Chapter III

Human rights violations

Alleged violations of human rights and international humanitarian law in a number of countries were examined in 2003 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.

General aspects

On 28 March and 2 April, pursuant to Economic and Social Council resolution 2000/3 [YUN 2000, p. 596], the Commission on Human Rights [E/2003/23] considered the situation of human rights in Chad, Djibouti, Liberia and Uzbekistan. It decided to discontinue consideration of the situation in Uzbekistan. Under the confidential procedure established by Council resolutions 1503(XLVIII) (1503 procedure) [YUN 1970, p. 530], to deal confidentially with communications alleging denial or violation of human rights, and 2000/3, the Commission decided to discontinue consideration of the situations in Chad and Liberia and to consider them publicly under the item on human rights advisory services and technical cooperation (see p. 678). On 2 April, the Commission decided that its decisions regarding Chad [dec. 2003/104] and Liberia [dec. 2003/105] should be made public. It recommended the appointment of an independent expert for Liberia (see p. 683).

(A For information on the right to restitution, compensation and rehabilitation for victims of grave violations of human rights and fundamental freedoms, see p. 726.)

Africa

Burundi

Commission action. On 17 April [E/2003/23 (res. 2003/16)], the Commission on Human Rights expressed concern at the ongoing violence, the violation of human rights and international humanitarian law and the security situation in parts of Burundi and noted efforts by the authorities to ensure respect for human rights standards and international standards. It welcomed the willingness of the Transitional Government to find agreed solutions to the problem of war-affected persons through the establishment of the Standing Consultation Machinery for the Protection of Displaced Persons and its technical monitoring group, and called on Burundi to establish a security environment conducive to the work of aid organizations. It urged the Transitional Government to strengthen its efforts to end impunity and all parties to the conflict to cease using children as soldiers.

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 2003 and to report to the Commission in 2004, giving her work a gender-specific dimension. The Economic and Social Council endorsed the Commission’s decision and its requests to the Special Rapporteur on 23 July (decision 2003/241).

Reports of Special Rapporteur. In her October interim report [A/58/448], Special Rapporteur Marie-Thérèse A. Kéita-Bocoum (Côte d’Ivoire) reviewed the situation in Burundi from March to August, based on her visit to the country (11-19 May). The political climate during the Special Rapporteur’s mission was relatively calm owing to the grace period granted to the new President and his team. Subsequently, and fairly rapidly, the situation deteriorated and an atmosphere of violence once again ensued. Throughout the period under review, the security situation was marked by numerous arbitrary arrests, kidnappings and murders, directed especially against local civilian officials and various high-ranking political leaders. Implementation of the Arusha Agreement on Peace and Reconciliation [YUN 2000, p. 146] had been slowed by the lack of a ceasefire, jeopardizing the many reforms envisaged. However, the Special Rapporteur noted some significant advances, such as the transfer of power to the Transitional Government, the installation of the National Commission for the Rehabilitation of Sinistrés (survivors) and the restructuring of the government Commission on Human Rights, which had resumed its
visits in the field with assistance from the United Nations Development Programme. However, war and a fragile economy continued to alter the social fabric of the country.

The Special Rapporteur reported that attacks on civil and political rights abounded, while the impunity that surrounded the actions of certain groups, especially members of the regular army and the rebel groups, continued to fuel the widespread feeling of insecurity, curtailing the authorities’ determination to fight it. She described violations, attributed to agents of the State, rebel groups and persons unknown, of the rights to life, liberty, security and inviolability of the person, freedom of movement and to choose one’s residence, freedom of opinion and expression, women’s and children’s rights, and the proliferation of rape and the situation of the Batwa minority. With regard to justice and the rule of law, laws on genocide and on the Truth and Reconciliation Committee were adopted. However, people were still being detained in military camps, impunity persisted and widespread incidents of rape by both parties to the conflict remained unpunished. Prisons were severely overcrowded and the hygienic conditions were appalling. The Burundi office of the Office of the United Nations High Commissioner for Human Rights (OHCHR) increased its human rights training sessions and organized a seminar for journalists and police representatives on the media’s role in combating torture. The Special Rapporteur observed that the improvement in the human rights situation was closely linked to the creation of a climate of stability in the Great Lakes region (see p. 107).

She reiterated the recommendations she had made in 2002 [YUN 2002, p. 774] and urged all parties to the conflict to discontinue hostilities, implement the agreements they had signed, respect civilians’ rights, respect international humanitarian law, refrain from attacking economic and social infrastructures, and not involve children or civilians in armed conflict. She recommended that the Burundian authorities combat impunity and cease arbitrary detention and torture, implement the recommendations of prisoners, stop child recruitment into the army and demobilize those already enrolled, demobilize and disarm the militias and other civilian self-defense forces, combat discrimination against the Batwa, protect vulnerable populations, end sexual violence, punish the perpetrators and ensure support to victims, respect all conventions on human rights and international humanitarian law to which Burundi was a party and enhance the efficiency of the government Commission on Human Rights and establish a national human rights commission. The international community was encouraged to increase support for the proper implementation of the transition timetable and for regional mediation and the African Union. The Special Rapporteur appealed to donors to continue supporting humanitarian and development assistance and emphasized the urgency of increasing the resources of OHCHR/Burundi. The General Assembly took note of the report on 22 December (decision 58/539).

In a later report [E/CN.4/2004/35], the Special Rapporteur reviewed developments from 1 October to 31 December, based on reports received from OHCHR/Burundi and non-governmental organizations (NGOs), and on data provided by the Burundian authorities and UN bodies. She said that a ceasefire agreement between the Transitional Government and the Conseil national pour la défense de la démocratie–Forces pour la défense de la démocratie marked an important step forward in the military and political situation. It was expected that a decrease in acts of violence, especially towards civilians, would follow. Although it seemed premature, it was wise to envisage the creation of a national commission for human rights. The Special Rapporteur made recommendations regarding acts of violence against civilians, the recruitment of children as soldiers, impunity, the protection of vulnerable populations, women’s rights and support by the international community.

Democratic Republic of the Congo


On 25 June [S/2003/674], the Secretary-General transmitted to the Council President a report of the High Commissioner on the violent events of 3 April in Drodro (Ituri province), which described the findings of a special investigation team charged with supplementing information provided by the United Nations Organization Mission in the DRC (see p. 121).
Commission action. On 17 April [res. 2003/15], the Commission expressed concern at the continuing violation of human rights and international humanitarian law in the DRC, especially in Ituri province and the east of the country, and condemned the massacres and violence there. It also condemned reprisals against civilians, cases of summary or arbitrary execution, disappearance, torture, harassment, arrest, widespread persecution, arbitrary detention, the widespread sexual violence against women and children, the recruitment and use of child soldiers, impunity for those responsible for human rights violations and the illegal exploitation of the natural resources of the DRC. All parties to the conflict were urged to cease military activity, protect human rights and respect international humanitarian law, end the recruitment and use of child soldiers, respect women’s rights and protect women and children from sexual and other violence, cooperate with the Ituri Pacification Commission to oversee the settlement of the conflict in the north-east, bring to justice those connected with serious violations of international humanitarian law and human rights, ensure the safety and freedom of movement of UN personnel and unhindered access of humanitarian personnel, and cooperate with the UN system, humanitarian organizations and the World Bank to ensure rapid demobilization and reintegration of armed groups and of child soldiers. The High Commissioner was requested to keep the Commission informed of the consultations between the Human Rights Field Office in the DRC and the Secretary-General regarding ways to assist the transitional Government of the DRC to tackle impunity.

The Commission extended the Special Rapporteur’s mandate for a further year and requested her to submit an interim report to the General Assembly in 2003 and a report to the Commission in 2004. The Economic and Social Council endorsed the Commission’s decisions on 29 July (decision 2003/240).

Reports of Special Rapporteur. In April 18/2003/451, in response to the Commission’s 2002 request [YUN 2002, p. 771], Special Rapporteur Iulia Motoc (Romania) described the human rights situation in the DRC, following her visit to the country (28 February–10 March). In view of the extent of human rights violations in the DRC, she opted to deal in depth with: the protection of civilians in armed conflicts; the situation of women and children victims of sexual violence; the problem of impunity; the administration of justice; and the use of military courts to try cases of mass violations of human rights. She concluded that the situation of human rights and international humanitarian law in the DRC remained tragic, despite some positive developments. The Special Rapporteur made recommendations to the Government, the Rassemblement congolais pour la démocratie, the Mouvement de libération du Congo and the international community.

