Chapter III

Human rights violations

Alleged violations of human rights and international humanitarian law in a number of countries were examined in 2004 by the General Assembly, the Economic and Social Council, the Commission on Human Rights and its Subcommission on the Promotion and Protection of Human Rights, as well as by special rapporteurs, special representatives of the Secretary-General and independent experts appointed to examine the allegations.

General aspects

In accordance with a procedure established by Economic and Social Council resolution 1503 (XIVIII) (1503 procedure) [YUN 1970, p. 530] to deal with communications alleging denial or violation of human rights, the Working Group on Situations of the Commission on Human Rights, in closed meetings during March, examined the human rights situations in Bolivia, Djibouti, Honduras and Uzbekistan to decide whether or not to refer any of those situations to the Commission. The Commission decided to discontinue consideration of the situation of human rights in Bolivia, Djibouti and Honduras. Regarding Uzbekistan, it decided to keep the situation in the country under review and to appoint an independent expert to report in accordance with the 1503 procedure and Council resolution 2000/3 [YUN 2000, p. 596].

The Commission, on 31 March [E/2004/23 (dec. 2004/128)], made public a decision regarding Paraguay, which recommended to the Council that relevant documentation the Commission had examined between 1978 and 1990 should no longer be considered confidential, as requested by the Government.

On 22 July, the Council took note of the Commission’s decision and endorsed its recommendation (decision 2004/275).

Africa

(For information on the human rights situation in Burundi, see p. 671; Chad, p. 673; the Democratic Republic of the Congo, p. 673; Liberia, p. 676; Sierra Leone, p. 676; and Somalia, p. 677.)

Sudan

Commission action. On 23 April [E/2004/23 (dec. 2004/128)], the Commission on Human Rights, by a recorded vote of 50 to 1, with 2 abstentions, expressing deep concern about the situation in the Sudan and particularly in Darfur, shared the Secretary-General’s concern regarding the scale of reported human rights abuses and the humanitarian situation in Darfur, and welcomed his decision to send a high-level team there (see p. 233). The Commission requested its Chairman to appoint an independent expert on the situation of human rights in the Sudan for a one-year period and asked the expert to submit an interim report to the General Assembly in 2004 and a report to the Commission in 2005. The Secretary-General was asked to assist the expert.

On 15 June, the Economic and Social Council endorsed the Commission’s request to appoint an independent expert and for the Secretary-General to assist the expert (decision 2004/229).

In July, Emmanuel Akwei Addo (Ghana) was appointed independent expert.

Report of Acting High Commissioner. A May report [E/CN.4/2005/3] of the Acting United Nations High Commissioner for Human Rights summarized the findings of two missions dispatched by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in response to reports of allegations of serious human rights violations in the Darfur region of western Sudan. The first mission (5-15 April) visited the border areas with Chad where refugees had fled the violence; the same team visited Khartoum and Darfur (21 April–2 May), where it met with government officials, UN agencies and non-governmental organizations (NGOs), and interviewed displaced persons. In response to actions by rebel forces, notably the Sudan Liberation Army and the Justice and Equality Movement, who demanded that the Khartoum authorities address the marginalization and underdevelopment to which the region was reportedly subjected, the Government sponsored a
militia composed of a loose collection of fighters, including an Arab militia known as the Janjaweed. With the support of the regular army, the Janjaweed attacked villages, targeting those suspected of supporting the rebels and committing numerous human rights violations. While it appeared that the Government employed different tactics to counter the rebellion, the mission found consistent allegations that government and militia forces carried out indiscriminate attacks against civilians; rape and other serious forms of sexual violence; destruction of property and pillage; forced displacements; disappearances; and persecution and discrimination. The mission recommended disarming and disbanding the Janjaweed and other militias; a government policy of national reconciliation, the end of impunity, the rule of law and the protection of minorities; the voluntary return of refugees and displaced persons to their lands and homes with restitution or fair compensation for their losses; and the establishment of an international commission of inquiry to identify the crimes that had been committed, assess the responsibility of the authorities and recommend measures for securing accountability.

**Communication.** On 13 May [E/CN.4/2005/G/3], the Sudan said that its President had issued a decree establishing a Commission of Inquiry into the allegations of human rights violations by armed groups in Darfur. (See also p. 235.)

**Reports of independent expert.** In a 29 October oral report [A/C.3/59/SR.30] to the General Assembly’s Third (Social, Humanitarian and Cultural) Committee, the expert said there were strong indications that war crimes had been committed in Darfur, including murder, torture, rape and intentional attacks against civilians, and that crimes against humanity had also been committed, comprising killings, forcible displacements and rapes as part of a systematic attack on civilians. He said that the Government was unable or unwilling to disarm the militias and was therefore unable to protect displaced persons and civilians. Consideration should be given to broadening the mandate of the troops deployed so as to allow them to disarm the militias, which could be done with the backing of the United Nations and the entire international community. The Sudan said it took exception to the expert’s report, which it found to be an oversimplified presentation of the situation, giving too much weight to the political dimensions of the problems.

On 20 December, the Assembly took note of the oral report (decision 59/528).

