and NGO personnel.

The Commission decided to extend the mandate of the Special Rapporteur on the situation of human rights in Afghanistan for another year, and requested him to report to the General Assembly in 2002 and to the Commission in 2003 and to provide updates, as appropriate. It asked the Secretary-General to assist the Special Rapporteur, to ensure the integration of a human rights capacity in the context of UN activities in Afghanistan in consultation with the High Commissioner, to ensure that the promotion and protection of human rights were central to the United Nations Assistance Mission in Afghanistan (see p. 264) and to include a child protection adviser in the Mission.

On 25 July, the Economic and Social Council endorsed the Special Rapporteur’s mandate extension and the Commission’s request to him (decision 2002/252).

Reports of Special Rapporteur. In a March report [E/CN.4/2002/43], Special Rapporteur Kamal Hossain (Bangladesh) described his visits to Kabul, Afghanistan (6-8 January), and to Iran
and western Afghanistan (Herat) (15-22 February). In Kabul, he held consultations with the Chairman of the Interim Administration and Administration ministers, at which all agreed that the programme of national reconstruction should be owned and driven by the Afghan people. In Iran, he interviewed refugees in Mashhad and internally displaced persons in Maslakh. While in Herat, he held consultations with the Governor of Herat, UN agencies, NGOs and members of civil society.

The Special Rapporteur stated that the current environment was characterized by a rapidly changing political setting, variable security conditions, limited physical access to many areas owing to poor infrastructure, mountainous terrain and the threat of mines and unexploded ordnance, and an extremely limited implementation capacity. The economy was devastated after 23 years of conflict, resulting in mass unemployment and a widespread lack of purchasing power, infrastructure and institutions. Resources were needed to recruit and develop a national police force. Although schools for girls and women had reopened, women’s participation in civil, cultural, economic, political and social life needed to be promoted. The Special Rapporteur proposed an overall strategy to promote and protect human rights that addressed security issues and mechanisms for the peaceful resolution of disputes and grievances, promoted policies to reduce divisiveness and instituted programmes for peace education. Action was needed to curb lawlessness, arbitrary military or police acts and abuses undermining the protection of at-risk civilians. Steps should be taken to improve the understanding of human rights, protect women and girls from forced marriages and other forms of violence, establish a government based on free and fair elections, hold accountable those responsible for human rights violations and establish a truth commission.

In an interim report issued in August [A/57/999], the Special Rapporteur stated that, in accordance with the Agreement on provisional arrangements in Afghanistan pending the re-establishment of permanent government institutions (Bonn Agreement) of 5 December 2001 [YUN 2001, p. 265], which served as a framework for transition, the Emergency Loya Jirga (traditional assembly) was convened on 11 June (see p. 266). The Loya Jirga reached consensus on the need to promote national unity, address insecurity, undertake disarmament, create a national army that would absorb local and regional militias, undertake reconstruction, expand education, improve living conditions, build an ethnically balanced government and curb corruption and patronage. In other developments, a decree of 6 June established an Independent Human Rights Commission, with headquarters in Kabul and regional offices in Kandahar, Herat, Mazar-e-Sharif, Faizabad, Jalalabad, Gardez and Bamian. On the same date, a Judicial Commission was established to recommend action for rebuilding the justice system. In its role regarding human rights as determined by the Bonn Agreement, the United Nations sought to ensure integrated UN responses and mechanisms for human rights, maximized Afghan ownership and leadership, and a rights-based gender-sensitive approach. A Senior Human Rights Adviser was assigned to work with the Secretary-General’s Special Representative on facilitating Afghan national consultations on implementing the human rights provisions of the Bonn Agreement. A human rights focal point was established in the Interim Administration and consultations were held to develop a national programme to implement those provisions. The first national workshop on human rights was held on 9 March with 80 Afghan participants; the President of Afghanistan, government ministers, civil society leaders, the UN High Commissioner for Human Rights and the Special Representative addressed the workshop, which considered the Independent Human Rights Commission, a national programme of human rights education, a transitional justice system, and gender and women’s rights. Four more national workshops on similar issues were convened in May. A national working group on transitional justice was established, which developed a programme that included the creation of a Transitional Justice Unit in the Independent Human Rights Commission. Regarding economic and social rights, the Special Rapporteur stated that the protracted drought had caused widespread food insecurity and left countless small and medium-sized farmers heavily in debt. Although UNHCR had assisted more than 1 million Afghans in returning home from Pakistan and more than 85,000 from Iran, over 3 million people remained to be repatriated. The Special Rapporteur proposed measures regarding a human rights-based implementation of the Bonn Agreement, security, the rule of law, an independent judiciary and criminal justice system, the Independent Human Rights Commission, freedom of the press and autonomy of the electronic media, women’s and girls’ rights, and international support for humanitarian and recovery needs.

A later report of the Special Rapporteur [E/CN.4/2003/39] provided a review of the transitional process initiated by the Bonn Agreement and described his visit to Kabul and Kandahar.
During the period under review, reports were received of violence against specific ethnic groups, violations of women’s rights, violence as a result of local conflict and extrajudicial execution, prolonged detention and poor prison conditions.

In Kabul, the Special Rapporteur discussed with members of the national Human Rights Commission their areas of work relating to women’s rights, human rights education, monitoring and investigations, and transitional justice. During his visit, an agreement was signed to provide UN support in the creation of an institutionalized, independent, expert national Human Rights Commission and establish adequate Commission capacity to: advance the human rights of women; carry out a human rights education programme; develop a national system of monitoring and investigation; develop a national strategy on a consultative process of transitional justice; and carry out its mandated functions in terms of petitions/complaints processing and those relating to conflict resolution, mediation and conciliation. Support would also be given to establish the Commission’s human rights advisory and institution-building capacity, assist its human rights networking capacity, establish its human rights data and management capacity, and achieve maximum physical, cultural, linguistic and gender accessibility to the Commission. The Special Rapporteur made recommendations to improve security, implement the national mobilization, disarmament and reintegration programme, develop the Afghan national army, ensure the effective role of the national Commission in investigating and monitoring human rights violations, ensure the participation of all population segments in the transition process and use the media to keep people informed of the transition process. He stressed the importance of committing resources beyond the pledges (some $4.5 billion over the next five years) made at the International Conference on Reconstruction Assistance to Afghanistan (Tokyo, 21-22 January) (see p. 258).

(For information on mass graves in northern Afghanistan as reported by the Special Rapporteur on extrajudicial, summary or arbitrary executions, see p. 706; for details on the situation of women and girls in Afghanistan, see pp. 746 and 1149.)

**GENERAL ASSEMBLY ACTION**

On 18 December [meeting 77], the General Assembly, on the recommendation of the Third Committee [A/57/556/Add.3], adopted resolution 57/234 without vote [agenda item 109 (c)].

**Question of human rights in Afghanistan**

The General Assembly,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights and accepted humanitarian rules, as set out in the Geneva Conventions of 12 August 1949 and the Additional Protocols thereto, of 1977,

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

Recalling that Afghanistan is a party to the Convention on the Prevention and Punishment of the Crime of Genocide, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, the Geneva Convention relative to the Protection of Civilian Persons in Time of War, as well as the Convention concerning Equal Remuneration (Convention No. 100) and the Convention concerning the Abolition of Forced Labour (Convention No. 105) of the International Labour Organization, and recalling that it has signed the Convention on the Elimination of All Forms of Discrimination against Women,

Welcoming the accession of Afghanistan to the Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography, and to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction,

Recalling that, as a State party to those international instruments, Afghanistan has the obligation to report on their implementation,

Recalling also all its relevant resolutions, as well as the resolutions and presidential statements of the Security Council, the decisions of the Economic and Social Council, the resolutions and decisions of the Commission on Human Rights and the resolutions of the Commission on the Status of Women,


Warmly welcoming the conclusion of the Agreement on Provisional Arrangements in Afghanistan Pending the Re-establishment of Permanent Government Institutions (the Bonn Agreement), signed by the Afghan parties at Bonn, Germany, on 5 December 2001, which reaffirms the independence, national sovereignty and territorial integrity of Afghanistan and promotes national reconciliation, lasting peace, security and respect for human rights, and stressing the important role entrusted to the United Nations in that framework.

Warmly welcoming also the election by the Emergency Loya Jirga, in secret ballot, of the head of State, President Hamid Karzai, and the establishment of the Afghan Transitional Authority, affirming the primary responsibility of the Afghan Transitional Authority, supported by the United Nations, to establish, in view of the formation of a government, an environment of good governance, democracy and the rule of law which:

(a) Should be broad-based, gender-sensitive, multi-ethnic and fully representative of all of the Afghan people and committed to peace with all countries,

(b) Should respect the human rights and fundamental freedoms of all of the Afghan people, without discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, birth, descent or other status,

(c) Should respect the international obligations of Afghanistan, including by cooperating fully in international efforts to combat terrorism and illicit drug trafficking within and from Afghanistan,

(d) Should facilitate the urgent delivery of humanitarian assistance and the voluntary and orderly return, in safety and dignity, of refugees and internally displaced persons,

(e) Should promote democracy and the holding of free elections,

Recognizing that the accountability of perpetrators of grave human rights violations, and their accomplices, is one of the central elements of any effective remedy for victims of human rights violations, and recognizing also that a fair and effective national justice system is a key factor in ensuring the promotion and protection of human rights and fundamental freedoms and, ultimately, reconciliation and stability within a State,

Commending the activity of the Special Representative of the Secretary-General for Afghanistan and the staff of the United Nations Assistance Mission in Afghanistan,

Stressing the importance of ensuring the full and effective participation of women in all decision-making processes regarding the future of Afghanistan,

Stressing also the importance of the economic reconstruction and development process and the need to ensure that it is accomplished in a coordinated and non-discriminatory manner, in a context of full respect for human rights and fundamental freedoms,

1. Welcomes the interim report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Afghanistan, and endorses the recommendations contained therein;

2. Also welcomes the decision of the Transitional Authority to establish the Constitutional Commission to undertake, with the assistance of the United Nations, the task of drafting a new Constitution, which will reflect, inter alia, the commitment of Afghanistan to promote and protect human rights pursuant to its obligations under the international human rights instruments;

3. Warmly welcomes the establishment of the Independent Human Rights Commission, which has the primary responsibility for advising on the promotion and protection of human rights and developing a national programme for the implementation of the relevant section of the Agreement on Provisional Arrangements in Afghanistan Pending the Re-establishment of Permanent Government Institutions (the Bonn Agreement);

4. Invites the relevant bodies of the United Nations, in particular the Office of the United Nations High Commissioner for Human Rights, within the framework of the United Nations Assistance Mission in Afghanistan:

(a) To assist in the full implementation of the human rights provisions of the Bonn Agreement and the National Human Rights Programme for Afghanistan, including through the establishment of an active human rights component in Afghanistan;