In October, the Secretary-General, in response to Commission resolution 2003/15 (above), transmitted to the General Assembly the Special Rapporteur’s interim report [A/58/534], covering the period up to 4 October, based on information regularly submitted to her by the Human Rights Field Office in the DRC and on her visit to the country (26 August–6 September). She noted that while considerable progress had been made at the political level in recent months (see p. 129), the situation continued to be characterized by mass human rights violations. All violations reflected the constituent elements, as defined in the Rome Statute of the International Criminal Court (ICC) [YUN 1998, p. 1209], of the crime of genocide, crimes against humanity and war crimes. The Special Rapporteur welcomed the decision of the ICC Prosecutor to make the DRC the first State to be the subject of his investigations. Impunity remained a problem, as did difficult conditions of detention and the numerous irregularities committed in prisons and detention centres. As for the justice system, the Special Rapporteur was aware of abuses committed by those responsible for preliminary investigations in criminal proceedings, including security and intelligence officers. Regarding vulnerable populations, the recruitment of children by various groups continued, violence against women had become common practice and indigenous peoples were subjected to large-scale acts of discrimination by the majority of the population. The Special Rapporteur presented recommendations to the parties to the conflict and to the Government.

In a later report [E/CN.4/2004/34], the Special Rapporteur, following her visit to the DRC (29 November–10 December), stated that she was favourably impressed by the progress made at the political level in 2003, but that the process remained fragile and incomplete. She noted the delay in drafting, considering and adopting important legislation indispensable to a successful transition and the holding of elections. She expressed concern about the fate of institutions responsible for human rights and the lack of progress in combating impunity. Civilians lacked security and were subjected to violence by the military and police, while human rights defenders were arrested. Some 3.4 million internally displaced persons faced security problems and lived in precarious conditions. Over the preced-
ing few months, there had been some positive developments regarding the administration of justice, with the adoption of decrees on the organization of the judiciary and the removal of 315 judges from office. The judicial system in Ituri had become operational. Punishment cells (cachots) were still in use in prisons and detention centres, in which conditions were inhuman and torture was practised. Little progress had been made towards implementing legislation regarding children associated with armed groups. The Special Rapporteur welcomed that women continued to be subjected to sexual violence and noted a strong reluctance on the part of judges to try and punish rapists. Minority indigenous peoples continued to be discriminated against on a large scale. The Special Rapporteur welcomed the adoption of a national multisectoral programme to combat HIV/AIDS, together with the formation, inside the armed forces and the national police force, of sectoral HIV/AIDS control committees. Although the DRC was one of the world’s richest countries in natural resources, its population suffered from ingrained poverty. Some 17 million people, or two thirds of the population, suffered from malnutrition. According to a survey in the equatorial zone, people were living on less than $0.10 per person per day, 85 per cent of the population did not have access to proper food and 80 per cent had no access to medical care.

The Special Rapporteur called on all parties to the conflict to end military activities, respect the obligations relating to the implementation of the Transitional Constitution, implement the Bujumbura agreements of June 2003 (see p. 129), respect women’s rights and protect women and children who were victims of sexual violence, cease recruiting and using children in violation of international law, ensure the security and freedom of movement of UN staff and guarantee unhindered access by humanitarian personnel, verify allegations of massive violations of human rights and of humanitarian law, and cooperate with human rights protection mechanisms. The Government should eliminate impunity, cooperate with ICC and the International Criminal Tribunal for Rwanda, implement the Constitution, continue to reform military justice, close unauthorized detention centres, protect children, end discrimination against the Batwa and against persons with HIV/AIDS, and abolish capital punishment. The international community was called on to assist the transition, help formulate strategies to protect refugees, displaced persons and other vulnerable groups, and consider the illegal exploitation of natural resources with a view to creating a mechanism to benefit deprived population groups.

Joint mission. In a July note [A/58/127], the Secretary-General stated that the joint mission of investigation by the Special Rapporteurs on the situation of human rights in the DRC and on extrajudicial, summary or arbitrary executions and a member of the Working Group on Enforced or Involuntary Disappearances, which the General Assembly had requested in resolution 57/233 [YUN 2002, p. 776], did not take place because of the worsening security situation.

GENEIAL ASSEMBLY ACTION
On 22 December [meeting 77], the General Assembly, on the recommendation of the Third (Social, Humanitarian and Cultural) Committee [A/58/508/Add.3], adopted resolution 58/196 by recorded vote (81-2-91) [agenda item 117 (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,
Noting that the Democratic Republic of the Congo is a party to several international and regional human rights instruments and to several instruments pertaining to international humanitarian law,
Recalling all its previous resolutions, as well as those of the Commission on Human Rights, on the situation of human rights in the Democratic Republic of the Congo,
Recalling also Security Council resolution 1493(2003) of 28 July 2003,
Bearing in mind Security Council resolution 1325 (2000) of 31 October 2000 on women and peace and security,
Welcoming the Final Act of the inter-Congolese political negotiations signed in Sun City, South Africa, on 2 April 2003,
Deeply concerned about the continuation of hostilities in the eastern part of the Democratic Republic of the Congo, particularly in North and South Kivu and Ituri, and the grave violations of human rights and international humanitarian law that accompany them, as described in the above-mentioned reports,
Deploring the impunity that characterizes much of the fighting and the accompanying human rights
abuses and humanitarian crises in the eastern part of the Democratic Republic of the Congo,

1. Welcomes:
   (a) The promulgation by the head of State on 4 April 2003 of the Constitution that is to govern the country throughout the transition, the swearing of allegiance to the new Constitution by President Joseph Kabila on 7 April 2003, the installation on 17 July 2003 of the Government of National Unity and Transition in the Democratic Republic of the Congo, the inauguration of the National Assembly and the Senate on 22 August 2003 and the installation of the five transitional institutions on 28 August 2003;
   (b) The signing on 18 March 2003 of a ceasefire agreement by the Governments of the Democratic Republic of the Congo and Uganda and six armed groups, which paved the way for the convening of the Ituri Facilitation Commission from 4 to 14 April 2003 and the setting up of an interim administration in Ituri;
   (c) The ceasefire agreement signed in Dar es Salaam, United Republic of Tanzania, on 16 May 2003, and the signing on 19 June 2003 of the Bujumbura Commitment by the Government of the Democratic Republic of the Congo, the Congolese Rally for Democracy–Liberation Movement and the Congolese Rally for Democracy–Liberation Movement;
   (d) The abolition of the Military Order Court;
   (e) The interim report of the Special Rapporteur of Human Rights to the Democratic Republic of the Congo from 12 to 15 January 2003 and the action taken by his Office in the country;
   (f) The consultations between the Secretary-General and the United Nations High Commissioner for Human Rights on ways of dealing with the problem of impunity in the Democratic Republic of the Congo, and takes note of the proposal of the High Commissioner to establish an international body of inquiry to investigate serious violations of human rights and international humanitarian law;
   (g) The extension of the mandate, the continuing presence and the increased deployment of the United Nations Organization in the Democratic Republic of the Congo in accordance with Security Council resolution 1403(2003);
   (h) The collaboration between the United Nations Organization in the Democratic Republic of the Congo and the Office of the United Nations High Commissioner for Human Rights on the establishment of national institutions and infrastructures to protect human rights as well as transitional justice mechanisms;
   (i) The work of the Special Representative of the Secretary-General for the Democratic Republic of the Congo and Chief of the United Nations Organization in the Democratic Republic of the Congo;

2. Condemns:
   (a) The continuing violations of human rights and international humanitarian law in the Democratic Republic of the Congo, particularly in Ituri, North and South Kivu and other areas in the eastern part of the country;
   (b) The persistence, in the eastern part of the country, of the armed violence and reprisals against the civilian population, especially in North and South Kivu and in Ituri;
   (c) All the massacres that have occurred in the province of Ituri, particularly the massacres at Drodro, and most recently, at Katchele on 6 October 2003, while supporting the efforts of the United Nations Organization Mission in the Democratic Republic of the Congo and the Office of the United Nations High Commissioner for Human Rights to investigate them;
   (d) The reported perpetration of acts of mutilation and cannibalism in the Mambasa region;
   (e) The cases of summary or arbitrary execution, disappearance, torture, harassment, unlawful arrest, widespread persecution and arbitrary detention for long periods;
   (f) The widespread recourse to sexual violence against women and children, inter alia, as a means of warfare;
   (g) The continuing recruitment and use of child soldiers by armed forces and groups, in particular in the eastern part of the Democratic Republic of the Congo, which are contrary to international law;
   (h) The impunity of those responsible for violations of human rights and international humanitarian law, and points out in this connection that the Democratic Republic of the Congo is a party to the Rome Statute of the International Criminal Court;
   (i) The illegal exploitation of the natural resources of the Democratic Republic of the Congo, in view of the link between that exploitation and the continuation of the conflict;