In a later report [E/CN.4/2005/11] covering his visit to the Sudan (19-29 August) and Nairobi, Kenya (30 and 31 August), the independent expert focused on the ongoing crisis in the Sudan’s Darfur region and on human rights related developments in Kassala and Upper Nile states. The expert stated that following attacks by the Sudanese Liberation Movement/Army against government forces, reportedly in protest at what they perceived as their marginalization, the intensity of the conflict increased. To flush out the rebel groups from their stronghold in Darfur, the Government deployed the military, the Popular Defence Forces and the Janjaweed militia, against civilians belonging to the same tribal groups as the rebels. The militia’s indiscriminate attacks against civilians resulted in widespread killing and incidents of rape. There were strong indications that war crimes and crimes against humanity had occurred. The rebels had grown more intransigent and security on the ground had worsened. The peace process between the Government and the Sudan People’s Liberation Movement/Army (SPLM/A) continued (see p. 233), with the two parties pledging to end the war by 31 December. On that day, the Government and SPLM/A signed the final two protocols of the peace accord, paving the way for the signing in January 2005 of a comprehensive peace agreement. The expert recommended repeal of the National Security Forces Act, which allowed up to nine months’ detention outside the control of the judiciary, and of immunity from prosecution of the national security forces; independent investigation of reports of detainees held incommunicado and holding those responsible accountable; and ratification by the Sudan of the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the Assembly in resolution 39/46 [YUN 1984, p. 833]. He called for compensation to victims of torture, the end of incommunicado detention and prompt notification to families of detainees of their arrest and place of detention. Annexed to the expert’s report was the text of his statement before the Assembly’s Third Committee (see above).

(See pp. 727 and 776 respectively for information on visits to the Sudan by the Special Rapporteurs on extrajudicial, summary or arbitrary executions and on violence against women.)

(For the report of the Representative of the Secretary-General on internally displaced persons on his mission to the Darfur region, see p. 790.)

**Zimbabwe**

During the sixtieth session of the Commission on Human Rights [E/2004/23], the Congo, on behalf of the Group of African States, moved that...
the Commission take no action on a draft resolution on the human rights situation in Zimbabwe, which would have expressed deep concern at the continuing human rights violations in the country and requested the relevant special rapporteurs and special representatives to examine alleged human rights violations and to report thereon. The motion was carried by a vote of 27 to 24, with 2 abstentions.

**Americas**

(For information on the human rights situation in Haiti, see p. 675.)

**Colombia**

The Commission Chairperson, in a 23 April statement, said the Commission appreciated the priority placed by the Government of Colombia on the development of a fully functioning democratic State that was more capable of protecting the most basic human rights of its citizens [E/2004/25]. Welcoming the conviction and sentencing of senior army officers for complicity in a massacre, the Commission called for stepping up the fight against impunity. It also called for further progress regarding the investigation of collusion between members of the public service and illegal armed groups. The Commission condemned all breaches of international humanitarian law arising from the conflict in Colombia, terrorism and other criminal attacks committed by illegal armed groups, the recruitment of a large number of children by those groups and kidnapping. Although the situation of some vulnerable groups had improved, trade unionists, human rights defenders, journalists, departmental officials, community leaders and local government officials continued to be particularly affected by the armed conflict. The Commission deplored the increase in selective violence against Afro-Colombian communities and violations of the right to life of large numbers of children. The High Commissioner was asked to report in 2005.

**Report of High Commissioner.** The High Commissioner reported on the 2004 human rights situation in Colombia, based on information gathered by OHCHR/Bogotá [E/CN.4/2005/10 & Corr.1]. In 2004, the Office carried out 226 field missions and received 1,211 complaints, of which 827 were admitted as referring to conduct in violation of human rights and/or breaches of international humanitarian law. The Office maintained an ongoing dialogue with civil society organizations and issued several publications. It was engaged in developing a national plan of action on human rights, institutional strengthening and human rights training. On 30 March, OHCHR/Bucaramanga, covering the north-eastern part of the country, was inaugurated to complement the offices in Bogotá, Cali and Medellin.

The High Commissioner stated that during 2004, the human rights situation continued to be critical. Violations continued to be recorded of the rights to life, personal integrity, freedom and security, due process and privacy, as well as of the fundamental freedoms of movement, residence, opinion and expression. No significant progress was observed regarding economic, social and cultural rights. Reports of extrajudicial executions attributed to the security forces and other public officials increased, and high levels of torture and forced disappearances continued, as did reports of arrests and mass searches carried out without an appropriate legal basis by the army and the Attorney-General’s Office. The downward trend of various indicators of breaches of international humanitarian law continued, particularly multiple homicides and hostage-taking, although their incidence remained high. Illegal armed groups, particularly the Fuerzas Armadas Revolucionarias de Colombia-Ejército del Pueblo (FARC-EP) and the paramilitaries, continued to commit serious and numerous breaches such as attacks on civilians, indiscriminate attacks, homicides, massacres, hostage-taking, terrorist acts, forced displacements, the use of anti-personnel mines, the recruitment of minors and acts of sexual violence against women and girls. Allegations against members of the security forces, particularly the army, included homicides, indiscriminate attacks, homicides, massacres, hostage-taking, terrorist acts, forced displacements and attacks on the personal integrity and dignity of women. The vulnerability of human rights defenders continued. The number of newly displaced persons continued to decrease, although the total number of internally displaced persons increased. The indigenous and Afro-Colombian communities continued to be threatened by the illegal armed groups.

The High Commissioner proposed 27 recommendations addressed to the Government, the supervisory bodies responsible for human rights promotion and protection, representative sectors of civil society, the international community and the illegal armed groups, regarding prevention and protection, the internal armed conflict, the rule of law and impunity, economic and social policies, the promotion of a culture of human
Communication. Colombia, in observations on the High Commissioner’s report [E/CN.4/2005/G/29], presented its comments regarding the evolution of the armed conflict, public policy and implementation of the High Commissioner’s recommendations, economic and social policies, and the situation of human rights and international humanitarian law.