(b) To contribute to the work of the recently established Independent Human Rights Commission, the responsibilities of which include the promotion of international human rights standards, human rights monitoring, the investigation of violations of human rights and the development of domestic human rights institutions that have dedicated personnel and operative plans;

(c) To develop a human rights-based strategy addressing, in particular, issues of accountability, transitional justice, a national programme for human rights education, women’s rights and the rights of the child;

5. Commends the steps taken by the Transitional Authority to promote and protect human rights and fundamental freedoms in order to guarantee, in particular, the rights of children, women and persons belonging to national, ethnic, religious or linguistic minorities and the right to education, employment and freedom of religion and expression;

6. Welcomes the designation by the Transitional Authority of the members of the Judicial Commission, and urges it to resume its work without delay with a view to restoring the rule of law by, inter alia, the establishment of an independent and impartial judiciary, which should function in conformity with standards of international law relating to human rights;

7. Urges the Transitional Authority, the international community and the United Nations, in particular the United Nations Assistance Mission in Afghanistan, to provide the commissions established under the Bonn Agreement with the support necessary to fulfil their mandates;

8. Urges the Transitional Authority to continue its efforts to re-establish the rule of law, including by ensuring that law enforcement agencies respect and uphold human rights and fundamental freedoms;

9. Calls upon the Transitional Authority to develop a culture of democracy that includes democratic institutions as well as a free press and autonomous elec-
tronic media, all of which contribute to the promotion of tolerance and respect for human rights;

10. **Expresses grave concern:**
   (a) About the recent reports of ethnically motivated violence directed in particular against certain minority ethnic groups in affected areas that lack the rule of law and its enforcement machinery;
   (b) About recent cases of arbitrary arrest and detention and of summary trials in some areas of the country;
   (c) About recent attacks against women and girls, including rape and other forms of sexual violence, forced marriage, detention of women and girls for violating social codes and attacks on girls’ schools;

11. **Calls upon** the Transitional Authority and all Afghan groups, in application of the Bonn Agreement:
   (a) To respect fully all human rights and fundamental freedoms without discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, birth, descent or other status;
   (b) To adhere strictly to their obligations under human rights instruments and international humanitarian law, inter alia, in relation to the treatment of prisoners;
   (c) To implement fully demobilization and social reintegration activities, including those related to war-affected children;
   (d) To facilitate the provision of efficient and effective remedies to the victims of grave violations and abuses of human rights and of international humanitarian law and to bring the perpetrators to justice in accordance with international standards and in particular with a view to combating impunity;
   (e) To treat all suspects and convicted or detained persons in accordance with relevant international law and to refrain from acts of arbitrary detention in violation of international law;
   (f) To facilitate the voluntary and orderly return in safety and dignity of Afghan refugees and internally displaced persons and their reintegration;

12. **Welcomes** the establishment of the Ministry of Women’s Affairs, and encourages the Transitional Authority to provide the necessary support and resources to enable the Ministry to function effectively;

13. **Urges** the Transitional Authority to give high priority to the ratification of the Convention on the Elimination of All Forms of Discrimination against Women, to end, without delay, all violations of the human rights of women and girls and to take urgent measures to ensure fully:
   (a) The repeal of any legislative, institutional and other measures in place that discriminate against women and girls and those that impede the realization of their human rights and fundamental freedoms;
   (b) The full, equal and effective participation of women in civil, cultural, economic, political and social life throughout the country at all levels;
   (c) Respect for the equal right of women and girls to work and their reintegration into employment in all sectors and at all levels of Afghan society;
   (d) The equal right of women and girls to education without discrimination, the effective functioning of schools throughout the country and the admission of women and girls to educational programmes at all levels;
   (e) Respect for the equal right of women and girls to security of person, including in the private sphere, and to ensure that those responsible for physical attacks on women are brought to justice;
   (f) The equal right of women and girls to access to health care;

14. **Notes with deep concern** the severity of the humanitarian crisis that still affects the country and the existence of millions of Afghan internally displaced persons and refugees;

15. **Recognizes** the huge burden shouldered by neighbouring countries, especially the Islamic Republic of Iran and Pakistan, expresses its appreciation of the efforts made in those host countries to ease the plight of Afghan refugees, and encourages them to continue cooperating with the Office of the United Nations High Commissioner for Refugees to that end;

16. **Welcomes** the contributions of donors to meet the requirements of the Immediate and Transitional Assistance Programme for the Afghan People 2002, urges them to fulfill promptly the funding commitments made at the International Conference on Reconstruction Assistance to Afghanistan, held at Tokyo on 21 and 22 January 2002, and invites them to provide additional resources beyond those pledged at that Conference;

17. **Urges** the international community to provide continuing assistance to ensure an effective transition, consistent with the National Development Framework, from humanitarian assistance to the establishment of a longer-term social and economic recovery, with a view to meeting, in particular, the needs of internally displaced persons and returnees;

18. **Welcomes** the activities of the Office of the United Nations High Commissioner for Refugees and other United Nations agencies to achieve the voluntary return of 1.7 million refugees, calls upon the Office of the High Commissioner to continue implementing its plans for the voluntary and orderly repatriation of refugees in safety and dignity, in close cooperation with the Transitional Authority and with the support of other relevant United Nations agencies, and appeals to the international community to provide additional assistance for a durable solution to this problem;

19. **Notes with appreciation** the activities carried out by the International Committee of the Red Cross and other humanitarian organizations throughout the territory of Afghanistan;

20. **Appeals** to Member States, organizations and programmes of the United Nations system, specialized agencies and other international organizations to ensure that all United Nations operations integrate a gender perspective, including in the selection of personnel for their management, and that women benefit equally with men from such programmes;

21. **Urges** the Transitional Authority and all Afghan groups to ensure the safety, security and free movement of all foreign and local United Nations and associated personnel, as well as of all foreign and local personnel of humanitarian organizations, and their safe and unimpeded access to all affected populations;

22. **Also urges** the Transitional Authority and all Afghan groups to guarantee the access of all Afghans to aid and to educational and health facilities without
discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, birth, descent or other status;

23. **Calls upon** the Transitional Authority and all Afghan groups to cooperate fully with the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Afghanistan and all other special rapporteurs who request invitations to visit Afghanistan, and to facilitate their access to all sectors of society and to all parts of the country;

24. **Requests** the Secretary-General:

(a) To provide all necessary assistance to the Special Rapporteur;

(b) To ensure, in consultation with the United Nations High Commissioner for Human Rights, the integration of a human rights capacity in the context of United Nations activities in Afghanistan, and also to ensure that the protection and promotion of human rights is central to the purposes and functions of the United Nations Assistance Mission in Afghanistan and that the Mission is fully equipped to implement effectively its human rights responsibilities under the terms of the Bonn Agreement;

25. **Invites** the Special Rapporteur to provide updated reports, as appropriate, on the situation of human rights in Afghanistan to the General Assembly and the Commission on Human Rights;

26. **Decides** to keep the situation of human rights in Afghanistan under consideration at its fifty-eighth session, in the light of additional elements provided by the Commission on Human Rights and the Economic and Social Council.

Cambodia

For information on the human rights situation in Cambodia, see p. 641.

Iran


The Special Representative stated that in the past year the demand by the Iranian people for reform had continued to grow despite a variety of obstacles. A cornerstone of the reform had been the gradual emergence of an intolerance of human rights violations. The principal obstacle to reform was the judiciary, its patrons and supporters, a group that bore heavy responsibility for the ongoing human rights violations. Another obstacle had been the continuing, sweeping suppression of the mainly reformist press, including the imprisonment of journalists. There was very little change in the official and societal discrimination faced by the religious and ethnic minorities. The prevailing economic and social conditions were characterized by inflation, unemployment and poverty. Other areas needing attention were equal rights and the empowerment of women, poor prison conditions, the use of public punishment, including executions, and the use of torture in prisons and during interrogation. There were many issues that needed to be addressed regarding religious minorities—Sunnis, Christians, Baha’is and the Yaresan (Al Haq)—and ethnic minorities, including the Azerbaijani Turkic-speaking people of Iran (the Azeris) and the Kurds. Poverty and unemployment were major factors in the rise of drug trafficking and abuse. Regarding children, poor prison conditions continued to be made in the area of juvenile justice, but statistics indicated that child harassment was on the rise and there continued to be reports of children working illegally in workshops and factories. The Special Representative concluded that society in Iran had been evolving and that change was inevitable. The current intransigence was a costly distraction but could not be allowed to cloud the goal. He regretted that his report, his final one, did not portray a different picture, one that reflected the President’s aspirations for his country. Annexed to the report was information on the diyah, the Shariah compensation for death and personal injury, complaints received from the Baha’is, Azeris and Kurds, a list of students still imprisoned following demonstrations in 1999 [YUN 1999, p. 731] and correspondence between the Special Representative and the Government.

Iraq

**Communications.** In January, Iraq transmitted a study on the effects of the embargo against it and the United States and United Kingdom aggression on the children of Iraq [E/CN.4/2002/139] and a study on the embargo in the light of the principles and rules of international law [E/CN.4/2002/141].

**Commission action.** On 19 April [res. 2002/15], by a recorded vote of 28 to 4, with 21 abstentions, the Commission, noting no improvement in the human rights situation in Iraq, strongly condemned the systematic, widespread and extremely grave violations of human rights and international humanitarian law by the Government; its suppression of freedom of thought, expression, information, association, assembly and movement; the repression of the opposition; widespread use of the death penalty; summary and arbitrary executions; and the widespread, systematic practice of torture. It called on the Government to abide by its obligations under international human rights treaties and international humanitarian law; end summary and arbitrary executions and ensure that capital punish-
ment would not be imposed other than for the most serious crimes; conform its military and security forces to standards of international law; cooperate with UN human rights mechanisms; establish the independence of the judiciary and abrogate laws granting impunity; abrogate decrees that prescribed cruel and inhuman punishment or treatment; abrogate laws and procedures that penalized free expression; ensure free exercise of political opposition; cease repressive practices aimed at ethnic and religious groups; cooperate to resolve the fate of missing persons; cooperate with aid agencies and NGOS to provide humanitarian assistance; ensure equitable distribution of humanitarian supplies purchased as a result of Iraqi oil exports; and cooperate in identifying minefields in the country.

The Commission decided to extend the Special Rapporteur’s mandate for a further year and to ask him to submit an interim report to the General Assembly in 2002 and to report to the Commission in 2003, keeping in mind a gender perspective when analysing information. It requested the Secretary-General to assist the Special Rapporteur and to approve the allocation of resources to send human rights monitors to locations that would facilitate improved information on the human rights situation in Iraq. On 25 July, the Economic and Social Council approved the Commission’s decision regarding the Special Rapporteur (decision 2002/249).