3. Expresses its concern regarding:
   (a) The breaches of freedom of expression, opinion, association and assembly and the attacks on human rights defenders throughout the territory of the Democratic Republic of the Congo, in particular in the eastern part of the country;
   (b) The continued suspension of the moratorium on the carrying out of the death penalty, in particular the death sentences passed on 7 January 2003 by the Military Order Court which had tried the persons accused of assassinating the former President of the Republic;
   (c) The excessive accumulation and spread of small arms and the distribution, circulation and illicit trafficking of arms in the region and their negative impact on human rights;
   (d) The increase in the number of refugees and internally displaced persons, in particular in the eastern part of the country; and
   (e) The continued insecurity, particularly in the east of the country in the zones still held by armed groups, which seriously hampers the efforts of humanitarian organizations to gain access to people affected by the worrying humanitarian situation;

4. Urges all parties to the conflict in the Democratic Republic of the Congo:
   (a) To cease immediately all military activities, including support for the armed groups allied to them, in order to facilitate the re-establishment of the sovereignty, unity and territorial integrity of the Democratic Republic of the Congo;
   (b) To implement fully and without delay both the Bujumbura Commitment of 19 June 2003 and the Dar es Salaam Agreement of 16 May 2003 and to cooperate...
with the Ituri Interim Administration in overseeing the settlement of the conflict in the north-eastern part of the Democratic Republic of the Congo;

(c) To continue to respect their obligations as regards the implementation of the Transitional Constitution;

(d) To allow free and secure access to all areas so as to permit and support investigations of the presumed serious violations of human rights and international humanitarian law, with a view to bringing those responsible to justice, and to cooperate fully to that end with national and international human rights protection mechanisms to investigate alleged human rights violations and breaches of international humanitarian law in the Democratic Republic of the Congo;

(e) To put an immediate end to the recruitment and use of child soldiers, which are in contravention of international law and the African Charter on the Rights and Welfare of the Child, with the understanding that, until the African Court and the Special Tribunal for Rwanda have confirmed the State’s responsibility as regards the commission of the crimes of genocide, war crimes, and crimes against humanity and war crimes, the Children’s Peace Act and the Optional Protocol thereto on the involvement of children in armed conflict, persons under the age of 18 are entitled to special protection, and to provide information without delay on measures taken to discontinue such practices;

(f) To meet the special needs of women and girls in post-conflict reconstruction as well as to ensure the full participation of women in all aspects of conflict resolution and peace processes, including peacekeeping, conflict management and peace-building, as a matter of priority;

(g) To implement all necessary measures to put an end to the widespread violations of human rights and to impunity, in particular with regard to the sexual violence against women and children;

(h) To protect human rights and to respect international humanitarian law, in particular by ensuring the safety, security and freedom of movement of all civilians, as well as United Nations and associated personnel, and the unhindered access of humanitarian personnel to all of the affected population throughout the territory of the Democratic Republic of the Congo;

(i) To prevent conditions that might lead to flows of refugees and displaced persons in the territory of the Democratic Republic of the Congo and across its borders and to take and apply all necessary measures to establish conditions conducive to the voluntary return of refugees and displaced persons;

5. Urges the Government of National Unity and Transition to ensure that the protection of human rights and the establishment of a State based on the rule of law and of an independent judiciary are among its highest priorities, including the establishment of the necessary institutions as reflected in the Global and All-Inclusive Agreement on the Transition in the Democratic Republic of the Congo, signed in Pretoria on 17 December 2002;

6. Calls upon the Government of National Unity and Transition to take specific measures:

(a) To achieve the objectives of the transitional period as laid down in the Global and All-Inclusive Agreement, in particular the holding of free and transparent elections at all levels, enabling the establishment of a democratic constitutional regime, and the formation of a restructured and integrated national army;

(b) To strengthen the transitional institutions and to re-establish stability and the rule of law over the entire territory of the Democratic Republic of the Congo, thereby returning peace and progress to its people;

(c) To comply fully with its obligations under international human rights instruments and, accordingly, to continue to cooperate with United Nations mechanisms for the protection of human rights and further strengthen its cooperation with the Office of the United Nations High Commissioner for Human Rights in the Democratic Republic of the Congo;

(d) To carry out a comprehensive reform of the judicial system;

(e) To re-instate the moratorium on capital punishment and adhere to its commitment to progressively abolish the death penalty;

(f) To put an end to impunity and to ensure that those responsible for human rights violations and grave breaches of international humanitarian law are brought to justice in accordance with due process;

(g) To cooperate with the International Criminal Court and to continue to cooperate with the International Tribunal for Rwanda;

7. Calls upon the United Nations High Commissioner for Human Rights to keep it informed of the consultations between his/her Office and the Secretary-General concerning the ways in which to assist the transitional Government of the Democratic Republic of the Congo in tackling the problem of impunity;

8. Calls upon the international community:

(a) To support the human rights field office in the Democratic Republic of the Congo in order to make possible the effective implementation of its programmes;

(b) To support the organization, at the appropriate time and under the aegis of the United Nations and the African Union, of an international conference on peace, security, democracy and development in the Great Lakes region of Africa, with the participation of all the Governments of the region and all other parties concerned, and to support the introduction of human rights and humanitarian issues as one of the main themes of this conference;

9. Requests:

(a) 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 Working Group on Enforced or Involuntary Disappearances of the Commission to carry out a mission of investigation in the Democratic Republic of the Congo and to report to the Commission at its sixtieth session and to the General Assembly at its fifty-ninth session;

(b) The Secretary-General to give the Special Rapporteurs and the joint mission all necessary assistance to enable them to discharge their mandate fully;

(c) The United Nations High Commissioner for Human Rights to provide the technical skills needed by the joint mission to discharge its mandate;

(d) The Secretary-General to encourage the United Nations Organization Mission in the Democratic Republic of the Congo to continue to raise the awareness of and provide training to all Mission staff, including civilian police and military personnel, with respect to the relevant child protection standards, in particu-
and 6 to 4, with 75 abstentions, and paragraphs 3 preambular paragraph by a recorded vote of 82 abstentions.

The Third Committee retained the fourth preambular paragraph by a recorded vote of 82 to 4, with 75 abstentions, and paragraphs 3 (b) and 6 (e) by 73 to 50, with 35 abstentions. An oral amendment to paragraph 6 (g) by the United States was rejected by a recorded vote of 93 against to 2 in favour, with 55 abstentions. The text as a whole was adopted by a recorded vote of 74 to 3, with 85 abstentions. The Assembly retained the fourth preambular paragraph by a recorded vote of 89 to 3, with 75 abstentions, and paragraphs 3 (b) and 6 (e) by 73 to 49, with 44 abstentions.

Somalia
(For information on the human rights situation in Somalia, see p. 685.)

Sudan
During the fifty-ninth session of the Commission on Human Rights [E/2003/23], the Sudan, on 16 April, requested a recorded vote on a draft resolution on the situation of human rights in the Sudan [E/CN.4/2003/L.35]. By that text, the Commission would have expressed deep concern at the continuing violations of human rights and international law in the country and extended the Special Rapporteur’s mandate for a further year. The draft was rejected by 26 votes to 24, with 3 abstentions.

(See p. 764 for details of the visit to the Sudan by the independent expert on extreme poverty.)

Zimbabwe
During the fifty-ninth session of the Commission on Human Rights [E/2003/23], South Africa introduced a motion to take no action on a draft resolution on the situation of human rights in Zimbabwe [E/CN.4/2003/L.37]. By that text, the Commission would have expressed deep concern at continuing human rights violations by the Government of Zimbabwe and requested the Special Rapporteurs on torture, on the independence of the judiciary, on the right to freedom of opinion and expression, on extrajudicial, summary or arbitrary executions, on violence against women and on the right to food, and the Secretary-General’s Special Representative on human rights defenders to consider missions, including joint missions, to examine alleged human rights violations in the country. The motion was carried by 28 votes to 24, with 1 abstention.

Americas

Colombia
Commission action. The Commission on Human Rights Chairperson, in a 25 April statement regarding the human rights situation in Colombia [E/2003/23], welcomed the new Government’s commitment to the principles of democracy, respect for human rights, good governance and the rule of law. The Commission noted government efforts to increase human rights training, but remained concerned at continued reports of human rights abuses attributed to the armed and security forces. Expressing deep concern at re-
ports that the Office of the Attorney-General was not showing sufficient willingness to investigate serious human rights violations, the Commission urged the Attorney-General to secure and strengthen the independence of the Human Rights and International Humanitarian Law Unit within that Office, to guarantee the protection of its prosecutors and investigators and to secure funding to continue its investigations. The Commission urged the Government to end impunity and to guarantee the right to life, physical integrity, and the ability of leaders of trade unions and employers’ organizations to function freely. It condemned all acts of terrorism and other criminal acts, impunity, the recruitment of children by illegal armed groups, all violent acts and breaches of international humanitarian law committed by paramilitary groups and other illegal armed groups, kidnapping and the campaign of intimidation against mayors and town councilors, which represented an offence against local liberties and the running of democratic institutions. The High Commissioner was requested to report in 2004.