(See pp. 737 and 792 respectively for details of visits to Colombia by the Special Rapporteurs on the right to freedom of opinion and expression and on the situation of human rights and fundamental freedoms of indigenous peoples.)

Cuba

Commission action. On 15 April [res. 2004/11], by a recorded vote of 22 to 21, with 10 abstentions, the Commission stated that Cuba should refrain from adopting measures that could jeopardize the fundamental rights, the freedom of expression and the right to due process of its citizens, and, in that regard, deplored the events which occurred in 2003 relating to verdicts pronounced in March/April 2003 and still imprisoned.

Report of Personal Representative. A report of the High Commissioner’s Personal Representative [E/CN.4/2005/35 & Corr.1], Christine Chanet (France), reviewed the factors hindering the realization of human rights in Cuba, particularly in terms of the impact of the economic, trade and financial embargo (see p. 305) on economic, social and cultural rights. She said the difficulties the population had encountered as a result of the embargo were compounded in 2004, particularly as a result of tighter economic and financial restrictions imposed by the United States in May.

Despite an unfavourable environment, the Government maintained a sound health system and school success rates, and made improvements in combating discrimination against women and in the exercise of freedom of religion. Subjects of concern were the arrest of some 80 persons, in March/April 2003, while working as journalists, writers, members of associations, human rights defenders or members of political parties and opposition trade unions. Moreover, in 2004 more people were arrested and convicted for openly expressing dissident political opinions. Although the Government had released 18 prisoners on humanitarian grounds, the releases did not signify the end of the period of repression which began in 2003, nor an improvement in civil and political rights. According to the Working Group on Arbitrary Detention (see p. 721), 61 people were still in arbitrary detention. The Personal Representative was alarmed at the allegations of ill-treatment in detention made by prisoners’ families. She recommended that the Government release detainees who had not committed violent acts against individuals or property; review laws which led to criminal prosecutions of persons exercising their freedom of expression, demonstration, assembly and association; uphold the moratorium on the application of the death penalty introduced in 2000; establish an independent body to receive complaints from persons claiming violation of their fundamental rights; review the regulations relating to travel into and out of the country; authorize NGOs to enter Cuba; foster pluralism in respect of associations, trade unions, organs of the press and political parties; and accede to the International Covenant on Civil and Political Rights and the Optional Protocol thereto and the International Covenant on Economic, Social and Cultural Rights, adopted by the General Assembly in resolution 2200 A (XXI) [YUN 1966, pp. 423 & 419], as well as the Second Optional Protocol of the Covenant on Civil and Political Rights, relating to the abolition of the death penalty, adopted by Assembly resolution 44/128 [YUN 1989, p. 484]. Annexed to the report was a list of civilians arrested in March/April 2003 and still imprisoned.


Asia

(For information on the human rights situation in Afghanistan, see p. 671; Cambodia, p. 672; and Timor-Leste, p. 675.)

China

On 15 April [E/2004/25], China motioned that the Commission take no action on a draft resolution on the human rights situation in China that would have expressed concern at continuing reports regarding severe restrictions of the freedoms of assembly, association, expression, conscience and religion. Legal processes that continued to fall short of international norms of due process and transparency, and arrests and other severe sentences for those seeking to exercise...
their fundamental rights, including those in Tibet and Xinjiang. The motion was carried by 28 votes to 16, with 9 abstentions.

(For information on a visit to China by the Working Group on Arbitrary Detention, see p. 722.)

**Democratic People's Republic of Korea**

**Commission action.** On 15 April [res. 2004/13], by a recorded vote of 29 to 8, with 16 abstentions, the Commission, expressing deep concern about continuing reports of systemic, widespread and grave human rights violations in the Democratic People's Republic of Korea (DPRK), regretted that the DPRK authorities had not permitted the international community to examine the reports in an independent manner and called on the Government to do so. The Commission Chairperson was requested to appoint a Special Rapporteur on the situation of human rights in the DPRK. The Special Rapporteur was asked to establish direct contact with the Government and people of the DPRK, report on the human rights situation in the country, seek and receive reliable information, including through country visits, and report to the General Assembly in 2004 and to the Commission in 2005. The Secretary-General was requested to assist the Special Rapporteur and the High Commissioner to engage in a dialogue with the DPRK authorities with a view to establishing human rights technical cooperation programmes and to report thereon. Relevant special rapporteurs and special representatives were requested to examine alleged human rights violations in the DPRK and to report in 2005; the Secretary-General was asked to assist them.

The Economic and Social Council, on 15 June, approved the Commission's request to its Chairperson to appoint a Special Rapporteur and to the Secretary-General to assist him/her (decision 2004/221).

In July, Vitit Muntarbhorn (Thailand) was appointed Special Rapporteur.

**Notes by Secretariat.** A February note by the Secretariat [E/CN.4/2004/31] described efforts to provide human rights advisory services and technical cooperation to the DPRK and provided information on the broad range of recommendations that the Commission addressed to the Government. Annexed to the note was a note verbale of 4 February from the DPRK to OHCHR, in which it objected to the Commission’s 2003 resolution [YUN 2003, p. 816], which, it said, lacked fairness and objectivity, and contained wording designed to impair its image.