Subcommission action. On 14 August (E/CN.4/2003/2 (dec. 2002/109)), the Subcommission on the Promotion and Protection of Human Rights appealed to the international community, and to the Security Council in particular, for the embargo provisions affecting the humanitarian situation of the Iraqi population to be lifted, and urged the international community and all Governments, including Iraq, to alleviate the suffering of Iraqis, particularly by facilitating the delivery of food, medical supplies and the materials to meet their basic needs.

Reports of Special Rapporteur. In March (E/CN.4/2002/44), Special Rapporteur Andreas Mavrommatis (Cyprus) described his visit to Iraq (11-15 February), which was preceded by a visit to Iran (16-19 January), to collect information on alleged human rights violations committed by the Iraqi Government. His visit to Iraq was the first approved by the Government for the current Special Rapporteur and the second to take place since the mandate was established by Economic and Social Council decision 1991/256 [YUN 1991, p. 662]. The first visit had taken place in 1992 [YUN 1992, p. 780].

The Special Rapporteur summarized his meetings with the Minister for Foreign Affairs, the Minister of Justice, the Minister of the Interior, the Minister of Labour and Social Affairs and officials from the Ministry of Health. The Ministers with whom he met indicated that the embargo was having a detrimental effect on the population in general and that the human rights situation would improve once the sanctions were lifted (see p. 286). During his visits to a hospital, a school and a food distribution outlet, it was repeatedly pointed out that, owing to the embargo, important medical drugs were unavailable and malnutrition had led to illness. The Special Rapporteur visited a women’s prison, which appeared to have satisfactory conditions; the authorities were undertaking serious efforts towards rehabilitation through educational and vocational training programmes. It appeared from talking to a few prisoners that certain prerequisites for a fair trial were respected. On the other hand, at Abu Ghrab prison, the Special Rapporteur observed overcrowding of the 9,000 inmates and not many options for reformation and educational or recreational activities. Regarding the situation of missing persons, the Government pointed out that initiatives had been taken to localize Kuwaiti prisoners of war and persons unaccounted for since the time of the Iraqi occupation of Kuwait. It was still unwilling to cooperate with the Tripartite Commission (see p. 297), established to facilitate work on the issue of missing Kuwaitis, owing to its objection to the membership of the United States and the United Kingdom. The Government stated that 1,137 Iraqis were still missing in Kuwait. The Special Rapporteur reported that Shia and Sunni Muslims were free to visit mosques and shrines and that religious leaders of the Roman Catholic, Armenian, Assyrian and Syrian Christian Churches were generally free to practise their religion without impediment. However, issues of concern related to the fact that children of Christian parents were automatically registered as Muslims if the parents decided to convert to Islam and a decree obliging Christian parents to give Arabic names to their children.

The Special Rapporteur recommended keeping under review all humanitarian concerns. The Government was urged to dispatch documentation and information requested by him during meetings with ministers and other officials, implement a moratorium on executions, reduce the number of crimes that carried the death penalty, improve conditions on death row and the general conditions in Abu Ghrab prison, respect freedom of religion and freedom of movement of all Shia clerics, examine issues raised by Christian leaders, facilitate the continuation of dialogue, abolish special courts and ensure the rule of law,
end ethnic and religious discrimination, and investi-
gate allegations of human rights violations re-
ating to the issue of arabiization.

An interim report of the Special Rapporteur
[ A/57/352/ Add.1] covered the period from 21 February to
4 July and took account of comments submitted by
the Government, some of which were annexed
to the report. During the reporting period, he
continued to receive allegations from various
sources of human rights violations committed by
the Government relating to extrajudicial killings,
torture, cruel, degrading and inhuman treatment
and punishment, forced displacement, and the
lack of a fair trial, freedom of expression and
association, religious freedom and other rights.
From individuals who had witnessed human
rights violations, the Special Rapporteur re-
cieved information about secret detention sites,
where allegedly torture, cruel, degrading and in-
human treatment and punishment were widespread. He addressed letters to the Government
regarding three specific allegations of human
rights violations. There had been no positive de-
velopments regarding the fate of missing persons.

In a report covering 21 August to 31 December
E/CN.4/2003/40], the Special Rapporteur stated
that the Tripartite Commission, by a formal
agreement of 18 December, had paved the way
for resumption of work by its Technical Subcom-
mittee towards solving the issues of Kuwaiti pris-
oners of war and persons unaccounted for. The
work of the Subcommittee had been discontin-
ued since 1998. He discussed various aspects of
his intended visit to Iraq in 2003.

GENERAL ASSEMBLY ACTION

On 18 December [meeting 77], the General As-
sembly, on the recommendation of the Third
Committee [ A/57/556/Add.3], adopted resolution
57/232 by recorded vote (97-3-77) [agenda item
109 (c)].

Situation of human rights in Iraq

The General Assembly,

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

Reaffirming that all Member States have an obligation
to promote and protect human rights and funda-
mental freedoms and to fulfill the obligations they have
undertaken under the various international instru-
ments in this field,

Awned that Iraq is a party to the International Cova-
nants on Human Rights, other international human
rights instruments and the Geneva Conventions of 12
August 1949 for the protection of victims of war,

Recalling its previous resolutions on this subject, the
most recent of which is resolution 56/174 of 19 Decem-
ber 2001, and those of the Commission on Human
Rights, the most recent of which is resolution 2002/15
of 19 April 2002,

Recalling also Security Council resolution 686(991)
of 2 March 1991, in which the Council called upon Iraq
to release all Kuwaitis and nationals of other States
who might still be held in detention, Council resolution
687(991) of 3 April 1991, Council resolution 688(991)
of 5 April 1991, in which the Council demanded an end to repression of the Iraqi civilian popu-
lation and insisted that Iraq cooperate with humani-
tarian organizations and that the human rights of all
Iraqi citizens be respected, Council resolutions 986
1129(997) of 12 September 1997, 143(997) of 4 Decem-
of 8 June 2000, 1330(2000) of 5 December 2000,
and 1382(2001) of 29 November 2001, in which the
Council authorized States to permit imports of Iraqi
oil in order to allow Iraq to purchase humanitarian
supplies, Council resolution 1284(999) of 17 Decem-
ber 1999, in which the Council, by means of a compre-
hensive approach to the situation in Iraq, inter alia, re-
moved the ceiling for the allowable import of Iraqi oil
in order to increase the amount of revenue available
for the purchase of humanitarian supplies, laid down
new provisions and procedures designed to improve
the implementation of the humanitarian programme
and to further achievement in meeting the humanitari-
ain needs of the Iraqi population and reiterated the
obligation of Iraq to facilitate the repatriation of all
Kuwaiti and third-country nationals referred to in
paragraph 30 of Council resolution 687(1991), and the
most recent resolution of the Council, 1409(2002) of 14
May 2002, in which the Council significantly eased the
United Nations sanctions on Iraq.

Taking note of the concluding observations of the
Human Rights Committee, the Committee on the
Elimination of Racial Discrimination, the Committee on
Economic, Social and Cultural Rights, the Commit-
tee on the Rights of the Child and the Committee on
the Elimination of Discrimination against Women on
the most recent reports submitted to them by Iraq, in
which these treaty-monitoring bodies point to a wide
range of human rights problems and express the view
that the Government of Iraq remains bound by its
treaty obligations, while pointing to the adverse effect
of sanctions on the daily life of the population, in par-
cular women and children,

Reaffirming that it is the responsibility of the Gov-
ernment of Iraq to ensure the well-being of its entire
population and the full enjoyment of all human rights
and fundamental freedoms,

Deploring all violations of human rights and interna-
tional humanitarian law in Iraq, as mentioned in the
report of the Special Rapporteur of the Commission
on Human Rights on the situation of human rights in
Iraq,

Concerned about the lack of procedural and sub-
stantive safeguards in the administration of justice in
Iraq, including in the application of the death penalty,
Appealing to all concerned to fulfill their mutual
obligations in the management of the humanitarian
programme referred to in Security Council resolution 986(1995) and other relevant Council resolutions,
1. Welcomes:
(a) The report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq and the exploratory visit by the Special Rapporteur to Iraq from 11 to 15 February 2002, which could serve as a basis for future cooperation and constructive dialogue;
(b) Security Council resolution 1409(2002), in which all exports to Iraq are allowed except for items which are on the goods review list and which are therefore subject to review by the Sanctions Committee;
2. Notes that:
(a) The Government of Iraq has responded in writing to some requests for information made by the Special Rapporteur;
(b) The Government of Iraq has accepted a second visit by the Special Rapporteur;
3. Expresses grave concern that there has been no improvement in the situation of human rights in the country;
4. Strongly condemns:
(a) The systematic, widespread and extremely grave violations of human rights and of international humanitarian law by the Government of Iraq, resulting in all-pervasive repression and oppression sustained by broad-based discrimination and widespread terror;
(b) The suppression of freedom of thought, religion and belief, expression, information, association, assembly and movement through fear of arrest, imprisonment, execution, expulsion, house demolition and other sanctions;
(c) The repression faced by any kind of opposition, in particular the harassment and intimidation of and threats against Iraqi opponents living abroad and members of their families;
(d) The widespread use of the death penalty in disregard of the provisions of the International Covenant on Civil and Political Rights and the United Nations safeguards;
(e) Summary and arbitrary executions, including political killings and the continuing prison cleansing, the use of rape as a political tool, as well as enforced or involuntary disappearances, routinely practised arbitrary arrests and detention and consistent and routine failure to respect due process and the rule of law;
(f) Widespread, systematic torture and the maintaining of decrees prescribing cruel and inhuman punishment as a penalty for offences;
5. Calls upon the Government of Iraq:
(a) To abide by its freely undertaken obligations under international human rights instruments and international humanitarian law to respect and ensure the rights of all individuals, irrespective of their origin, ethnicity, gender or religion, within its territory and subject to its jurisdiction;
(b) To end all summary and arbitrary executions and the imposition of the death penalty for crimes committed by persons under the age of 18 years, and to ensure that capital punishment will not be imposed for crimes other than the most serious and will not be pronounced in disregard of the obligations it has assumed under the International Covenant on Civil and Political Rights and the provisions of the United Nations safeguards;
(c) To establish a moratorium on executions;
(d) To bring the actions of its military and security forces into conformity with the standards of international law, in particular those of the International Covenant on Civil and Political Rights;
(e) To establish the independence of the judiciary and to abrogate all laws granting impunity to specified forces or persons killing or injuring individuals for any purpose beyond the administration of justice under the rule of law as prescribed by international standards;
(f) To abolish the functioning of the temporary special courts and to ensure that the rule of law is respected at all times throughout the territory of Iraq in accordance with its freely undertaken obligation under international human rights instruments;
(g) To abrogate all decrees that prescribe cruel and inhuman punishment or treatment, including mutilation, and to ensure that torture and cruel punishment and treatment no longer occur;
(h) To abrogate all laws and procedures, including Resolution Command Council Decree No. 840 of 4 November 1986, that penalize free expression, and to ensure that the genuine will of the people shall be the basis of the authority of the State;
(i) To cooperate fully with the relevant mechanisms of the Commission on Human Rights, in particular its Special Rapporteur, and to ensure his access to Iraq, without preconditions, in order to allow him fully to discharge his mandate, including by allowing access to any person deemed appropriate by the Special Rapporteur;
(j) To implement the recommendations of the Special Rapporteur by providing detailed and comprehensive replies to letters relating to allegations of human rights violations transmitted by the Special Rapporteur and by allowing the stationing of human rights monitors throughout Iraq pursuant to the relevant resolutions of the General Assembly and the Commission on Human Rights;
(k) To ensure the free exercise of political opposition and to prevent the intimidation and repression of political opponents and their families;
(l) To respect the rights of all ethnic and religious groups and to cease immediately its continuing repressive practices, including the practice of forced deportation and relocation, aimed at the Iraqi Kurds, Assyrians and Turkmen, and to ensure the personal integrity and freedoms of all citizens, including the Shi'ah population;
(m) To cooperate fully with the Tripartite Commission and its Technical Subcommittee to establish the whereabouts and resolve the fate of the remaining several hundred missing persons, including prisoners of war, Kuwaiti nationals and third-country nationals, victims of the illegal Iraqi occupation of Kuwait, to cooperate with the Working Group on Enforced or Involuntary Disappearances of the Commission on Human Rights for that purpose, to cooperate with the high-level coordinator of the Secretary-General for the repatriation of all Kuwaiti and third-country nationals and the return of all Kuwaiti property in implementation of section B of Security Council resolution 1284(1999), to pay compensation to the families of those who died or disappeared in the custody of the Iraqi authorities, through the mechanism established
by the Security Council in resolution 692(1991) of 20 May 1991, to release immediately all Kuwaitis and nationals of other States who may still be held in detention and inform families of the whereabouts of arrested persons, to provide information about death sentences imposed on prisoners of war and civilian detainees, and to issue death certificates for deceased prisoners of war and civilian detainees;