**Report of High Commissioner.** The High Commissioner’s report on the human rights situation in Colombia in 2003 (E/CN.4/2004/13), based on information collected by OHCHR/Bogotá, stated that the office had registered complaints of violations of the right to life, to physical integrity, to personal freedoms and security, to due process and judicial guarantees, to the independence and impartiality of the judicial system, to respect for privacy and intimacy, to the fundamental freedoms of circulation, residence, opinion and expression, and to political rights. Growing numbers of complaints of violations by the security forces and the Attorney-General’s Office were received. Of concern was the increase in numbers of complaints regarding arbitrary or illegal detentions, forced disappearances, extra-judicial executions, violations of the right to due process and the right to intimacy. The number of complaints of torture and mistreatment increased. Economic, social and cultural rights continued to be affected by the large gap in the distribution of wealth, extreme poverty, exclusion and social injustice. Although there was a decrease in killings of union leaders, the situation of human rights defenders and union leaders continued to be critical. The internal armed conflict aggravated the situation of indigenous communities and Afro-Colombians. Measures taken against impunity continued to register few concrete results. The High Commissioner’s recommendations, which were addressed to the State authorities, illegal armed groups, civil society and the international community, covered matters relating to prevention and 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 services and technical cooperation of OHCHR/Bogotá.

**Communication.** Responding to the High Commissioner’s report (E/CN.4/2004/G/25), Colombia observed that the report did not recognize the gravity of the threat to its institutions and society at the hands of the illegal armed groups using terrorist methods. The Government considered that the report undervalued such 2003 achievements as a reduction in the homicide rate, murders of union leaders, forced displacement and massacres, and an increase in freedom of movement. It enumerated action taken to apply the High Commissioner’s previous recommendations (YUN 2002, p. 786).

(For information on the visits to Colombia by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and by the Special Rapporteur on the right to education, see pp. 705 and 770, respectively.)

**Cuba**


**Commission action.** A March note by the Secretariat (E/CN.4/2003/56) stated that, pursuant to Commission resolution 2002/18, the High Commissioner, on 27 January, designated Christine Chanet (France) as his Personal Representative for Cuba.

On 17 April (res. 2003/15), by a recorded vote of 24 to 20, with 9 abstentions, the Commission urged the Government of Cuba to receive the High Commissioner’s Personal Representative and to assist her to fulfil her mandate.

**Report of Personal Representative.** In a report to the Commission (E/CN.4/2004/32 & Corr.1), the High Commissioner’s Personal Representative stated that in February and May she invited Cuban authorities to meet with her to plan a constructive dialogue. Although the High Commissioner had backed her request, the Cuban authorities notified the High Commissioner in June that they did not recognize the Representative’s mandate. Under those circumstances, the Representative gathered information from the Commission’s thematic special rapporteurs who had inquired into the human rights situation in...
Cuba and from NGOs wishing to express their views. She also held discussions in Geneva with representatives of the Commission’s member States who wished to meet her, and familiarized herself with the concluding observations adopted by the treaty bodies to which Cuba had submitted reports, as well as reports drawn up by the Inter-American Commission on Human Rights.

On the positive side, the Representative said that the Government maintained a sound health system, 100 per cent of the children attended school, school success rates were high, particularly in mathematics, and illiteracy stood at just 0.2 per cent. The proportion of women in the National Assembly, the judiciary and decision-making posts had risen. At the time of Pope John Paul II’s visit to Cuba in 1998, an improvement was seen in the exercise of freedom of religion. Cuba had ratified human rights conventions and had submitted reports to the respective treaty bodies. During 2003, Cuba responded to urgent appeals launched on 8 April by the Working Group on Arbitrary Detention and on 19 May jointly by the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur on the independence of judges and lawyers, and the Special Representative of the Secretary-General on human rights defenders.

Subjects of concern related to the arbitrary arrest in March/April of some 80 persons, most of whom supported the Varela project, which involved the collection of signatures for the organization of a referendum on changing the electoral system and the fostering of other legislative reforms. Those arrested were charged with such actions as receiving funds from foreign countries or engaging in subversive activities, communicating with international human rights organizations, possessing radio or video equipment, or participating in trade unions, associations or academic groups deemed to be counter-revolutionary. Independent counsel, diplomats and foreign journalists were barred from attending the trials. Prison terms ranging from 6 to 28 years were imposed. In June, the Personal Representative appealed to Cuba’s President to pardon the detainees, but no reply had been received. Particularly alarming information on their prison conditions had been communicated to the Representative. Annexed to the report was a list of the persons arrested in March/April. Also of concern was the execution on 11 April of three individuals who had attempted to hijack a ferry carrying many persons and force it to sail to the United States on 2 April.

The Representative recommended that the Government halt the prosecution of citizens exercising the rights enshrined in the Universal Declaration of Human Rights, adopted by the General Assembly in resolution 217 A (III) [YUN 1948-49, p. 535]; release detainees who had not committed violent acts against individuals and property; review laws that led to criminal prosecutions for the exercise of freedom of expression, demonstration, assembly and association; uphold the moratorium on the application of the death penalty introduced in 2000; reform the rules of criminal procedure; establish an independent body to receive complaints of human rights violations; review regulations relating to the freedom of movement; authorize NGOs to enter Cuba; foster pluralism in respect of associations, trade unions, the press and political parties; and accede to the International Covenant on Civil and Political Rights and the Optional Protocols thereto, and the International Covenant on Economic, Social and Cultural Rights (see pp. 669 and 670, respectively).

Haiti

(For information on the human rights situation in Haiti, see p. 683.)

Asia and the Pacific

Afghanistan

(For information on the human rights situation in Afghanistan, see p. 679.)

Cambodia

(For information on the human rights situation in Cambodia, see p. 679.)

Democratic People’s Republic of Korea

On 16 April [res. 2003/10], by a recorded vote of 28 to 10, with 14 abstentions, the Commission expressed deep concern about reports of systematic, widespread and grave human rights violations in the Democratic People’s Republic of Korea (DPRK), regretted that the DPRK authorities did not permit the international community to verify the reports in an independent manner and called on the Government to respond urgently. Deeply concerned about reports of a precarious humanitarian situation, the Commission called on the DPRK authorities to ensure that humanitarian organizations had free and unimpeded access to all parts of the country. The High Commissioner was requested to engage in a dialogue with the DPRK authorities, with a view to ex-
Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms and to fulfill the obligations they have undertaken under various international instruments in this field,

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

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

Recalling its previous resolutions on the subject, the most recent of which is resolution 56/171 of 19 December 2001, and recalling also Commission on Human Rights resolution 2001/17 of 20 April 2001,

Noting the commitment made by the Government of the Islamic Republic of Iran to strengthen respect for human rights in the country and to promote the rule of law,

1. Welcomes:

(a) The open invitation extended by the Government of the Islamic Republic of Iran to all human rights thematic monitoring mechanisms in April 2002;

(b) The visit of the Working Group on Arbitrary Detention of the Commission on Human Rights to the Islamic Republic of Iran from 15 to 27 February 2003 and its subsequent report;

(c) The visit of the Special Rapporteur of the Commission on Human Rights on the promotion and protection of the right to freedom of opinion and expression to the Islamic Republic of Iran from 4 to 10 November 2003 and the scheduled visit of the Working Group on Enforced or Involuntary Disappearances of the Commission in February 2004;

(d) The recommendation by the head of the judiciary of the Islamic Republic of Iran to judges that they choose alternative punishment in cases where the sentence of stoning would otherwise be imposed;

(e) The efforts of the elected Government to foster the growth of civil society;

(f) The opening of human rights dialogues with a number of countries;

(g) The efforts made by Parliament, in particular the Article 90 Commission, and by the Islamic Human Rights Commission to improve the situation of human rights in the Islamic Republic of Iran;

2. Expresses its serious concern at:

(a) The continuing violations of human rights in the Islamic Republic of Iran;

(b) The continuing deterioration of the situation in the Islamic Republic of Iran with regard to freedom of opinion and expression, especially the increased persecution for the peaceful expression of political views, including arrest and detention without charge or trial; crackdowns by judiciary and security forces against journalists, parliamentarians, students, clerics and academics; and the harsh reactions to student demonstrations, including imprisonment, mistreatment and use of university disciplinary committees against those who participate;