A September Secretariat note [A/59/346] stated that, owing to his late appointment, the Special Rapporteur was unable to provide a written report to the General Assembly; instead he would present an oral statement.

**Report of Special Rapporteur.** On 28 October, in an oral report to the General Assembly’s Third Committee [A/C.3/59/SR.29], the Special Rapporteur said there were key human rights challenges in the DPRK regarding implementation of the right to food and the right to life. He pointed to the continuing debates on how much of the food aid provided to the country from abroad actually reached the target population. There were alleged violations of the right to security of person, humane treatment, non-discrimination and access to justice. The right to freedom of movement was also of concern, as were the rights to the freedom of information, expression and opinion, association and religion. The Special Rapporteur recommended that the Government abide by international human rights standards to which it was party and reform laws and practices inconsistent with those standards. He called for respect for the rule of law, and for measures addressing the root causes of displacement and ensuring humanitarian assistance.

Responding to the Special Rapporteur’s report, the DPRK said it was the ultimate manifestation of prejudice, unfairness and interference in the internal affairs of the country. The report was the result of a political plot on the part of Western countries to isolate the DPRK under the pretext of human rights protection.

On 20 December, the Assembly took note of the report (decision 59/528).

**Iran**

(For details of the visit to Iran by the Special Rapporteur on the human rights of migrants, see p. 697.)

**GENERAL ASSEMBLY ACTION**

On 20 December [meeting 74], the General Assembly, on the recommendation of the Third Committee [A/59/503/Add.3], adopted resolution 59/205 by recorded vote (71-54-55) [agenda item 105 (g)].

**Situation of human rights in the Islamic Republic of Iran**

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

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

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

Recalling its previous resolutions on the subject, the most recent of which is resolution 58/195 of 22 December 1993 of the Commission on Human Rights, the report of the Special Rapporteur of the Commission on Human Rights, the recommendation by the head of the judiciary of the Islamic Republic of Iran to judges in December 2002 that they choose alternative punishment in cases where the sentence of stoning would otherwise be imposed; the announcement by the head of the judiciary in April 1994 of the ban on torture and the subsequent passage of related legislation by the Parliament, which was approved by the Guardian Council in May 2004; the efforts of the elected Government to foster the growth of civil society; the human rights dialogues between the Islamic Republic of Iran and a number of countries; the cooperation with United Nations agencies in developing programmes in the field of human rights, good governance and the rule of law; the continuing violations of human rights in the Islamic Republic of Iran; the worsening situation with regard to freedom of opinion and expression and freedom of the media, especially the increased persecution for the peaceful expression of political views, including arbitrary arrest and detention without charge or trial; crackdowns by the judiciary and security forces against journalists, parliamentarians, students, clerics and academics; the unjustified closure of newspapers and blocking of Internet sites; the targeted disqualification of large numbers of prospective candidates in the Majlis elections as well as the intimidation and harassment of opposition activists in the run-up to the elections held in February 2004; the continuing executions in the absence of respect for internationally recognized safeguards, and in particular deplores the execution of persons below 18 years of age, contrary to the obligations of the Islamic Republic of Iran under article 7 of the Convention on the Rights of the Child and article 6 of the International Covenant on Civil and Political Rights, as well as public executions; the use of torture and other forms of cruel, inhuman and degrading punishment, in particular the practice of amputation and flogging, noting in this context the rejection by the Guardian Council in August 2003 of the proposal of the elected parliament to accede to the Convention against Torture and Other Cruel, Inhuman or Degrading treatment or Punishment; the continued restrictions on free assembly and the forcible dissolution of political parties; the failure to comply fully with international standards in the administration of justice, the absence of due process of law, the refusal to provide fair and public hearings and right to counsel, 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, officially recognized or otherwise; the systemic discrimination against women and girls in law and in practice, despite some minor legislative improvements, and the refusal of the Guardian Council to take steps to address this systematic discrimination, noting in this context its rejection, in August 2003, of the proposal of the elected parliament to accede to the Convention on the Elimination of All Forms of Discrimination against Women; the continuing discrimination against persons belonging to minorities, including Christians, Jews and Sunnis, and the increased discrimination against the Baha'is, including cases of arbitrary arrest and detention, the denial of free worship or of publicly carrying out communal affairs, the disregard of property rights, the destruction of sites of religious importance, the suspension of social, educational and community-related activities and the denial of access to higher education, employment, pensions and other benefits; the continuing persecution, including through the systematic and arbitrary use of prolonged solitary confinement, and arbitrary sentencing to prison of human rights defenders, political opponents, religious dissenters and reformists; the postponement of the visit of the Working Group on Enforced or Involuntary Disappearances of the Commission on Human Rights to the Islamic Republic of Iran; 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 provisions relating to freedom of opinion and expression, the use of torture and other forms of cruel, inhuman and degrading treatment or punishment, the promotion and protection of the human rights of women and girls and the rights of the child, and to continue its efforts to consolidate respect for human rights and the rule of law;


(b) To implement the recommendations of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur of the Commission on Human Rights on freedom of religion or belief;

c) To cooperate with United Nations mechanisms, including by setting a date for a visit by the Working Group on Enforced or Involuntary Disappearances, and to respond fully to their recommendations;

d) To implement fully the ban on torture, announced in April 2004 by the head of the judiciary, and the related parliamentary legislation of May 2004;

e) To expedite judicial reform, to guarantee the dignity of the individual and to ensure the full application of due process of law and with these specific 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, officially recognized or otherwise;