(a) To cooperate further with international aid agencies and non-governmental organizations to provide humanitarian assistance and monitoring in the northern and southern areas of the country;

(b) To continue to cooperate in the implementation of Security Council resolutions dealing with humanitarian and human rights matters;

(c) To cooperate in the identification of the minefields existing throughout Iraq, with a view to facilitating their marking and eventual clearing;

6. Requests the Secretary-General to continue to give all necessary assistance to the Special Rapporteur to enable him to discharge his mandate fully, and to continue the examination of the situation of human rights in Iraq at its fifty-eighth session, under the item entitled “Human rights questions”.

RECORDED VOTE ON RESOLUTION 57/232:

In favour: Albania, Andorra, Antigua and Barbuda, Argentina, Armenia, Austria, Australia, Bahamas, Barbados, Belgium, Belize, Bhutan, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Gabon, Georgia, Germany, Greece, Grenada, Guatemala, Guyana, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Jamaica, Japan, Kazakhstan, Kuwait, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Maldives, Malta, Marshall Islands, Mauritius, Mexico, Micronesia, Monaco, Mongolia, Nauru, Netherlands, New Zealand, Nicaragua, Norway, Palau, Panama, Paraguay, Peru, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Saint Vincent and the Grenadines, Samoa, San Marino, Senegal, Seychelles, Slovakia, Slovenia, Solomon Islands, Spain, Swaziland, Sweden, Switzerland, Tajikistan, The former Yugoslav Republic of Macedonia, Timor-Leste, Trinidad and Tobago, Turkey, Ukraine, United Kingdom, United States, Uruguay, Uzbekistan, Yugoslavia.

Against: Libya, Arab Jamahiriya, Sudan, Syrian Arab Republic.


By recorded vote, the Committee retained paragraphs 4 (a) (76-8-72), 4 (b) (76-8-71), 4 (e) (76-8-71) and 4 (f) (77-8-71). The Assembly retained the following paragraphs by recorded vote: 4 (a) (83-7-81), 4 (b) (82-7-83), 4 (e) (84-7-80) and 4 (f) (85-7-79).

Myanmar

Reports of Secretary-General. Pursuant to General Assembly resolution 56/231 [YUN 2001, p. 725], the Secretary-General, in a March report [E/CN.4/2002/35], described consultations held in 2001 by his Special Envoy, Razali Ismail, with the Government of Myanmar to facilitate national reconciliation and democratization. He observed that positive developments had taken place, which helped to build confidence between the Government and Daw Aung San Suu Kyi, the General Secretary of the National League for Democracy (NLD). However, efforts to build confidence had not progressed as quickly as hoped or expected. He urged the Government to release all remaining political prisoners and to restore the rights of Daw Aung San Suu Kyi so that she might conduct normal activities as the leader of a lawful political party.

In October [A/57/484], the Secretary-General reported that his Special Envoy had visited Myanmar in April and August, when he met with representatives of the Government, NLD and ethnic nationalities. Although freedom of movement had been restored to Daw Aung San Suu Kyi, substantive dialogue between her and the Government had not started. The Secretary-General reiterated his call on the Government and Daw Aung San Suu Kyi to set aside their differences, unite for the cause of national reconciliation and start political dialogue as soon as possible.

Commission action. On 25 April [res. 2002/67], the Commission welcomed contacts between the Government and Daw Aung San Suu Kyi, government measures to allow the resumption of some political functions by the opposition, the release of some political activists, ongoing cease-fires in some areas, cooperation with ICRC, the release from detention of some women with small children on humanitarian grounds, the reopening of all institutes of tertiary education, the dismissal of human rights standards for public officials, the understanding between the Government and the International Labour Organization (ILO) regarding the appointment of an ILO liaison officer in Myanmar by June and the launching of the UN joint plan of action on HIV/AIDS. It noted the establishment of a committee on human rights. However, the Commission deplored the slow pace of national reconciliation and democratization; the repression of all political activities of the opposition and the abuse of the legal system; the exclusion of ethnic minorities in the reconciliation process; the de facto house arrest of Daw Aung San Suu Kyi and imprisonment of other NLD members; the persistence of grave and massive human rights violations against civilians; the impact of HIV/AIDS on the population and unsatisfactory prison conditions. It also deplored the pattern of gross and systematic human rights violations, the lack of independence of the judiciary, widespread discrimination, restrictions on the freedom of religion, violations of women’s
and children’s human rights, severe restrictions on the freedoms of opinion, expression, assembly and association, and on citizens’ access to information, and the situation of internally displaced persons.

The Commission called on Myanmar: to develop a constructive dialogue with the UN system; cooperate with the Secretary-General, his Special Envoy and UN representatives; and consider becoming a party to human rights instruments. The Government was urged to implement the Special Rapporteur’s recommendations; ensure full respect for human rights and fundamental freedoms; end human rights violations; restore the justice system; recognize the political rights of members of all political parties; fulfil its obligations under human rights conventions; implement the recommendations of the Committee on the Elimination of Discrimination against Women; release political detainees; improve conditions of detention; end forced displacements; cease the laying of landmines; implement measures to eradicate forced labour; implement the recommendations of the ILO Commission of Inquiry established to examine compliance by Myanmar with the ILO Forced Labour Convention, 1930 (No. 29); cooperate with UN international humanitarian organizations; promote and protect the human rights of persons living with HIV/AIDS; ensure the allocation of sufficient resources to the health-care system; and enable the creation of a pluralist civil society.

The Commission extended the Special Rapporteur’s mandate for a further year and asked him to report to the General Assembly in 2002 and to the Commission in 2003, keeping a gender perspective in mind; it also asked the Secretary-General to assist the Special Rapporteur and to continue his discussions with the Government and with anyone he might consider appropriate to assist in implementing Assembly resolution 56/231 [YUN 2001, p. 725] and the Commission’s current resolution. The Commission asked the High Commissioner to cooperate with the ILO Director-General with a view to identifying ways in which their offices might collaborate to improve the human rights situation in Myanmar and requested the Secretary-General to bring its resolution to the attention of the UN system. The Economic and Social Council, on 25 July, endorsed the Commission’s decisions regarding the Special Rapporteur’s mandate and the submission of reports (decision 2002/269).

Reports of Special Rapporteur. In August [A/57/290 & Corr.1], Special Rapporteur Paulo Sérgio Pinheiro (Brazil) issued an interim report on developments in the human rights situation in Myanmar up to 1 July. Following a fact-finding mission to the country (11-19 February), he visited Thailand (20-25 February). The Special Rapporteur observed that a complex humanitarian situation continued to impact the exercise of economic, social and cultural rights and the right to development. Poverty was widespread and major concerns were health, food security, quality education, HIV/AIDS and drug-related problems. Alleged human rights violations continued to be reported, especially in areas where military operations continued. They reportedly occurred in the context of the counter-insurgency policy that had been implemented in zones of ethnic insurgeny, aimed at destroying the armed opposition. Restrictions on the freedoms of information, expression and the press had yet to be fully lifted. Prisons lacked proper medical treatment. As for the judiciary, the Special Rapporteur noted confusion among law enforcement and judicial officials, not to mention the public, about what laws were currently in force, to what extent, and how conflicts were to be resolved. There was widespread subjective implementation of the law. Penal law prohibited torture and the use of confessions and other information obtained under duress as evidence in court. Although the Special Rapporteur had not been able to collect recent testimony on the use of torture, he noted its widespread use for four decades by security personnel against political critics. The release of Daw Aung San Suu Kyi on 6 May, after 19 months of de facto house arrest, was the most notable recent development, although there were still restrictions on NLD activities. Since the beginning of 2002, 83 political prisoners had been released.

On 18 December, the General Assembly took note of the report (decision 57/533).

In a December report [E/CN.4/2003/41], the Special Rapporteur described his fact-finding mission to Myanmar (17-28 October) and information received by him up to 10 December. Subsequent to his mission, he visited Thailand (29 October–1 November). Following the release of Daw Aung San Suu Kyi, she and the NLD party enjoyed some freedom of movement, assembly and expression within their precincts and within the context of party activities. However, military intelligence personnel continued to monitor NLD and all other political activities. Restrictions on the freedom of expression and information were still in place. Political detainees continued to be released, conditions of detention improved, physical ill-treatment of political prisoners stopped and elderly prisoners received regular medical attention. Areas needing further attention were the quality of food, the beating of common prisoners and access to qualified medical treatment.
As at late October, ICRG estimated there were 1,448 “security detainees”. Since July, political arrests were characterized by arbitrary arrest, prolonged incommunicado detention, interrogation by military intelligence personnel, and extraction of confessions of guilt or of information, often under duress or torture, followed by summary trials, sentencing and imprisonment. The voluntary and/or forced conscription of children into the armed forces and the various ways in which they were used by the forces were an issue. There appeared to be serious problems with the way the army and armed groups treated civilians in ethnic counter-insurgency areas. The way to address the issue would be to investigate allegations in a credible manner, to establish the facts, to take action against the perpetrators, to establish procedures to prevent their recurrence, to ensure control over army units and to compensate the victims. Myanmar gave an initial positive reaction to the proposals regarding an investigation of alleged human rights violations in ethnic areas. The Special Rapporteur sought clarification about the terms of the invitation to the United Nations to visit the region. In response to the precarious humanitarian conditions in Myanmar, a UN country team was preparing a framework document that was expected to function as a blueprint for direct action. To speed up progress towards peace and national reconciliation, it was more necessary than ever to build a rational discourse on policy and strategy alternatives. The Special Rapporteur acknowledged as an important development the opening of an ILO office in Yangon and the appointment in October of the ILO Liaison Officer to cover relevant activities as a first step towards the establishment of its full and effective representation in Myanmar.