(c) The continuing executions in the absence of respect for internationally recognized safeguards, and in particular deplores public executions;

(d) The use of torture and other forms of cruel, inhuman and degrading punishment, in particular the practice of amputation and flogging;

(e) The continuing restrictions on free assembly and the forcible dissolution of political parties;

(f) The failure to comply fully with international standards in the administration of justice, the absence of due process of law, the use of national security laws to deny the rights of the individual and the lack of respect for internationally recognized legal safeguards, inter alia, with respect to persons belonging to religious minorities;

(g) The systemic discrimination against women and girls in law and in practice and the refusal of the Guardian Council to take steps to address this systematic discrimination, noting in this context its refusal, in August 2003, to consider the proposal of the elected Parliament to accede to the Convention on the Elimination of All Forms of Discrimination against Women;

(h) The continuing discrimination against persons belonging to minorities, including the Baha'is, Christians, Jews and Sunnis, including cases of arbitrary arrest and detention, the denial of free worship or of publicly carrying out communal affairs and the disregard of property rights;

(i) The continuing persecution and arbitrary sentencing to prison of human rights defenders, political opponents, religious dissenters and reformists;

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

(a) To abide by its obligations freely undertaken under the International Covenants on Human Rights and other international human rights instruments, including those relating to freedom of opinion and expression, the use of torture and other forms of cruel, inhuman and degrading treatment or punishment and the promotion and protection of the human rights of women and girls, and to continue its efforts to consolidate respect for human rights and the rule of law;

(b) To respond fully to the recommendations of the Working Group on Arbitrary Detention of the Commission on Human Rights;
(e) To continue to cooperate with United Nations mechanisms, in particular with the Special Rapporteur on the promotion of the protection of the right to freedom of opinion and expression and the Working Group on Enforced or Involuntary Disappearances, and to respond fully to their recommendations;

(d) To expedite judicial reform, to guarantee the dignity of the individual and to ensure the full application of due process of law and fair and transparent procedures by an independent and impartial judiciary, and in this context to ensure respect for the rights of the defence and the equity of verdicts in all instances, including for members of religious minority groups;

(e) To appoint an impartial prosecutor, noting the re-establishment, since December 2001, within the Islamic Republic of Iran of the Office of the Prosecutor General;

(f) To eliminate all forms of discrimination based on religious grounds or against persons belonging to minorities, including the Baha’is, Christians, Jews and Sunnis, and to address this matter in an open manner, with the full participation of the minorities themselves;

(g) To take all necessary measures to end amputation and public flogging and to pursue vigorously penitentiary reform;

4. **Encourages** the thematic mechanisms of the Commission on Human Rights, including the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the question of torture, to visit the Islamic Republic of Iran, and encourages the Government of the Islamic Republic of Iran to cooperate with these special mechanisms and to respond fully to their subsequent recommendations;

5. **Decides** to continue its examination of the situation of human rights in the Islamic Republic of Iran, paying particular attention to further developments, including the situation of the Baha’is and other minority groups, at its fifty-ninth 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 58/195:**

*In favour:* Albania, Andorra, Australia, Austria, Bahamas, Barbados, Belgium, Belize, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Chile, Costa Rica, Croatia, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Fiji, Finland, France, Germany, Greece, Grenada, Hungary, Iceland, Ireland, Israel, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Marshall Islands, Mexico, Micronesia, Monaco, Nauru, Netherlands, New Zealand, Nicaragua, Norway, Palau, Papua New Guinea, Paraguay, Peru, Poland, Portugal, Romania, Samoa, San Marino, Serbia and Montenegro, Slovakia, Slovenia, Solomon Islands, Spain, Sweden, the former Yugoslav Republic of Macedonia, Timor-Leste, Tuvalu, United Kingdom, United States.

*Against:* Afghanistan, Algeria, Azerbaijan, Bahrain, Bangladesh, Belarus, Benin, Brunei Darussalam, China, Colombia, Comoros, Cuba, Democratic People’s Republic of Korea, Democratic Republic of the Congo, Djibouti, Egypt, Gabon, India, Indonesia, Iran, Jordan, Kazakhstan, Kuwait, Kyrgyzstan, Lebanon, Libyan Arab Jamahiriya, Malaysia, Maldives, Mauritania, Morocco, Myanmar, Niger, Oman, Pakistan, Philippines, Qatar, Russian Federation, Saudi Arabia, Senegal, Sierra Leone, Somalia, South Africa, Sri Lanka, Sudan, Syrian Arab Republic, Tajikistan, Togo, Tunisia, Turkmenistan, Ukraine, Venezuela, Viet Nam, Yemen, Zimbabwe.

*Abstaining:* Angola, Antigua and Barbuda, Argentina, Bhutan, Botswana, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, Central African Republic, Congo, Côte d’Ivoire, Cyprus, Dominica, Eritrea, Ethiopia, Georgia, Ghana, Guatemala, Guinea, Guinea-Bissau, Guyana, Jamaica, Kenya, Lao People’s Democratic Republic, Lesotho, Madagascar, Malawi, Mali, Mauritius, Mongolia, Mozambique, Namibia, Nepal, Nigeria, Panama, Republic of Korea, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Singapore, Suriname, Switzerland, Thailand, Trinidad and Tobago, Uganda, United Arab Emirates, United Republic of Tanzania, Uruguay, Zambia.

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**Iraq**

Commission action. At its fifty-ninth session [E/2003/25], the Commission, on 27 March, rejected, by a roll-call vote of 25 to 18, with 7 abstentions, a proposal by several Commission members to convene a special sitting on the effect of the war against Iraq, which began on 20 March (see p. 333), on the Iraqi people and their humanitarian situation.

On 25 April [res. 2003/84], by a recorded vote of 31 to 3, with 12 abstentions, the Commission strongly condemned the systematic, widespread and extremely grave violations of human rights and international humanitarian law by the Government of Iraq over many years. It requested all parties to the current conflict to abide by their obligations under international humanitarian law. The Commission called on the international community to address urgently the major humanitarian needs of the Iraqi people and to assist in the development of free and democratic institutions. The Commission decided to extend the Special Rapporteur’s mandate for a further year and requested him to report to the General Assembly in 2003 and to the Commission in 2004. The Economic and Social Council endorsed the Commission’s decision on 25 July (decision 2003/262).

**Reports of Special Rapporteur.** In an addendum [E/CN.4/2003/40/Add.1] to an earlier report [YUN 2002, p. 794], Special Rapporteur Andreas Mavrommatis (Cyprus) described the human rights situation in Iraq covering the period 1 January to 28 February, based on meetings with the Permanent Representative of Iraq to the United Nations Office at Geneva, members of the Human Rights Department of the Iraqi Ministry for Foreign Affairs, representatives of OHCHR and the International Committee of the Red Cross (ICRC), and NGOs. Discussions focused on the abolition of the death penalty for certain crimes, the abolition of decrees on the amputation of hands or the branding of people, the abolition of the Special Courts and their replacement by a State Security Court attached to the Ministry of Justice, and the number of prisoners and detainees having benefited from the amnesty decree. Also discussed were political rights, democracy, a multiparty system and other efforts to establish multiparty system and other efforts to establish
at all times, including in times of war, and to cooperate on the question of Kuwaiti prisoners of war and persons unaccounted for.

By a September note [A/58/358], the Secretary-General transmitted to the General Assembly the interim report of the Special Rapporteur on Iraq, who stated that he had received a positive response from the United States, on behalf of the Coalition Provisional Authority (CPA), in reply to his request to visit Iraq to examine past gross and systematic human rights violations. The Special Rapporteur had proposed the period from 22 to 27 September for his visit. However, his visit had to be postponed for security reasons. The Assembly took note of the report on 22 December (decision 58/539).

In a later report [E/CN.4/2004/56], the Special Rapporteur described his activities in the light of his inability to travel to Iraq. In Geneva, he held meetings with the Permanent Representatives of Iraq, Kuwait, the United Kingdom and the United States, and with CPA experts dealing with such issues as transitional justice, the Iraqi Special Tribunal, mass graves and other human rights violations; in New York, with UN bodies and specialized agencies, international NGOs and the Executive Director of the oil-for-food programme; in Madrid, during the Iraq Reconstruction Donor Conference (23-25 October); and in Amman, Jordan, with a Kurdish delega-tion (7-10 December). However, despite his efforts, it proved almost impossible to collect and appraise any significant new evidence and much remained to be done. From October onwards, he focused on summary executions, mass graves, the Anfal campaign against the Kurds and the Arabization process, including of property. He recommended that the Iraqi authorities systematize and accelerate the process of investigation and make available to him selected cases of past violations and transitional justice made available to him evidence recorded in a list cataloguing past atrocities. A selection of 20 serious cases was provided to the Special Rapporteur, describing almost 15 different methods of torture. He recommended that the Iraqi authorities systematize and accelerate the process of investigation and make available to him selected cases of past violations and establish a quick and effective system of communication with him. All investigations should be carried out in full compliance with Iraq’s international obligations, and the transfer of power to the Iraqis should take place as soon as possible as part of the democratization process.