(f) To appoint an impartial prosecutor and to expedite the creation of offices of the Prosecutor in all provinces, in keeping with the decision taken in November 2002 for their re-establishment;

g) To eliminate all forms of discrimination based on religious grounds or against persons belonging to minorities, including the Bahá’ís, Christians, Jews and Sumis, and to address this matter in an open manner, with the full participation of the minorities themselves, and to ensure respect for the freedom of religion or belief of all persons;

h) To end amputation and flogging and all other forms of punishment that are cruel, inhuman or degrading;

(i) To abolish the punishment of execution by stoning and, in the meantime, to end the practice of stoning, as recommended by the head of the judiciary;

(j) To comply with its obligations under article 37 of the Convention on the Rights of the Child and article 6 of the International Covenant on Civil and Political Rights not to impose the sentence of death for offences committed by persons below 18 years of age;

(k) To vigorously pursue penitentiary reform;

4. Encourages the thematic mechanisms of the Commission on Human Rights, including the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on freedom of religion or belief and the Special Representative of the Secretary-General on the situation of human rights defenders 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 at its sixtieth 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 58/205:

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

Against: Algeria, Armenia, Azerbaijan, Bahrain, Bangladesh, Belarus, Brunei Darussalam, Chad, China, Comoros, Cuba, Democratic People’s Republic of Korea, Dubai, Egypt, Gambia, Guinea, India, Indonesia, Iran, Iraq, Kazakhstan, Kuwait, Kyrgyzstan, Lebanon, Libyan Arab Jamahiriya, Malaysia, Maldives, Mauritania, Morocco, Myanmar, Niger, Nigeria, Oman, Pakistan, Qatar, Russian Federation, Saudi Arabia, Senegal, Somalia, South Africa, Sri Lanka, Sudan, Syrian Arab Republic, Tajikistan, Togo, Tunisia, Turkmenistan, Ukraine, Uzbekistan, Venezuela, Viet Nam, Yemen, Zimbabwe.

Abstaining: Angola, Antigua and Barbuda, Argentina, Bahamas, Barbados, Benin, Bhutan, Botswana, Brazil, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, Central African Republic, Colombia, Côte d’Ivoire, Dominica, Dominican Republic, Ecuador, Equatorial Guinea, Eritrea, Ethiopia, Fiji, Ghana, Guatemala, Guinea-Bissau, Guyana, Hon- duras, Jamaica, Kenya, Lao People’s Democratic Republic, Lesotho, Liberia, Madagascar, Mauritius, Mozambique, Namibia, Nepal, Philip- pines, Republic of Korea, Rwanda, Saint Lucia, Sao Tome and Principe, Sierra Leone, Singapore, Suriname, Swaziland, Thailand, Trinidad and Tobago, Uganda, United Arab Emirates, United Republic of Tanzania, Uruguay, Zambia.

Iraq

Report of Special Rapporteur. A March report [E/CN.4/2004/56/Add.1] of the Special Rapporteur on the situation of human rights in Iraq, Andreas Mavrommatis (Cyprus), covered the situation in the country from 10 February to 7 March. Its findings were based mainly on substantive consultations he had held in Amman, Jordan, with eyewitnesses and high-level officials of the Iraqi Ministries of Human Rights, of Immigration and of Justice, and the Minister for Human Rights of the Kurdistan Regional Government. The consultations focused on oppression, discrimination, religious persecution, mass executions of persons belonging to the majority Shi’ah community, expulsions, mass executions of Fai’l (Shi’ah Iraqi Kurds) and misappropriation of their properties, eyewitness evidence on the Anfal campaigns and the Halabcha bombings in 1988, and the draining of the Marshes, including the consequent violations of a wide range of rights of the Marsh people. The Special Rapporteur urged all concerned to accelerate criminal investigations regarding grave human rights violations and to prosecute those responsible; to secure all mass graves and accelerate the identification of remains; and to continue and enhance cooperation with him. He called on all countries of asylum not to press refugees to return to Iraq and called on the Iraqi authorities to ensure that all laws and practices adopted were consistent with the country’s international obligations. The Special Rapporteur urged the Iraqi authorities to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment
or Punishment, adopted by the General Assembly in resolution 39/46 [YUN 1984, p. 843].

**Report of Acting High Commissioner.** A June report of the Acting High Commissioner [E/CN.4/2005/4] focused on the human rights situation in Iraq. He said that human rights gains had been made during the period since Coalition forces took control of the country, including an internal debate on a constitutional architecture mindful of international human rights norms; the establishment of an Iraqi Ministry of Human Rights; enhanced freedoms for ordinary Iraqis; increased participation of women in public life; and greater freedom of opinion and expression. Nevertheless, serious human rights problems were evidenced by the fact that large numbers of people were incarcerated without public knowledge of their number, nor the reasons for, place of and conditions of their detention. Ordinary Iraqis suffered privations in respect of basic economic and social rights, but that situation had improved. The treatment of Iraqi detainees was, as recognized by Coalition leaders at the highest levels, a stain on the effort to bring freedom to Iraq. The Acting High Commissioner recommended regular inspections of places of detention, the appointment of an international ombudsman or commissioner, the establishment of an independent Iraqi national human rights commission, bringing to justice members of the Coalition forces responsible for serious human rights violations and the creation by the Coalition authorities of a human rights fund for Iraq. Recommendations to the Iraqi Interim Government included promulgating a human rights policy for Iraq, establishing an Iraqi legal and judicial reform commission, developing a strategy for addressing the legacy of brutal authoritarian rule and massive human rights abuses, and reviewing the statute of the Iraq Special Tribunal. Recommendations were also made for consideration to be given to the need to establish an Iraqi truth and reconciliation commission, for designating a reparations commission for past crimes, ensuring the effective security of legal actors, defendants, victims and witnesses, supporting human rights civil society organizations and supporting the Ministry of Human Rights. The United Nations should continue to provide human rights training for government officials, judges, prosecutors, lawyers, and representatives of NGOs and civil society. Annexed to the report were submissions by the Coalition Provisional Authority, the United Kingdom and the United States; and a list of documents used to prepare the report.