GENERAL ASSEMBLY ACTION

On 18 December [meeting 77], the General Assembly, on the recommendation of the Third Committee [A/57/556/Add.3], adopted resolution 57/231 without vote [agenda item 109 (c)].

The continuing cooperation with the International Labour Organization, 1948 (Convention No. 87), of the International Labour Conference at its eighty-eighth session, of 25 April 2002,

Recalling its previous resolutions on the subject, the most recent of which is resolution 56/231 of 24 December 2001, and those of the Commission on Human Rights, the most recent of which is resolution 2002/67 of 25 April 2002,

Recalling also resolution 1 adopted by the International Labour Conference at its eighty-eighth session, on 4 June 2000, concerning the practice of forced or compulsory labour in Myanmar,

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

Welcomes:

(a) The preliminary steps taken by the Government of Myanmar towards democracy, in particular the release from house arrest of Aung San Suu Kyi on 6 May 2002 and her subsequent internal freedom of movement, the release of a number of political prisoners and the relaxation of some constraints on some political activities of the National League for Democracy;
(b) The appointment by the International Labour Organization of a liaison officer in Myanmar as a first step towards the establishment of its full and effective representation in Myanmar;
(c) The visits to Myanmar by the Special Envoy of the Secretary-General for Myanmar during the past year, the visits by the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar, and the cooperation extended to them by the Government of Myanmar;
(d) The continuing cooperation with the International Committee of the Red Cross;
(e) The dissemination of human rights standards for public officials and some non-governmental organizations and ethnic groups through the convening of a series of human rights workshops;

Notes the establishment by the Government of Myanmar of a committee on human rights as a precursor to the establishment of a national human rights commission, which would follow the Principles relating to the status of national institutions for the promotion and protection of human rights annexed to General Assembly resolution 48/134 of 20 December 1993;

3. Expresses its grave concern:
(a) The ongoing systematic violation of the human rights, including civil, political, economic, social and cultural rights, of the people of Myanmar;
(b) Extrajudicial killings; rapes and other forms of sexual violence carried out by members of the armed forces; torture; renewed instances of political arrests and continuing detentions, including of prisoners who have served their sentences; forced relocation; destruction of livelihoods; forced labour; denial of freedom of assembly, association, expression and movement; discrimination on the basis of religious or ethnic back-
ground; wide disrespect for the rule of law and lack of independence of the judiciary; deeply unsatisfactory conditions of detention; systematic use of child soldiers; and violations of the right to an adequate standard of living, in particular food and medical care, and to education;
(c) The disproportionate suffering of members of ethnic minorities, women and children from such violations;
(d) The situation of the large number of internally displaced persons and the flow of refugees to neighbouring countries;
(e) The ever-increasing impact of the human immunodeficiency virus/acquired immunodeficiency syndrome (AIDS) on the population of Myanmar;
4. Calls upon the Government of Myanmar:
(a) To fulfil its obligations to restore the independence of the judiciary and due process of law, and to take further steps to reform the system of the administration of justice;
(b) To take immediate action to implement fully concrete legislative, executive and administrative measures to eradicate the practice of forced labour and to implement fully the recommendations of the Commission of Inquiry established to examine the observance by Myanmar of the International Labour Organization Convention concerning Forced or Compulsory Labour (Convention No. 29);
(c) To pursue the dialogue with the International Labour Organization with a view to full and effective representation of the Organization in Myanmar;
(d) To ensure safe and unhindered access to the United Nations and international humanitarian organizations and to cooperate fully with all sectors of society by means of consultation, especially with the National League for Democracy and other relevant political, ethnic and community-based groups, to ensure the provision of humanitarian assistance and to guarantee that it does reach the most vulnerable groups of the population;
(e) To continue to cooperate with the Special Envoy of the Secretary-General for Myanmar and the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar;
(f) To consider as a matter of high priority becoming a party to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention relating to the Status of Refugees and the Protocol thereto, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and the International Labour Organization Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (Convention No. 182);
(g) To pursue through dialogue and peaceful means an end to conflict with all ethnic groups in Myanmar;
5. Strongly urges the Government of Myanmar:
(a) To restore democracy and implement the results of the 1990 elections, to ensure that the contacts with Aung San Suu Kyi and other leaders of the National League for Democracy move without delay into substantive and structured dialogue towards democratization and national reconciliation and at an early stage to include other political leaders in the talks, including the representatives of the ethnic minorities;…
taken by the Government of Indonesia to bring to justice the perpetrators of gross human rights violations in East Timor in 1999 (ibid.), the Commission underlined the importance of bilateral international assistance, as well as of technical cooperation, between the Government and OHCHR to enhance the capacity of the human rights courts. It asked the High Commissioner to report to the General Assembly in 2002 and to the Commission in 2003.

The Economic and Social Council, on 25 July, approved the Commission’s request to the High Commissioner (decision 2002/283).

Reports of High Commissioner. As requested by the Commission in April, the Secretary-General, in October [A/57/446], transmitted the High Commissioner’s report to the General Assembly. The High Commissioner visited Timor-Leste (23-25 August), where she met with the President and other senior government officials, judges, lawyers and representatives of civil society. She spoke before the National Parliament on the importance of prompt ratification of the principal international human rights instruments and emphasized the role of the National Parliament to assist in implementing the obligations contained therein. The High Commissioner travelled to Suai, where she met with victims and relatives of victims of the 1999 violence. In Liquipa, she witnessed the first community reconciliation process undertaken by the Commission on Reception, Truth and Reconciliation, established in 2001 [YUN 2001, p. 77].

The High Commissioner reported that OHCHR was unable to implement a technical cooperation programme with the Government of Indonesia, on providing training for judges, prosecutors and defence counsellors of the Ad Hoc Human Rights Courts for Timor-Leste, because of geographic and temporal limitations placed on the jurisdiction of the Court that prevented it from hearing all serious crimes alleged to have taken place in 1999. Implementation of a programme of technical cooperation between OHCHR and the United Nations Transitional Administration in East Timor (UNTAET) to strengthen national infrastructure for the promotion and protection of human rights in Timor-Leste was completed at midyear and was followed by an external evaluation. OHCHR, the United Nations Mission of Support in East Timor (UNMISET) and the Government of Timor-Leste developed a further two-year programme of technical cooperation to begin late in the year. The programme would focus on ratification and implementation of international human rights standards; the Commission on Reception, Truth and Reconciliation; human rights training and skills-building for the administration of justice professionals; the establishment and functioning of the national human rights institution (Provedor for Justice and Human Rights); and human rights education. OHCHR seconded a human rights expert from May to September to provide advice to the Ministry of Foreign Affairs on ratification of the principal international human rights instruments.

In March, the Ad Hoc Human Rights Court in Jakarta began hearing cases. However, the limited jurisdiction of the Court continued to hamper efforts at establishing accountability for human rights violations in Timor-Leste during 1999. The Indonesian authorities appeared unwilling to bring to justice any perpetrators of crimes against humanity committed in 10 of Timor-Leste’s 13 districts. Another concern related to the failure of the prosecution to put before the Court evidence that portrayed the killings and other human rights violations as a widespread or systematic pattern of violence against the population of Timor-Leste, which was a requirement for proof of a crime against humanity. Instead, the indictments presented the killings and other abuses as a result of spontaneous conflict between armed factions within Timorese society. Furthermore, prosecutions to date had involved presentation of only a very small percentage of the available testimony and evidence of victims and eyewitnesses to the 1999 violence, despite ongoing offers of cooperation and assistance by UNTAET/UNMISET.

The High Commissioner stated that, while significant progress had been made regarding the justice system in Timor-Leste, there was a lack of experienced legal professionals, inadequate facilities, limited legal research materials and inadequate access to defence counsel. The Court of Appeal had barely functioned since its creation in 2000, and not at all in 2002. Since March, there had been a deterioration in the stability and security of the prisons, attributed to the premature withdrawal of international management, illegal or long-term pre-trial detention and a lack of rehabilitation programmes. While significant progress was made in the training and development of the Timor-Leste Police Service, training, mentoring and oversight by experienced United Nations Civilian Police officers continued. Regarding the Commission on Reception, Truth and Reconciliation, on 21 January, seven national commissioners were sworn in. Since then, the Commission had taken steps to become operational. The High Commissioner described concerns of the Muslim community living in the Dili mosque compound, increased incidents of domestic violence and other violence against
women, child abuse and the situation of refugees in the camps in West Timor and of the large number of returnees to Timor-Leste. The High Commissioner made proposals for ongoing and future areas of work to promote and protect human rights in Timor-Leste.

On 18 December, the Assembly took note of the High Commissioner’s report (decision 57/533).

In a later report [E/CN.4/2003/37], the High Commissioner stated that Timor-Leste became independent on 20 May. Access to justice remained one of the most significant challenges to the protection of human rights. Prison conditions were still poor and delays occurred in bringing pre-trial detainees before magistrates. Serious incidents had taken place, in which inexperienced police officers with limited training appeared to have resorted to the excessive use of force in response to crisis situations. A police needs-assessment mission took place in November. The working group on the establishment of the Provedor, composed of the Human Rights Adviser to the Prime Minister, representatives of the judiciary, NGOs and UNMISET, continued to consult widely on the framework for the institution.

On 10 December, the National Assembly approved accession by Timor-Leste to the core international human rights instruments. The Commission on Reception, Truth and Reconciliation became operational on 7 April, with teams in all 13 districts implementing the programme of truth-seeking, conducting community reconciliation procedures and holding discussions to ascertain the impact of years of violence on communities. Although significant gains had been made for women in the public sector, they remained underrepresented in the civil service at 27 per cent. Violence against women remained a very serious and entrenched social problem. Existing legislation did not adequately provide for women’s protection, especially against domestic violence.