**Myanmar**

**Communication.** On 18 March [E/CN.4/2003/G/47], Myanmar submitted information to the Commission regarding the country’s difficulties in its transition to a new political system and the Government’s achievements in many areas. It cited efforts towards peace and stability and progress in economic development, health care, education, the suppression of narcotic drugs, democratization, the right to development, the rights of the child and the status of women. It refuted allegations of violence against women in Shan State, the use of child soldiers and religious intolerance.

**Commission action.** On 16 April [res. 2003/12], the Commission welcomed positive developments in Myanmar, including the freedom of movement enjoyed by Daw Aung San Suu Kyi, leader of the National League for Democracy (NLD), the release of political detainees, cooperation with ICRC, the dissemination of human rights standards for public officials and some NGOs and ethnic groups, and the establishment by the Government of a committee on human rights as a precursor to the establishment of a human rights commission. However, it expressed grave concern at the ongoing systematic human rights violations. It called on the Government to restore the independence of the judiciary; eradicate forced labour; ensure safe and unhindered access by UN and international humanitarian organizations; end permanently conflict with all ethnic groups; and establish a human rights commission.

The Commission decided to extend the Special Rapporteur’s mandate for a further year and asked him to report to the General Assembly in 2005 and to the Commission in 2004. The Economic and Social Council endorsed the Commission’s decision on 23 July (decision 2003/239).

**Reports of Secretary-General.** In response to General Assembly resolution 57/231 [YUN 2002, p. 798], the Secretary-General submitted a March report [E/CN.4/2003/55] on his good offices efforts and those of his Special Envoy, Razali Ismail, in facilitating national reconciliation and democratization in Myanmar. Discussions with the Myanmar authorities focused on UN assistance in moving confidence-building talks to a more substantive dialogue. Although Daw Aung San Suu Kyi’s freedom of movement had been restored since May 2002 [YUN 2002, p. 797], she had had no substantive dialogue with the Government. The Secretary-General called on both parties to set aside their differences, unite for a larger cause and start their political dialogue as soon as possible.

In August [A/58/725], the Secretary-General described the events of 30 May in northern Myanmar, when pro-Government protesters attacked an NLD convoy carrying Daw Aung San Suu Kyi, NLD members and other supporters.
Several persons were killed and Daw Aung San Suu Kyi, NLD members and other supporters were subsequently arrested and detained. The Secretary-General called on the authorities to remove, without delay, all the restrictions imposed on their freedom of movement and political activities. Although the events of 30 May had seriously undermined it, the national reconciliation process could be saved with the efforts of all parties.

In a November addendum to his report [A/58/325/Add.1], the Secretary-General noted that the situation prevailing in Myanmar had not changed significantly since the issue of his August report (above). The Government had announced a seven-step road map to a democratic transition on 30 August, which, the Secretary-General said, should involve all Myanmar’s political parties, national leaders, ethnic nationalities and strata of society from the beginning. He appealed to the Government to lift the remaining restrictions imposed on Daw Aung San Suu Kyi, other NLD leaders and those detained in connection with the 30 May incident, and to allow NLD to reopen its offices across the country.

The General Assembly took note of the report and addendum on 22 December (decision 58/339).

Reports of Special Rapporteur. In response to Commission resolution 2003/12 and Economic and Social Council decision 2003/239 (see p. 819), the Secretary-General, by an August note [A/58/29], transmitted the report of Special Rapporteur Paulo Sérgio Pinheiro (Brazil) on the human rights situation in Myanmar, based on his visit to the country (19-24 March) and information received by him up to 28 July. The Special Rapporteur’s visit was curtailed when he discovered a listening device in the room at Insein prison where he was interviewing political prisoners on 22 March. The incident constituted a breach of the standard operating procedures relating to the conduct of fact-finding missions by UN special rapporteurs.

The Special Rapporteur said that the 30 May-related developments (above) had constituted a potentially terminal setback on the political and human rights front. The economic and social situation in Myanmar remained precarious, with massive inflation pervading the country. During the reporting period, the Special Rapporteur continued to pursue his efforts to obtain access to ethnic minority areas to investigate allegations of serious human rights violations. He had received informal suggestions from Myanmar regarding the possibility of an independent assessment mission and, in April, he had submitted to Myanmar the draft modalities of the assessment, which were annexed to his report. Since he had been unsuccessful in his attempts to obtain Myanmar’s agreement on the modalities, the Special Rapporteur made public the findings of his research on the human rights situation in ethnic areas of Myanmar conducted in Thailand in October and November 2002 [YUN 2002, p. 797]. The research, which was summarized in his report, documented widespread human rights abuses such as forced labour, arbitrary taxation and extortion, forced relocations, torture, rape and extrajudicial executions.

In a later report [E/CN.4/2004/35], the Special Rapporteur described his visit to Myanmar (3-8 November) and provided information received by him up to 17 December. Despite his repeated calls on the Government to refrain from new arrests, he received reports of some 250 new arrests since 30 May. Grounds for arrest remained highly arbitrary, based on the legislation criminalizing the exercise of basic rights and the freedoms of expression, information, movement, assembly and association, including the use of some provisions of the Penal Code. The Special Rapporteur welcomed slight improvements in the conditions of detention of convicted political prisoners since his March visit. However, concerns remained about disparities in the conditions of different prison blocks in terms of food quality and the lack of basic necessities. He continued to be concerned about ill-treatment of detainees in pre-trial detention, detainees kept in incommunicado detention, reports of religious intolerance, allegations of serious human rights violations in ethnic minority areas, including Shan State, the forcible recruitment of boys as child soldiers and the widespread forced military training of civilians. The Special Rapporteur called for a full and independent inquiry into the events of 30 May, restored freedom of movement for Daw Aung San Suu Kyi and other NLD leaders and members, the lifting of remaining restrictions on the freedoms of expression, movement, information, assembly and association, the repeal of security legislation, the opening and reopening of all political parties’ offices and the release of all political prisoners.

GENERAL ASSEMBLY ACTION

On 23 December [meeting 79], the General Assembly, on the recommendation of the Third Committee [A/58/308/Add.3], adopted resolution 58/247 without vote [agenda item 117 (c)].

Situation of human rights in Myanmar

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

Bearing in mind Security Council resolution 1460 (2005) of 30 January 2005 on children and armed conflict and the report of the Secretary-General pursuant thereto,

Recalling its previous resolutions on the subject, the most recent of which is resolution 57/231 of 18 December 2002, those of the Commission on Human Rights, the most recent of which is resolution 2003/12 of 16 April 2003, and resolution I adopted by the International Labour Conference at its eighty-eighth session, on 14 June 2000, concerning the practice of forced or compulsory labour in Myanmar,

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

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

Recognizing that good governance, democracy, the rule of law and respect for human rights are essential to achieving sustainable development and economic growth,

Taking note of the increasing awareness of the Government of Myanmar of the need to comprehensively address the production of opium in Myanmar,

Taking note also of the road map for the transition to democracy announced by the Prime Minister of Myanmar on 30 August 2003,

1. Welcomes:
   (a) The visits to Myanmar by the Special Envoy of the Secretary-General for Myanmar during the past year and the visits by the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar;
   (b) Efforts by the international community, including support from countries in the region, to encourage the Government of Myanmar to resume its efforts towards national reconciliation and dialogue, pursuant to acknowledging the importance of strengthening democracy as a fundamental element of regional security;
   (c) The report of the Secretary-General;
   (d) The interim report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar;
   (e) The agreement, reached on 27 May 2005, on the Joint Government of the Union of Myanmar–International Labour Organization Plan of Action for the Elimination of Forced Labour Practices in Myanmar, including the agreement to an independent facilitator to assist possible victims of forced labour, while noting that the conditions for the implementation of the Plan of Action do not exist at present;
   (f) The continued cooperation of the Government of Myanmar with the International Committee of the Red Cross;