**Communication.** In a July note [E/CN.4/2005/G/12], Iraq, responding to a 6 May letter of the Acting High Commissioner addressed to Iraqi senior officials regarding the situation of human rights and humanitarian law in the country, described aspects of the functioning of the Iraqi Interim Government, the situation of women and children, health concerns, education enrolment, the economic, social and cultural situation, and civil and political rights.

**Myanmar**

**Commission action.** On 21 April [res. 2004/61], the Commission, while welcoming some positive developments regarding human rights in Myanmar, expressed grave concern at the ongoing systematic human rights violations in the country. It called on the Government to restore the independence of the judiciary and due process of law, and to further reform the justice system; eradicate the practice of forced labour; ensure safe and unhindered access for the United Nations and international humanitarian organizations; cooperate with the Secretary-General’s Special Envoy for Myanmar and the Special Rapporteur; consider becoming party to international human rights instruments; suspend and permanently end conflict with ethnic groups; conclude a ceasefire agreement with the Karen National Union (KNU) and ensure that the rights of ethnic nationalities were respected fully; and establish a national human rights commission in accordance with the Principles relating to the establishment of national institutions for the promotion and protection of human rights (the Paris Principles), adopted in General Assembly resolution 48/134 [YUN 1995, p. 899]. The Commission decided to extend the Special Rapporteur’s mandate for a further year and asked him to report to the Assembly in 2004 and to the Commission in 2005 and to integrate a gender perspective in his work. The Secretary-General was asked to assist him.

On 22 July, the Economic and Social Council endorsed the Commission’s decision to extend the Special Rapporteur’s mandate and its request to him to submit reports (decision 2004/266).

**Reports of Secretary-General.** In response to General Assembly resolution 58/247 [YUN 2003, p. 820], the Secretary-General submitted a March report [E/CN.4/2004/30] on his good offices efforts and those of his Special Envoy, Razali Ismail, in facilitating national reconciliation and democratization in Myanmar. Discussions focused on the reconvening of the Government’s National Convention in order to draft a new constitution, with the participation of representatives of other political parties. The Secretary-General called for the release of those detained for engaging in peaceful political activities and took note of the
peace talks that had resumed between the Government and KNU, the largest armed opposition group. He urged the Government to start dialogue with Daw Aung San Suu Kyi, leader of the National League for Democracy (NLD), and representatives of Myanmar’s other political parties.

In an August report [A/59/269], the Secretary-General said that his Special Envoy visited Myanmar (1-4 March) where he stressed to all parties that a democratic transition in Myanmar should be all-inclusive, open and transparent. Following the Envoy’s visit, several NLD Central Executive Committee (CEC) members were released from house arrest, the NLD headquarters in Yangon were reopened and several meetings between Daw Aung San Suu Kyi and NLD CEC members were allowed to take place at her residence. Optimism dissipated on 14 May when the Government informed CEC members that the remaining restrictions on Daw Aung San Suu Kyi and NLD would not be lifted. NLD announced that it would not participate in the National Convention. The National Convention reconvened on 17 May with the participation of ethnic nationality ceasefire groups but without NLD and some other ethnic nationality political parties, including the Shan National League for Democracy. On 22 May, meetings of the groups began to prepare proposals on the draft chapters of the constitution on the legislature, executive and judiciary already laid down at the previous Convention. In plenary sessions (24 June–9 July), delegates put forward proposals for sharing power in the legislative, executive and judicial sectors to be included in the new constitution. The National Convention was adjourned on 9 July with no firm date for reconvening. A government statement of 10 July affirmed that when the Convention resumed, detailed basic principles on the legislature, executive and judiciary, as well as the sharing and distribution of legislative power and the formation of a financial commission, would be laid down with the consent of a majority of the delegates.

Reports of Special Rapporteur. In response to Commission resolution 2004/61 and Economic and Social Council decision 2004/266 (above), the Secretary-General, by an August note [A/59/311], transmitted a report of Special Rapporteur Paulo Sérgio Pinheiro (Brazil) on the human rights situation in Myanmar, based on information received by him up to 30 July.

Regarding civil and political rights, the Special Rapporteur said that the situation in Myanmar had not substantially changed. There remained large numbers (over 1,300) of security detainees and there were no indications as to when Daw Aung San Suu Kyi would be released. Since the beginning of 2004, he had received reports about continuing arrests and harsh sentences for peaceful political activities. There were still restrictions on political activity, with all NLD party offices remaining shut except for its headquarters in Yangon. Regarding the situation in the border areas, the resumption of peace talks between the Government and KNU was a significant development. The two sides planned to meet in August for a fourth round of negotiations aimed at ending the armed conflict. The Special Rapporteur received credible reports of human rights violations in certain counter-insurgency areas. As to children’s rights, the Committee for the Prevention of the Recruitment of Child Soldiers was established in January, and the Government had invited a delegation of the Committee on the Rights of the Child to visit Myanmar.