As at 31 December, about 28,000 East Timorese children remained in Indonesia, according to UNHCR. Some 750 East Timorese children remained separated from their parents in either Timor-Leste or Indonesia since the 1999 violence. As at 31 December, UNHCR reported 2,209 successful family reunifications. The most disturbing recent violence against Muslims occurred during the breakdown of law and order in Dili on 4 December when the Dili mosque compound was targeted by rioters. As to the status of investigations and persecutions of serious crimes committed in 1999, the Serious Crimes Unit, established in 2000 [YUN 2000, p. 751], had issued 50 indictments, including those relating to 7 of the 10 priority cases. A total of 170 individuals had been charged; the accused were charged with crimes against humanity, including murder, deportation and persecution, while six were charged specifically with participating in the establishment of violent militia groups and cooperating in a policy of funding, arming, training and directing the militia. Of the 170 indicted, 98 were believed to be at large in Indonesia. In March, Indonesia also began prosecution of the serious human rights violations that took place in 1999.

For part of the process, the United Nations observed the trial through the deployment of an international trial observer to the proceedings. The Ad Hoc Human Rights Court for Timor-Leste had charged 18 defendants with crimes against humanity; decisions were delivered in 15 of those cases—11 acquittals and 4 convictions. Serious flaws in the process continued to be the limited geographical and temporal jurisdiction of the Court; the lack of experienced prosecutors and judges; the intimidating and, at times, hostile, courtroom treatment of Timorese witnesses by some judges, prosecutors and defence counsel; the causes and consequences of non-attendance of Timorese witnesses at the proceedings; and the light sentences imposed, which bore no reasonable relationship to the gravity of the offences. Other areas of concern were the allegedly insufficient investigations by the Office of the Attorney-General, the weaknesses relating to indictments, meaning that all defendants were charged either as accomplices to the commission of crimes committed by others, or on a theory of command responsibility, and the implementation of Witness Protection Regulations in a manner that did not guarantee security to witnesses.

The High Commissioner made proposals to strengthen the administration of justice, improve the penitentiary system, address problems of the police service, develop a professional and accountable defence force, prevent domestic and other forms of violence against women, and facilitate family reunification.

Europe

Cyprus

Pursuant to a 2001 Commission request [YUN 2000, p. 728], the Secretary-General issued a March report covering the human rights situation in Cyprus from 30 November 2000 to 16 January 2002 [E/CN.4/2002/31]. He stated that the division of the island and the unresolved political situation constituted a serious obstacle to the enjoyment of...
human rights, particularly freedom of movement and residence, property rights, freedom of religion, economic, social and cultural rights, and human rights issues pertaining to the question of missing persons. He stressed that the situation would be transformed by achieving a comprehensive settlement between the Greek Cypriot and Turkish Cypriot sides.

**Commission action.** On 19 April [dec. 2002/104], the Commission decided to retain the item on Cyprus on its agenda, on the understanding that action required by its previous resolutions would continue to remain operative, including its request to the Secretary-General to report on their implementation. (See also, p. 397.)

**The former Yugoslavia**

**Commission action.** On 19 April [res. 2002/18], the Commission, welcoming progress made in the human rights situation in parts of south-eastern Europe and international contributions to the promotion of human rights, condemned the ethnically motivated violence, including the continued harassment, intolerance and discrimination against returning refugees and internally displaced persons. The authorities of the region were called on to consolidate the rule of law by providing effective judicial mechanisms to protect the rights and fundamental freedoms of all citizens. They were urged to cooperate with the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (ICTY) (see p. 1275). The Commission called on Albanian political leaders from the Federal Republic of Yugoslavia (FRY) province of Kosovo and leaders of the Albanian community in southern Serbia to support action against extremism and to block support for extremists in Kosovo, in southern Serbia and in the former Yugoslav Republic of Macedonia as a means of securing peace and the protection of human rights. It decided to extend the Special Representative’s mandate to examine the human rights situation in Bosnia and Herzegovina and FRY and asked him to report in 2003.

On 25 July, the Economic and Social Council endorsed the Commission’s decision to extend the Special Representative’s mandate (decision 2002/247).

**Reports of Special Representative.** In a March report [E/CN.4/2002/41/Add.1], the Special Representative of the Commission on Human Rights, José Cutileiro (Portugal), described the human rights situation in the region, following his visit to FRY (Montenegro, Serbia and the province of Kosovo) from 31 January to 10 February and to Bosnia and Herzegovina (composed of the entities of the Federation of Bosnia and Herzegovina and Republika Srpska) from 10 to 15 February.

In FRY, the reform process continued to advance slowly in Serbia. The opening of the war crimes trial of former President Slobodan Milosevic in February (see p. 1277) intensified tension over FRY cooperation with ICTY. On the positive side, the Chamber of Citizens of the FRY Parliament adopted the Law on Protection of National Minorities on 25 February, which recognized the Roma as a national minority. Laws governing labour, autonomy for Vojvodina and local self-government were also passed. FRY ratified the Optional Protocol to the International Covenant on Civil and Political Rights [YUN 1966, p. 425] and acceded to the Covenant’s Second Optional Protocol aimed at the abolition of the death penalty [YUN 1989, p. 484]. Regrettably, other important laws, including laws to regulate the media and a law on cooperation with ICTY, were still in the drafting process. Although steps were taken to improve police behaviour, allegations of ill-treatment continued to surface. Despite positive developments, the situation of ethnic Serb and Roma refugees and internally displaced persons from Kosovo remained precarious and their long-term status unresolved. The number of complaints of human rights violations or aggressive or provocative behaviour of the security forces had fallen. However, there were concerns that complaints were not being communicated effectively by the ethnic Albanian community to the authorities and that, when they were delivered, the response was inadequate and slow. The Special Representative expressed concern at the lack of progress in investigating mass grave sites at Batjanica, on the outskirts of Belgrade, where 306 bodies had been exhumed.

In Kosovo, the new Special Representative of the Secretary-General, Michael Steiner, assumed his duties as head of the United Nations Interim Administration for Kosovo (UNMIK) in February (see p. 377), and the major Kosovo political parties formed a coalition Government, electing a president and prime minister three months after province-wide elections for the first Kosovo parliament. The Special Representative urged the new international and local leaders to integrate human rights into UNMIK activities and the work of the new governing institutions. Three incidents of political and ethnic violence, which highlighted continuing security concerns, were described in the report.

In Montenegro, intensive negotiations on the relationship between Montenegro and Serbia continued through February with the participation of the EU. While individual laws on courts
and employment had been adopted and legislation was being prepared to institute a national Ombudsman’s office for Montenegro, legislation governing a national human rights institution, local self-government, the police, labour, a criminal code and the media was still pending. The Special Representative expressed concern over the lack of implementation of government plans for national minorities, particularly in the areas of education and proportional representation in public administration, draft amendments to the Criminal Code that did not deal effectively with the existing custodial penalties for slander and defamation, and the absence of public or parliamentary supervision of the police.

Regarding Bosnia and Herzegovina, both entities had much to do to fulfil their obligations to implement property legislation. In Republika Srpska, the implementation rate was 30.64 per cent at the end of 2001, while in the Federation it had reached 49.4 per cent. Despite the signing in December 2001 of an agreement on health care services, returnees still had no access to health care in their return area. The level of minority representation in the police force in both entities remained only slightly more than negligible, and few, if any, minority officers were in positions of command or control. Progress in the area of the judiciary remained slow, and trafficking in persons continued to be a serious problem. The Special Representative noted that Bosnia and Herzegovina would be allowed to accede to the Council of Europe and that it would begin reporting to treaty bodies. Overall, the Special Representative stated that he was cautious in assessing progress, especially long-term sustainability.

A later report of the Special Representative [E/CN.4/2003/38] considered human rights developments in FRY and Bosnia and Herzegovina until the end of the year.

The Special Representative visited FRY (30 October - 7 November), where, he said, the overall human rights situation continued to improve, albeit in a slow and piecemeal way. In December, the framework for a new constitutional charter was agreed on. Important legislative measures were adopted in 2002, including, at the federal level, the promulgation of a law to protect minority rights and a new Code of Criminal Procedure. However, the laws were implemented only in Serbia as the problem of non-recognition of federal legislation persisted in Montenegro. A new law on local self-government in Serbia allowed for the creation of local ombudspersons. Legislative reforms to redefine the powers and organization of the police and to establish democratic controls on the armed forces were moving too slowly, said the Special Representative. At the federal level, specific concerns related to impunity for serious past and current human rights violations, failure of the authorities to arrest indictees, shortcomings in the criminal process regarding review of allegations and treatment of both accused and victims, a lack of progress in the investigation and prosecution of persons responsible for criminal events surrounding the mass graves found in Serbia, the urgent needs of displaced persons, trafficking in persons and the unresolved situation of some 4,700 persons missing during the period of conflict in Kosovo.

Regarding the situation in Serbia and Montenegro, the Special Representative stated that progress had been made to strengthen the rule of law and the judicial institutions but many challenges remained, including high caseloads and unacceptable delays in dispensing justice, a low level of awareness of human rights among the judiciary and insufficient progress to remove incompetent judges. He welcomed a new law to combat organized crime, which also covered crimes against humanity and violations of international humanitarian law. Progress was made to ensure the right to freedom of expression and independence of the media, but laws in both republics provided criminal sanctions for defamation. Although steps were taken to establish national councils to represent the interests of minorities, including Roma, more needed to be done to ensure greater respect for minority rights. The Special Representative welcomed steps taken by both Governments to address issues of poverty and social vulnerability through poverty reduction strategy plans. He remained concerned about the overall pace of police reform and limited progress towards establishing effective democratic oversight of the armed forces. In southern Serbia, progress was made in Presevo, Bujanovac and Medvedja, where local elections in July resulted in a more balanced representation of the ethnic Albanian, Serb and Roma communities. A promised amnesty for ethnic Albanian former combatants was implemented in July. However, challenges remained, including allegations of torture, ill-treatment and disappearance by police, and violent incidents by extremist members of the Albanian community aimed at moderate ethnic Albanians.

In Kosovo, the Special Representative noted that the security situation was improving and incidents of political or inter-ethnic violence had decreased. However, the level of violence remained unacceptably high. Progress was made in establishing the Provisional Institutions of Self-Government and the inclusion of Serbian community members in key positions. He welcomed
the establishment of a two-tier human rights mechanism within UNMIK, consisting of a Human Rights Oversight Committee and an Inter-Pillar Working Group on Human Rights. Considerable problems remained in ensuring respect for the rule of law, with the pace of reform slow and uneven. Ethnic and political bias, local interference and intimidation continued to undermine progress in the courts. Problems in the administration of justice were exacerbated in cases involving war crimes or serious ethnic or political motivation. In view of the climate of intimidation, violence and insecurity for ethnic minorities, together with the lack of sufficient financial and reconstruction aid, few displaced persons living in Serbia or Montenegro were able or willing to return to their homes. Freedom of movement remained very limited for ethnic minorities. Minority communities lacked confidence in the ability of UNMIK and KPS to safeguard their human rights.