2. Expresses its grave concern at:
   (a) The events of 30 May 2003, the corresponding, subsequent and continuing violations of human rights, which constitute a serious setback for the human rights situation in the country, and the apparent involvement of the Government-affiliated Union Solidarity and Development Association in those events;
   (b) The detention and the house arrest of Daw Aung San Suu Kyi and the persistent denial of her human rights and fundamental freedoms, including freedom of movement, as well as the continued detention of other senior leaders of the National League for Democracy;
   (c) The closure of offices of the National League for Democracy throughout the country and the increased surveillance and imprisonment of members and supporters of the National League for Democracy and other political organizations, as well as the continuing detentions, including of prisoners whose sentences have expired;
   (d) The systematic and consistent harassment and intimidation of members of the National League for Democracy by members of the Union Solidarity and Development Association;
   (e) The lack of cooperation shown by the Government of Myanmar towards the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar, in particular with regard to his proposal to visit ethnic nationality areas to investigate allegations of serious human rights violations;
   (f) The continued cooperation of the Government of Myanmar with the International Labour Organization Plan of Action do not exist at present;

3. Expresses once again its grave concern at:
   (a) The ongoing systematic violation of the human rights, including civil, political, economic, social and cultural rights, of the people of Myanmar, in particular:
      (i) Extrajudicial killing; continuing use of torture; rape and other forms of sexual violence persistently carried out by members of the armed forces; unsatisfactory conditions of detention; forced relocation; wide disrespect for the rule of law and lack of independence of the judiciary; trafficking in persons; forced labour, including child labour; destruction of livelihoods and confiscation of land by the armed forces; and violations of the right to an adequate standard of living, including food, medical care and education;
      (ii) Denial of freedom of expression, including freedom of the media, of association, of assembly and of movement;
      (iii) Discrimination and persecution on the basis of religious or ethnic background suffered by persons belonging to ethnic minorities, women and children;
   (b) The situation of the large number of internally displaced persons and the flow of refugees to neighbouring countries, and recalls in this context the obligations of Myanmar under international law;

4. Calls upon the Government of Myanmar:
(a) To initiate a full and independent inquiry, with international cooperation, into the Depayin incident of 30 May 2003;

(b) To immediately facilitate and cooperate fully with the proposed investigation by the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar into charges of rape and other abuse of civilians carried out by members of the armed forces in Shan and other states, including unhindered access to the region, and to guarantee the safety of those cooperating with and covered by the investigation;

(c) To immediately secure the safe and unhindered access to all parts of Myanmar of the United Nations and international humanitarian organizations to ensure the provision of humanitarian assistance and to guarantee that it reaches the most vulnerable groups of the population;

(d) To pursue through dialogue and peaceful means an immediate end to conflict with all remaining ethnic groups with which ceasefire agreements have not yet been signed, and to live up to its obligations to improve the development and human rights situation in ceasefire areas;

(e) To take all necessary steps to pursue cooperation with the International Labour Organization, with a view to implementing fully the recommendations of the Commission of Enquiry established to examine the observance by Myanmar of the International Labour Organization Convention concerning Forced or Compulsory Labour, and to create an environment in which the Joint Government of the Union of Myanmar-International Labour Organization Plan of Action for the Elimination of Forced Labour Practices in Myanmar, in particular the facilitator mechanism which it established, may be implemented in a credible manner;

(f) To put an immediate end to the recruitment and use of child soldiers, inter alia, by some armed ethnic groups, and ensure their disarmament, demobilization and reintegration, to end systematic enforced displacement and provide protection and assistance to internally displaced persons, to allow the safe and dignified voluntary return of refugees, and to carry out the appropriate action to fight the HIV/AIDS epidemic;

(g) To consider as a matter of high priority becoming a party to those remaining international human rights instruments to which it is not already a party, and to comply fully with its obligations under international human rights instruments;

(h) To ensure that the process is transparent and inclusive;

6. Once again urges the Government of Myanmar, as stated in its resolution 57/231 and in Commission on Human Rights resolution 2005/12:

(a) To continue to provide his good offices and to pursue his discussions on the situation of human rights and the restoration of democracy with the Government and people of Myanmar, including all relevant parties to the national reconciliation process in Myanmar;

(b) To report to the General Assembly at its fifty-ninth session and to the Commission on Human Rights at its sixtieth session on the progress made in the implementation of the present resolution;

(c) To give all necessary assistance to enable his Special Envoy to implement the present resolution and, in the context of the facilitation role, to explore any and all possibilities for discharging fully and effectively his mandate;

(d) To continue to give all necessary assistance to the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar to enable him to discharge his mandate fully;

8. Decides to continue the consideration of this question at its fifty-ninth session.
Timor-Leste

During the fifty-ninth session of the Commission on Human Rights [E/2003/23], the Commission Chairperson, in a statement on Timor-Leste, acknowledged the Government’s human rights achievements. He noted the steps taken by Indonesia to bring to justice perpetrators of violations of human rights and humanitarian law in Timor-Leste in 1999 [E/CN.4/2003/G/65] but expressed disappointment at the way in which the trials of those responsible were carried out. The Commission encouraged Indonesia to improve the current legal processes in a transparent way to ensure that justice would be done. The High Commissioner was asked to develop and implement with the Government of Timor-Leste a human rights technical cooperation programme and to report in 2004.

(For information on the human rights situation in Timor-Leste, see p. 685.)

Turkmenistan

Communication. In a 28 March letter to the High Commissioner [E/CN.4/2003/G/60], Austria, Canada, Germany, Greece, Ireland, Italy, Norway, Sweden, the United Kingdom and the United States referred to their request to the Organization for Security and Cooperation in Europe (OSCE) for the establishment of a fact-finding mission to investigate conflicting reports of the circumstances surrounding an alleged attack of 25 November 2002 on the President of Turkmenistan. The countries stated that the report of the mission proceeded with a single rapporteur and was presented to the OSCE Permanent Council on 15 March 2003. They requested that the mission report be circulated to the Commission.

Commission action. On 16 April [res. 2003/11], by a recorded vote of 23 to 16, with 14 abstentions, the Commission, while expressing appreciation at the decision to abolish the death penalty in Turkmenistan, expressed grave concern at the repression of political opposition activities through arbitrary detention, imprisonment and surveillance of persons; the suppression of independent media and freedom of expression; restrictions on the exercise of freedom of thought, conscience and religion; heavy prison sentences given to objectors to compulsory military service on religious grounds; discrimination against minorities; obstacles to marriages of Turkmen with foreigners; curtailment of the right to liberty of movement and freedom to leave the country; and the elections of 6 April, which did not represent a free and fair process. The Commission urged the Government to ensure full respect for all human rights and fundamental freedoms; end forced displacement and guarantee freedom of movement inside the country; bring to justice those responsible for human rights violations; remove restrictions on NGO activities; develop a constructive dialogue with the High Commissioner and OHCHR; cooperate with the Commission’s mechanisms; and submit reports to relevant UN treaty bodies and implement their recommendations. The Special Rapporteurs on the independence of judges and lawyers, on the question of torture, on extrajudicial, summary and arbitrary executions, on the right to freedom of opinion and expression and on freedom of religion or belief, the Working Group on Arbitrary Detention, the Secretary-General’s Representative on internally displaced persons and the Secretary-General’s Special Representative on the situation of human rights defenders were called on to seek invitations to visit the country. The Secretary-General was requested to bring the Commission’s resolution to the attention of all relevant parts of the UN system.

GENERAL ASSEMBLY ACTION

On 22 December [meeting 77], the General Assembly, on the recommendation of the Third Committee [A/58/508/Add.3], adopted resolution 58/194 by recorded vote (73-40-56) [agenda item 117 (c)].

Situation of human rights in Turkmenistan

The General Assembly, Reaffirming that all States Members of the United Nations have the 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,

Expressing its grave concern about the serious and continuing human rights violations occurring in Turkmenistan,

Recalling Commission on Human Rights resolution 2003/11 of 16 April 2003,

Taking note of the recommendations outlined in the report of the Rapporteur of the Moscow Mechanism of the Organization for Security and Cooperation in Europe, issued on 12 March 2003,

Noting with appreciation the recent offer of the Government of Turkmenistan to invite a delegation of experts of the Office of the United Nations High Commissioner for Human Rights to provide technical assistance in the area of human rights as well as the recent visits of the Personal Envoy of the Chairman-in-Office of the Organization for Security and Cooperation in Europe for Participating States in Central Asia and of the High Commissioner on National Minorities of the Organization,

Calls upon the Government of Turkmenistan:

(a) To implement fully the measures set out in Commission on Human Rights resolution 2003/11 and to inform the Commission before its sixtieth session of the steps being taken in this regard;
Europe

Belarus

On 17 April [res. 2003/14], by a recorded vote of 23 to 14, with 16 abstentions, the Commission expressed deep concern at reports from credible sources implicating senior officials of the Government of Belarus in the forced disappearance and/or summary execution of three political opponents of the incumbent authorities and of a journalist. It also expressed concern about reports of arbitrary arrest and detention, harassment of NGOs, opposition political parties and individuals engaged in opposition activities and independent media, and increased restrictions on religious organizations. It urged Belarus to dismiss or suspend law enforcement officers implicated in forced disappearances and/or summary executions, pending an impartial, credible and full investigation; bring the actions of the police and security forces into conformity with its obligations under relevant international standards; establish an independent judiciary and end impunity; and release journalists and others detained for politically motivated reasons and cease harassment of NGOs and political parties. The Government was urged to cooperate with Commission mechanisms, including by extending invitations to the Special Rapporteurs on the question of torture, on extrajudicial, summary or arbitrary executions, and on the right to freedom of opinion and expression, and the Secretary-General’s Representative on the situation of human rights defenders and the Working Groups on Arbitrary Detention and on Enforced or Involuntary Disappearances.