A December report [E/CN.4/2005/36] of the Special Rapporteur, based on information received by him up to 29 November, said there was a change of Prime Minister on 19 October. The Government, under the new Prime Minister, had given public assurances that all commitments made under the previous Government would be honoured. Regarding the human rights situation, the Special Rapporteur reported that there had been no change in the situation of fundamental rights and freedoms. Recent cases of arrests, trials and prison sentences for peaceful political activity had been brought to his attention. The Special Rapporteur expressed concern that the number of persons imprisoned for exercising their fundamental rights to freedom of expression, opinion, information, religion, association and assembly had remained unchanged during the reporting period, and political prisoners had been detained beyond the expiry of their sentences. With the recent leadership changes, the 1983 law on the National Intelligence Bureau was repealed on 22 October. The Special Rapporteur remained disturbed by continuing allegations of human rights violations in ethnic minority areas, where civilians had witnessed widespread violations of economic, social and cultural rights.

There continued to be credible reports about the recruitment and use of minors by the Myanmar armed forces and a range of non-State armed opposition groups. The Special Rapporteur recommended the unconditional release of political prisoners, the restoration of freedom for political parties and ceasefire partners to operate and pursue peaceful political activity, the establishment by the Government of mechanisms for determining the accountability of army personnel for human rights violations, the coordination of political, humanitarian and human rights initia-
tives by UN and international community actors
and agencies, and that priority be given to the rat-
ification of human rights instruments.

GENERAL ASSEMBLY ACTION

On 23 December [meeting 76], the General As-
sembly, on the recommendation of the Third
Committee [A/59/505/Add.3], adopted resolution
59/263 without vote [agenda item 105 (c)].

Situation of human rights in Myanmar

The General Assembly,

Reaffirming that all States Members of the United
Nations have an obligation to promote and protect hu-
man rights and fundamental freedoms and the duty to
fulfil the obligations they have undertaken under the
various international instruments in this field,

Reaffirming also its previous resolutions on the hu-
mans rights situation in Myanmar, the most recent of
which is resolution 58/247 of 23 December 2003, those
of the Commission on Human Rights, the most recent of
which is resolution 2004/61 of 21 April 2004, and
the conclusions of the special sitting of the Committee
on the Application of Standards of the International
Labour Conference of 5 June 2004,

Bearing in mind Security Council resolutions 1460
2004,

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

1. Welcomes:

(a) The report of the Secretary-General and the in-
term report of the Special Rapporteur of the Commis-
on Human Rights on the situation of human rights in
Myanmar;
(b) The personal engagement of the Secretary-
General with the situation in Myanmar and his state-
ment of 17 August 2004, in which he calls upon the
Government of Myanmar to release Daw Aung San
Suu Kyi immediately and to engage in substantive di-
alogue with the National League for Democracy and
other political parties;

(c) The establishment by the Government of a com-
mittee for the prevention of military recruitment of
underage children and its discussions with the United
Nations Children’s Fund towards concluding a plan of
action, and stresses the need for the Government to
work closely with the Fund;

(d) The resumption of peace talks between the Gov-
ernment of Myanmar and the Karen National Union;

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

2. Expresses 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 particu-
lar as outlined in previous resolutions concerning the
situation of human rights in Myanmar, the most recent of
which are General Assembly resolution 58/247 and
Commission on Human Rights resolution 2004/61;

(b) The events of 30 May 2003 and the continuing
detention and house arrest of Daw Aung San Suu
Kyi and members of the National League for Democracy;

(c) The fact that the Myanmar authorities have yet to
implement recommendations contained in the
aforementioned resolutions adopted by the General
Assembly and the Commission on Human Rights;

(d) The fact that the Myanmar authorities have not
permitted the Special Envoy of the Secretary-General
for Myanmar to visit for over six months, or the Special
Rapporteur to visit for almost twelve months, despite
repeated requests;

(e) The continuing restrictions placed on the Na-
tional League for Democracy and other political par-
ties which prevented them from participating in the
National Convention;

3. Calls upon the Government of Myanmar:

(a) To end the systematic violations of human
rights in Myanmar, including extrajudicial killings,
the use of torture, the use of rape and other forms of
sexual violence persistently carried out by members of
the armed forces, discrimination and violations suf-
fered in particular by persons belonging to ethnic mi-
orities, women and children and violations of the
right to an adequate standard of living; to ensure full
respect for all human rights and fundamental free-
doms; to end impunity; and to investigate and bring to
justice any perpetrators of human rights violations, in-
cluding members of the military and other government
agents in all circumstances;

(b) To ensure that the next session of the National
Convention is fully inclusive of all political parties and
representatives and all major ethnic nationalities not
represented by a political party, and that participants
are guaranteed freedom of association and freedom
of expression, including freedom of the media and un-
limited access to information for the people of
Myanmar, and guarantees the safety of all participants;

(c) To restore democracy and respect the results of
the 1990 elections by, inter alia, releasing immediately
and unconditionally the leadership of the National
League for Democracy, including Daw Aung San
Suu Kyi, and members of the League detained on or after
30 May 2003, as well as other prisoners of conscience,
and to cease the ongoing harassment of the League
and other political parties and allow the reopening of
the offices of the League throughout the country;