Housing laws were not well understood and the situation was confused by the number of institutions working on those issues. The Special Representative visited Bosnia and Herzegovina (7-14 November), following the October national elections, the first locally-organized election, which was generally free and fair, although only about 54 per cent of the voting population participated (see p. 349). Representatives of the three nationalist parties were elected to a tripartite Presidency. There were concerns that progress towards meeting human rights obligations would be slow, if not reversed, if nationalism dominated the political agenda. As measured against standards set by international human rights instruments to which Bosnia and Herzegovina was party, the current human rights situation gave rise to concern, said the Special Representative. Although the country was experiencing freedom from public violence, it was undergoing a difficult economic and political transition. The majority of human rights concerns were rooted in discrimination based on ethnicity, political affiliation, national origin, gender or various intersections thereof. Noting that persons indicted by ICTY had been arrested and that those responsible for the most egregious violations remained at large, he urged the State to cooperate with the Tribunal. Domestic war crime prosecutions remained minimal; there was reluctance to prosecute alleged war criminals, particularly those of high rank; and a legal framework regarding the protection of witnesses was absent. The Special Representative stressed the need to discover the fate of missing persons and to find durable solutions for displaced persons, refugees and returnees. The overall rate of repossessing of pre-war property reached 62 per cent in the whole of Bosnia and Herzegovina (Republic Srpska, 60 per cent; the Federation, 56 per cent). Members of the Roma community, lacking birth and identity documentation, were deprived of health care, education, accommodation, and reconstruction and humanitarian assistance. The Special Representative highlighted concerns about discrimination in employment, the increasing impoverishment of the elderly, the right to education, trafficking in persons and insufficient implementation of the laws on the right to conscientious objection.

**Russian Federation**

**Report of High Commissioner.** In accordance with Commission resolution 2001/24 [YUN 2001, p. 734], the High Commissioner reported in February on the situation in Chechnya [E/CN.4/2002/38]. The report presented a summary of information received from the Government of the Russian Federation, as well as information on activities undertaken by OHCHR, UN agencies and programmes, regional organizations and NGOs. The High Commissioner noted that Russia had indicated that it did not consider itself bound by resolution 2001/24, which it viewed as not objective and unbalanced.

The High Commissioner stated that reports of serious human rights violations carried out by Chechen fighters against federal and local authorities and against civilians continued, including kidnapping and hostage-taking, as did the failure to observe international human rights and humanitarian law. Russian authorities indicated that considerable funds had been allocated to improve economic and social conditions; nevertheless, the situation regarding the economic, social and cultural rights of the Chechen people and in the region remained a matter of serious concern. The security concerns of internally displaced persons had been a major impediment to their return to Chechnya. Humanitarian agencies reported that they were severely restricted in their activities, primarily because of security reasons. The High Commissioner supported the call on Russia by international and governmental humanitarian organizations and NGOs to authorize
the creation of a UN-NGO VHF communication network for staff safety. The High Commissioner reiterated her willingness to visit the region. OHCHR was prepared, in cooperation with partners, to expand technical cooperation with Russia to assist Chechnya and to provide support regarding procedures to address human rights violations and to help in the reconciliation processes.

**Commission action.** On 19 April [E/2002/25], a text introduced by Spain, on behalf of the EU, that would have condemned violations of international human rights law in Chechnya and would have called on the Russian Federation to stop and prevent them, was rejected by a recorded vote of 16 to 15, with 22 abstentions.

### Middle East

#### Lebanon

**Commission action.** On 19 April [res. 2002/10], by a recorded vote of 34 to 2, with 17 abstentions, the Commission called on Israel to comply with the Geneva Conventions for the protection of war victims of 12 August 1949 and the Additional Protocols thereto [YUN 1977, p. 706], release Lebanese citizens who had been imprisoned and held as hostages for bargaining purposes and submit to the United Nations Interim Force in Lebanon all the maps of the landmine fields laid throughout civilian areas. The Commission asked the Secretary-General to bring its resolution to Israel’s attention and to call on Israel to comply with its provisions. He was asked to report to the General Assembly in 2002 and to the Commission in 2003.

**ECONOMIC AND SOCIAL COUNCIL ACTION**

In July, the Economic and Social Council, on the recommendation of the Commission on Human Rights [E/2002/23], adopted decision 2002/244 by recorded vote (25-1-22) [agenda item 14 (g)].

**Human rights situation of Lebanese detainees in Israel**

At its 39th plenary meeting, on 25 July 2002, the Economic and Social Council, taking note of Commission on Human Rights resolution 2002/10 of 19 April 2002, endorsed the decision of the Commission to request the Secretary-General:

(a) To bring Commission resolution 2002/10 to the attention of the Government of Israel and to call upon it to comply with the provisions of the resolution;

(b) To report to the General Assembly at its fifty-seventh session and to the Commission at its fiftieth session on the results of his efforts in this regard.

**RECORDED VOTE ON DECISION 2002/244:**

In favour: Argentina, Bahrain, Benin, Bhutan, Brazil, Burkina Faso, Burundi, Chile, China, Costa Rica, Cuba, Egypt, India, Iran, Libyan Arab Jamahiriya, Mexico, Pakistan, Qatar, Russian Federation, South Africa, Sudan, Suriname, Uganda, Ukraine, Zimbabwe.

Against: United States.

Abstaining: Andorra, Angola, Australia, Austria, Croatia, Ethiopia, Finland, France, Georgia, Germany, Ghana, Hungary, Italy, Japan, Malta, Netherlands, Peru, Republic of Korea, Romania, Spain, Sweden, United Kingdom.

**Reports of Secretary-General.** In response to a 2001 Commission request [YUN 2001, p. 754], the Secretary-General stated that he had asked Israel for information on the extent of the implementation of the Commission’s 2001 resolution on the human rights situation of Lebanese detainees in Israel, but had received no reply [E/CN.4/2002/34].

In August [A/57/345], the Secretary-General reported that, pursuant to Economic and Social Council decision 2002/244, he had asked Israel for information on the implementation of Commission resolution 2002/10 regarding Lebanese detainees in Israel (see above) and had received no reply.

On 18 December, the General Assembly took note of the report (decision 57/533).

**Territories occupied by Israel**

During 2002, the question of human rights violations in the territories occupied by Israel as a result of the 1967 hostilities in the Middle East was again considered by the Commission on Human Rights. 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).

**Reports of Secretary-General.** As requested by the Commission in 2001 [YUN 2001, p. 756], the Secretary-General reported that he had brought the Commission’s resolution on the occupied Syrian Golan to the attention of all Governments, UN organs, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations [E/CN.4/2002/39]. 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).

A further report of the Secretary-General [E/CN.4/A/2002/29], submitted in response to a 2001 Commission resolution [YUN 2001, p. 756], stated that he had brought the Commission’s resolution on the violation of human rights in the occupied Arab territories to the attention of the Govern-
ment of Israel and all other Governments, the Committee on Israeli Practices and the Committee on Palestinian Rights, as well as to UN organs, the specialized agencies, UNRWA, regional intergovernmental organizations and international humanitarian organizations, requesting information pertaining to Israel’s implementation of the resolution. He had received no reply from Israel.

A March report of the Secretary-General [E/CN.4/2002/31] contained a list of all General Assembly reports issued since 27 April 2001 on the situation of the population living in the occupied Arab territories.

Commission action. On 5 April [res. 2002/1], by a roll-call vote of 44 to 2, with 7 abstentions, the Commission condemned the increase in the loss of life, the invasion of Palestinian cities and villages, the arrest and detention of Palestinians, the restrictions on the movement of residents as well as of ICRC, the Palestinian Red Crescent Society, medical personnel, human rights defenders and journalists, the refusal of humanitarian access to UNRWA and the destruction of homes, installations and infrastructure. It asked the High Commissioner to head a visiting mission (see below) that would travel to the area and to submit the mission’s findings and recommendations to the Commission’s current session. On 16 April [dec. 2002/101], by a recorded vote of 41 to 2, with 9 abstentions, the Commission, expressing deep dismay that resolution 2002/1 had not been implemented due to the absence of a positive response from Israel, called for the resolution’s immediate implementation and urged the High Commissioner to report to the Commission on the deteriorating human rights situation in the occupied Palestinian territory on the basis of reports from all concerned organizations in the occupied territory. On 26 April [res. 2002/90], by a recorded vote of 33 to 1, with 19 abstentions, the Commission, deploring Israel’s denial of the visit of the team headed by the High Commissioner, endorsed the High Commissioner’s proposal for a comprehensive investigation into the breaches of human rights and international humanitarian law [E/CN.4/2002/184]. It called on the international community to provide humanitarian assistance to reconstruct the areas in the occupied Palestinian territory destroyed by Israeli military operations.

On 12 April [res. 2002/6], by a recorded vote of 34 to 1, with 18 abstentions, the Commission called on Israel to comply with UN resolutions on the occupied Syrian Golan and demanded that it rescind its decision to impose its laws, jurisdiction and administration on the occupied territory. It also called on Israel to desist from changing the physical character, demographic composition, institutional structure and legal status of the occupied Syrian Golan and to desist from imposing Israeli citizenship and identity cards on Syrian citizens of the Syrian Golan and from its repressive measures against them. The Secretary-General was requested to bring the Commission’s resolution to the attention of all Governments, UN organs, specialized agencies, regional intergovernmental organizations and international humanitarian organizations, to give the resolution wide publicity and to report in 2003.

Also on 12 April [res. 2002/7], by a recorded vote of 32 to 1, the Commission, expressing grave concern at the dramatic escalation of the Israeli-Palestinian conflict (see p. 414), at Israeli settlement activities in the occupied Arab territories, including East Jerusalem, and at closures of and within the occupied territories, and condemning all acts of violence, including terrorism, urged Israel to comply with the Commission’s previous resolutions; reverse its settlement policy; prevent any new installation of settlers; implement the High Commissioner’s recommendations [YUN 2000, p. 777]; and guarantee the safety and protection of Palestinian civilians. The parties were urged to implement Security Council resolutions adopted in 2002 (see pp. 418 and 420), as well as recommendations aimed at resuming negotiations on a political settlement.

On 15 April [res. 2002/8], by a recorded vote of 40 to 5, with 7 abstentions, the Commission condemned, among other things, Israel’s violations of human rights in the occupied territory, its occupation of the Palestinian territory, the war launched by the Israeli army against Palestinian towns and camps, the practice of extrajudicial executions carried out by the Israeli army against Palestinians, the establishment of Israeli settlements, the use of torture against Palestinians during interrogation and the Israeli army’s offensives against hospitals and sick persons, and the use of Palestinian citizens as human shields. It called on Israel to desist from all forms of human rights violations in the Palestinian and other occupied Arab territories and to withdraw from the Palestinian territory, including East Jerusalem. Israel was urged to implement the recommendations of the High Commissioner and of the Human Rights Inquiry Commission [YUN 2000, p. 735]. The Commission requested the Special Rapporteur, acting as a monitoring mechanism, to follow up the implementation of the recommendations of the High Commissioner and of the Human Rights Inquiry Commission and to report thereon to the General Assembly in 2002 and to the Commission in 2003. The Secretary-General was asked to bring the
Commission’s resolution to the attention of Israel and all other Governments, UN organs, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations, to disseminate it widely and to report in 2003 on its implementation by Israel. He was also asked to provide the Commission with all UN reports issued between its sessions dealing with Palestinians’ living conditions under Israeli occupation.