Russian Federation

At its fifty-ninth session [E/2003/25], the Commission had before it a draft resolution [E/CN.4/2003/L.15/Rev.1] by which the Commission would have expressed deep concern at reports ongoing violations of international human rights law and international humanitarian law in Chechnya. It would also have strongly condemned...
all terrorist acts and assassinations of local administration officials, religious leaders and other Chechens, as well as two major terrorist attacks in the Russian Federation in 2002—the hostage-taking at a Moscow theatre and the suicide bomb attack on the main government building in Grozny. The draft was rejected by a recorded vote of 21 to 15, with 17 abstentions.

(Seep. 794 for details of the visit to the Russian Federation by the Special Representative of the Secretary-General on internally displaced persons.)

Middle East

Lebanon

**Commission action.** On 16 April [res. 2003/8], by a recorded vote of 32 to 1, with 20 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 1997, p. 706], release imprisoned Lebanese citizens held as hostages for bargaining purposes and submit to the United Nations Interim Force in Lebanon all maps of the landmine fields laid throughout civilian areas. The Secretary-General was asked to bring the Commission’s resolution to Israel’s attention and to report to the General Assembly in 2003 and to the Commission in 2004.

**ECONOMIC AND SOCIAL COUNCIL ACTION**

In July, the Economic and Social Council, on the recommendation of the Commission on Human Rights [E/2003/23], adopted **decision 2003/238** by recorded vote (26-2-24) [agenda item 14 (g)].

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

At its 45th plenary meeting, on 23 July 2003, the Economic and Social Council took note of Commission on Human Rights resolution 2003/8 of 16 April 2003, and endorsed the Commission’s decision to request the Secretary-General:

(a) To bring Commission resolution 2003/8 to the attention of the Government of Israel and to call upon it to comply with its provisions;

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

**RECORDED VOTE ON DECISION 2003/238:**

In favour: Argentina, Benin, Bhutan, Brazil, Burundi, Chile, China, Congo, Cuba, Ecuador, Egypt, India, Iran, Jamaica, Kenya, Libyan Arab Jamahiriya, Malaysia, Nigéria, Pakistan, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Uganda, Zimbabwe.

Against: Andorra, Australia, Ethiopia, Finland, France, Germany, Ghana, Greece, Guatemala, Hungary, Ireland, Italy, Japan, Mozambique, Nepal, Netherlands, Nicaragua, Peru, Portugal, Republic of Korea, Romania, Sweden, Ukraine, United Kingdom.

**Reports of Secretary-General.** In response to a 2002 Commission request [YUN 2002, p. 805], the Secretary-General stated that he had asked Israel for information on the extent of the implementation of the Commission’s 2002 resolution on the human rights situation of Lebanese detainees in Israel, but had received no reply [E/CN.4/2003/32].

In August [A/58/218], the Secretary-General reported that, pursuant to Economic and Social Council decision 2003/238 (above), he had asked Israel for information on the implementation of Commission resolution 2003/8 regarding Lebanese detainees in Israel (above) and had received no reply.

The General Assembly took note of the report on 22 December (**decision 58/539**).

**Territories occupied by Israel**

During 2003, 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.** In response to a 2002 Commission request [YUN 2002, p. 806], 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.4/2003/28]. 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).

In a further report [E/CN.4/2003/27], submitted in response to a 2002 Commission request [YUN 2002, p. 806], the Secretary-General 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 Government of Israel and all other Governments, UN organs, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations, the Committee on Israeli Practices, the Committee on Palestinian Rights...
and UNRWA. He had received no reply from Israel.

A January note by the Secretary-General [E/CN.4/2003/29] listed all General Assembly reports issued since 26 April 2002 on the situation of the population living in the occupied Arab territories.

Commission action. On 15 April [res. 2003/5], by a recorded vote of 31 to 1 with 21 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 area and to desist from imposing Israeli citizenship and identity cards on the 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, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations, to widely publicize the resolution and to report in 2004.

Also on 15 April [res. 2003/6], by a recorded vote of 39 to 5, with 15 abstentions, the Commission condemned Israel’s human rights violations in the Occupied Palestinian Territory, its occupation of the territory, the war launched by the Israeli army against Palestinian towns and camps, extrajudicial executions carried out by the Israeli army against Palestinians, the establishment of Israeli settlements, the expropriation of Palestinian homes in Jerusalem and Hebron, the torture of Palestinians during interrogation, the Israeli army’s offensives against hospitals and sick persons, and the use of Palestinian citizens as human shields. Israel was called on to desist from all forms of human rights violations in the Occupied Palestinian Territory, including East Jerusalem. The Secretary-General was requested 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 2004 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.

On the same date [res. 2003/7], by a recorded vote of 50 to 1, with 2 abstentions, the Commission, expressing grave concern at the continued escalation of the Israeli-Palestinian conflict (see p. 458), Israeli settlement activities in the occupied territories, the restriction of freedom of movement of the Palestinians, and the construction of the so-called security fence, and condemning all acts of violence, including terrorist attacks, urged Israel to comply with the Commission’s previous resolutions; reverse its settlement policy; prevent any new installation of settlers; stop the construction of the security fence; implement the High Commissioner’s recommendations [YUN 2000, p. 777]; and guarantee the safety and protection of Palestinian civilians. The parties were urged to cooperate in implementing the road map endorsed by the Quartet (European Union, Russian Federation, United Nations, United States) [YUN 2002, p. 456], with the aim of resuming negotiations on a political settlement.

Report of Special Rapporteur. In a September report [E/CN.4/2004/6], Special Rapporteur John Dugard (South Africa) described the human rights situation in the occupied territories, based on his visit to Gaza, Ramallah, Nablus, Bethlehem, Jericho and Jerusalem (22-29 June).

The Special Rapporteur stated that Israel was building a wall between Israel and the West Bank that, when completed, would be some 450 kilometres long and would incorporate substantial parts of Palestine within Israel. Much of the Palestinian land on the Israeli side of the wall consisted of fertile agricultural land and some of the most important water wells in the region. The path of the wall changed regularly in response to demands from settlers and other political interest groups within Israel and there was no transparency surrounding its construction. The wall had serious human rights implications, as it further restricted the freedom of movement of Palestinians, restricted access to health and education facilities, and resulted in the unlawful taking of Palestinian property. Furthermore, it violated the prohibition of the forcible acquisition of territory and the right to self-determination. The construction of the wall within the West Bank and the continued expansion of settlements, which, on the face of it, had more to do with territorial expansion, de facto annexation or conquest, raised serious doubts about the good faith of Israel’s justifications in the name of security.

The restrictions on the freedom of movement imposed on the Palestinian people continued to create a humanitarian crisis. Curfews continued, but without the severity of 2002. However, people under curfew in Hebron, Jenin and parts of Gaza were frequently under tighter and more continuous curfews in 2003. Checkpoints, closures and curfews had had a major impact on the Palestinian economy, resulting in unemployment and poverty; a drop in health standards resulting
from inability to access hospitals and clinics; and the failure to acquire nutritious food and sufficient clean water. Children had suffered from school closings and curfews, which made it difficult to reach schools. Some 22 per cent of children under five suffered from acute or chronic malnutrition, while the breakdown of family life had a severe impact on children. The loss of life and killing of civilians continued to rise, as did administrative detention and the mistreatment of prisoners. The destruction of property continued unabated and was particularly acute in Gaza. New Israeli settlements were being built and existing settlements continued to grow. Further evidence of the Government’s determination to entrench the settlements was provided by the construction of the wall.

Communications. Israel, on 28 March [E/CN.A/2003/G/60], responding to the Special Rapporteur’s report (above), said that Mr. Dugard continued to view Israel’s security measures as taking place in a vacuum, without any recognition of the terrorism and security threats that necessitated them. Among other matters, Israel commented on his assertions regarding the humanitarian crisis, children in the conflict and the security fence.


(See p. 766 for details of the visit to the Occupied Palestinian Territories by the Special Rapporteur on the right to food.)