ECONOMIC AND SOCIAL COUNCIL ACTION

On 25 July, the Economic and Social Council, on the recommendation of the Commission on Human Rights [E/2002/23], adopted decision 2002/243 by recorded vote (27-2-17) [agenda item 14 (g)].

Question of the violation of human rights in the occupied Arab territories, including Palestine

At its 39th plenary meeting, on 25 July 2002, the Economic and Social Council, taking note of Commission on Human Rights resolution 2002/8 of 15 April 2002, approved the Commission’s decision to request the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967, acting as a monitoring mechanism, to follow up the implementation of the recommendations appearing in the report of the United Nations High Commissioner for Human Rights as well as those appearing in the report of the Human Rights Inquiry Commission established pursuant to Commission resolution S-5/1 of 19 October 2000, and to submit reports thereon to the General Assembly at its fifty-seventh session and to the Commission at its fifty-ninth session.

RECORDED VOTE ON DECISION 2002/243:

In favour: Angola, Argentina, Bahrain, Benin, Brazil, Burkina Faso, Burundi, Chile, China, Costa Rica, Cuba, Egypt, Ghana, India, Iran, Libyan Arab Jamahiriya, Mexico, Pakistan, Qatar, Republic of Korea, Russian Federation, South Africa, Sudan, Suriname, Uganda, Ukraine, Zimbabwe.

Abstaining: Andorra, Austria, Croatia, Finland, France, Georgia, Germany, Hungary, Italy, Japan, Malta, Netherlands, Peru, Romania, Spain, Sweden, United Kingdom.

Against: Australia, United States.

Pursuant to Commission decision 2002/103 (see p. 806), the High Commissioner, in a report of 24 April [E/CN.4/2002/184], described the human rights situation in the occupied territories. There had been extensive loss of life on both sides, with a recent series of suicide bombings carried out by Palestinians in Israel and the Israel Defense Forces (IDF) reoccupation of Ramallah and other towns, including Qalqiliya, Tulkarem, Jenin and Nablus. Extrajudicial executions of alleged terrorists and collaborators were reportedly carried out on both sides. Other human rights violations in the occupied territories by Israeli forces included the destruction of property and infrastructure, arrest and administrative detention, the use of Palestinians as human shields, constraints on human rights defenders, restrictions on press freedoms and freedom of movement, denial of humanitarian access and attacks against medical staff and installations. Reports were received of torture and cruel, inhuman or degrading treatment or punishment during detention and poor prison conditions. In the main West Bank towns, there had been complete cessation of manufacturing, construction and commerce, resulting in immediate income losses. Businesses in Jerusalem and the rest of the West Bank were also affected. The High Commissioner described the situation in the Jenin refugee camp, where the Israeli army launched an offensive on 3 April and withdrew on 18 April (see p. 423); the 3 April incident whereby more than 200 Palestinians took refuge in the Basilica of the Nativity in Bethlehem after they were surrounded by the Israeli army (see p. 421); and the
situation in Ramallah regarding the IDF-imposed siege around the compound of the President of the Palestinian Authority (PA) and Chairman of the Palestine Liberation Organization (PLO), Yasser Arafat (see p. 421). The High Commissioner called for both parties to end the violence and launch a peace process. There was an urgent need for a comprehensive investigation into alleged breaches of international human rights and humanitarian law. Failure to do so undermined the integrity of the international human rights system.

On 16 November, the High Commissioner condemned the killings on the previous day in the West Bank town of Hebron (see p. 440) and called on the Government of Israel to respond to the attack in a measured manner in accordance with international law. On 20 November [E/CN.4/2001/G/17], Palestine presented observations on the High Commissioner’s statement. It noted that the High Commissioner had failed to mention that the West Bank and Hebron were occupied Palestinian land. It claimed that violence and the legitimate resistance of the Palestinians against the Israeli military occupation of their territory were a natural consequence of that occupation.

Reports of Special Rapporteur. A March report [E/CN.4/2002/32] of Special Rapporteur John Dugard (South Africa), based partly on his visits to the occupied territories and Israel in August 2001 and February 2002, stated that the parties to the conflict were either incapable of or unwilling to end the violence. The need for an international presence was imperative to reduce violence, restore respect for human rights and create conditions in which negotiations could be resumed. International humanitarian law and human rights norms had been seriously violated by both parties. Israel’s restrictions on freedom of movement constituted collective punishment prohibited by the 1949 Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention). Settlements were an ever-visible and aggravating sign of occupation and of Israel’s illegal conduct as an occupying Power. As children had suffered greatly, the Special Rapporteur called for efforts by the Israeli military authorities to ensure respect for the safety and welfare of schools and schoolchildren. He also recommended an investigation into allegations of the inhuman treatment of children under the military justice system and steps to remedy the situation. The Special Rapporteur, noting that Israel had challenged the interpretation of his mandate [YUN 2001, p. 737], requested the Commission to rule on the matter.

In March [E/CN.4/2002/190], Israel, responding to the Special Rapporteur’s report, stated that, at a time when Israelis were facing an unprecedented campaign of brutal terrorist attacks and when the Palestinian leadership involvement in such attacks had never been clearer, there was an alarming disconnection between the picture painted by the report and that experienced by the people of the region. It claimed that the Special Rapporteur’s mandate violated the UN Charter principle of the sovereign equality of States, was unbalanced in its singling out of Israel for criticism and failed to take note of changes in the region as a result of agreements signed between Israel and the PLO.

As requested by Economic and Social Council decision 2002/243 (see p. 807), the Secretary-General, in August [A/57/366], transmitted the Special Rapporteur’s interim report. He stated that in the last few months violence had escalated in the occupied territories and in Israel. Israel had effectively reoccupied the occupied Palestinian territory and the peace process had stalled completely. Civilians were the main casualties of the conflict. Palestinian groups had been responsible for an increased number of suicide bombings in Israel and for the killing of settlers. IDF had been responsible for heavy loss of life in their military incursions, particularly in Nablus and Jenin, and rocket attacks on militants. Many of those killed in both Israel and Palestine had been children. IDF incursions in the West Bank had resulted in large-scale arrests and detentions. Detainees had been treated in an inhuman and degrading manner, at times constituting torture. The incursions had been characterized by a massive destruction of property, estimated by the World Bank at $361 million. Closures, checkpoints and curfews had destroyed freedom of movement for Palestinians, with disastrous consequences for human freedom, health, welfare and education. Illegal settlements continued to grow. Fundamental norms of human rights and international humanitarian law had been violated on a large scale. The destruction and disruption of the civil administration in the West Bank had serious implications for both the Palestinian people and the rule of law. Under the law, Israel, as the occupant, was obliged either to assume responsibility for civil administration or to permit the PA to carry out its functions properly.

By a September note [A/57/356/Add.1], the Secretary-General transmitted a report of the Special Rapporteur on his visit to the occupied territories and Israel (25-30 August). He visited Nablus and Jenin, where he inspected the damage caused by Operation Defensive Shield—the IDF military incursion of March to May (see
p. 434)—and to Qalquiliya, where he saw the start of the Wall of Separation between Israel and Palestine, a security measure implemented by Israel. He also visited Ramallah, Bethlehem and Jericho.

The Special Rapporteur believed that the seriousness of the situation was understated in his August report (see p. 808). His personal encounter with curfews, the devastated Jenin refugee camp, the badly damaged old city of Nablus, checkpoints where Palestinians were humiliated daily, PLO Chairman Arafat’s largely destroyed compound, and interlocutors who told of their own and others’ suffering elicited an emotional awareness of the human tragedy that was unfolding in Palestine. The Special Rapporteur stated, however, that Israel had legitimate security concerns, as waves of Palestinian suicide bombers had inflicted deep wounds on Israeli society. At the same time, Israel’s measures often appeared disproportionate and remote from security interests. Curfews and closures had resulted in unemployment, poverty, malnutrition and illness. The demolition of homes as punishment for crimes committed against Israel by a family member had been subject to judicial review; however, in August, the High Court denied judicial review in such cases. Many children had been killed or injured and most had been seriously traumatized. In the West Bank, many children were prevented from attending schools. In a call for humanitarian assistance from the international community, the Special Rapporteur pointed out that, by providing aid, the international donor community relieved Israel of the burden of providing such assistance itself and might be seen as contributing to funding the occupation.

On 18 December, the General Assembly took note of the report and its addendum (decision 57/533).

On 16 December [E/CN.4/2003/G/21], Israel, responding to the Special Rapporteur’s August and September reports, stated that they attempted to justify, or at the very least mitigate, acts of terror. Israel believed that measures taken by its forces were characterized by remarkable restraint. As Israel had learned, the truth was that the cause of the current wave of terrorism against its civilians was not occupation, but rather the success of terrorism elsewhere.

A December report of the Special Rapporteur [E/CN.4/2003/30] stated that the human rights situation in the occupied territories had deteriorated in the past year, largely due to repeated military operations carried out by IDF in the West Bank and Gaza. IDF had justified their actions as self-defence and anti-terrorism measures. Operation Defensive Shield (see p. 434), which caused devastation in many cities, particularly Jenin and Nablus, was followed by a military Operation in June (see p. 430), which resulted in the reoccupation of seven of the eight major West Bank cities. Curfews, complemented by a system of roadblocks and checkpoints, imposed on Jenin, Qalquiliya, Bethlehem, Nablus, Tulkarem, Ramallah and Hebron had subjected over 700,000 persons to a regime similar to house arrest. There had been shortages of basic foodstuffs, interference with medical services by the denial of access to doctors and hospitals, interruption of family contacts and stoppages of education. Unemployment had reached over 50 per cent, and 70 per cent of the population lived in poverty. There was a desperate need for humanitarian assistance. Military operations had led to widespread arrests and detentions. Both Palestinian and Israeli children had been exposed to threats to personal safety, while Palestinian children had, in addition, felt the breakdown of family life, health care and education. Israeli territorial expansion had accelerated in the past year as a result of seizure of Palestinian land to build a security wall and for the continued growth of settlements. The Special Rapporteur concluded that it was difficult to characterize the Israeli response to Palestinian violence as proportional when it resulted in excessive use of force. By a later note [E/CN.4/2003/30/Add.1], the Special Rapporteur stated that, since all UN missions to the region had been suspended, he would not present an addendum to his report.


(See p. 738 for details of the visit to Israel by the Special Rapporteur on the right to adequate housing.)