(d) To release immediately and unconditionally all
detained or imprisoned political prisoners;

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

(f) To cooperate fully with the Special Envoy and
the Special Rapporteur in order to help to bring
Myanmar towards a transition to civilian rule and to
ensure that they are both granted without further de-
lay full, free and unimpeded access to Myanmar and
that no person cooperating with the Special Envoy, the
Special Rapporteur or any international organization
is subjected to any form of intimidation, harassment or
punishment, and to review as a matter of urgency the
case of those undergoing punishment in this regard;

(g) To consider as a matter of high priority becom-
ing a party to all relevant human rights instruments;
(b) To take immediate action to implement fully concrete legislative, executive and administrative measures to eradicate the practice of forced labour by all organs of Government, including the armed forces, to cooperate with the International Labour Organization, and to implement fully the recommendations of the Commission of Inquiry established to examine the observance by Myanmar of the Convention concerning Forced or Compulsory Labour, 1950 (Convention No. 29), of the International Labour Organization;

(c) To put an immediate end to the recruitment and use of child soldiers and to extend full cooperation to relevant international organizations in order to ensure the demobilization of child soldiers, their return home and their rehabilitation in accordance with recommendations of the Committee on the Rights of the Child;

(d) To end the policy of the systematic enforced displacement of persons and other policies leading to displacement within Myanmar and refugee flows to neighbouring countries, to provide the necessary protection and assistance to internally displaced persons and to respect the right of refugees to voluntary, safe and dignified return monitored by appropriate international agencies;

(e) To immediately ensure the safe and unhindered access to all parts of Myanmar of the United Nations and international humanitarian organizations so as to ensure the provision of humanitarian assistance and to guarantee that it reaches the most vulnerable groups of the population, including internally displaced persons and returnees;

(f) 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;

(g) To formulate a clear and detailed plan for the transition to democracy, which includes concrete timing and the involvement of all political groups and ethnic nationalities in a way that ensures the process is transparent and inclusive;

4. Requests the Secretary-General:

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

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

(c) To report to the General Assembly at its sixty-sixth session and to the Commission on Human Rights at its sixty-first session on the progress made in the implementation of the present resolution;

5. Decide to continue the consideration of the question at its sixtieth session.

**Turkmenistan**

**Commission action.** On 15 April [res. 2004/12], by a recorded vote of 25 to 11, with 17 abstentions, the Commission expressed grave concern at the Government of Turkmenistan’s policy based on the repression of political opposition activities; abuse of the legal system through arbitrary detention, imprisonment and surveillance of those who tried to exercise their freedoms of thought, expression, assembly and association, and harassment of their families; restrictions on the freedoms of information and expression, thought, conscience, religion and belief; employment and education discrimination against ethnic Russian, Uzbek and other minorities; and poor prison conditions. The Government was urged to ensure full respect for all human rights and fundamental freedoms, end forced displacement and guarantee freedom of movement, remove new restrictions on the activities of public associations, develop further a constructive dialogue with OHCHR and submit reports to relevant UN treaty bodies and ensure full implementation of their recommendations. The Commission requested the Special Rapporteurs on the independence of judges and lawyers, on torture and other cruel, inhuman or degrading treatment or punishment, on extrajudicial, summary or 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 Representative of the Secretary-General on internally displaced persons and the Special Representative of the Secretary-General on the situation of human rights defenders to consider visiting the country, and called on the Government of Turkmenistan to facilitate the visits.

**Communication.** On 20 April [E/CN.4/2004/63], Turkmenistan said that the Commission’s resolution (above) did not correspond to reality and it felt it necessary to present information regarding the implementation of guarantees of personal, political, economic, social and other rights of its citizens.

**GENERAL ASSEMBLY ACTION**

On 20 December [meeting 74], the General Assembly, on the recommendation of the Third Committee [A/59/503/Add.3], adopted resolution 59/206 by recorded vote (69-47-63) [agenda item 105 (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,

**Recalling** its resolution 58/194 of 22 December 2003,

1. **Welcomes:**

(a) The limited increase in the ability of members of certain religious minority groups, including members of the Baha’i faith, the Baptist church, the Hare Krishna movement and the Seventh Day Adventist church, to practice their religion;

(b) The release in June 2004 of a number of Jehovah’s Witnesses who had made conscientious objec-
tions to undertaking military service, but notes with concern that other Jehovah’s Witnesses continue to be jailed on the same charge;

(c) The comments of the Government of Turkmenistan in May 2004 that interested representatives of the international community were welcome to visit Turkmen prisons, and notes with satisfaction that the Government has begun preliminary discussions with representatives of the International Committee of the Red Cross regarding prison access;

(d) The fact that the Personal Envoy of the Chairman-in-Office of the Organization for Security and Cooperation in Europe for Participating States in Central Asia has been given the opportunity for further dialogue with the Government of Turkmenistan, and expresses the hope that a constructive dialogue on human rights issues is to be continued soon;

(e) The submission of the national report under the International Convention on the Elimination of All Forms of Racial Discrimination to the Office of the United Nations High Commissioner for Human Rights and the recent submission of the report under the Convention on the Elimination of All Forms of Discrimination against Women to the Division for the Advancement of Women of the Department of Economic and Social Affairs of the Secretariat and the announcement by the Government of Turkmenistan that it intends to submit the reports due under the Convention on the Rights of the Child by the end of 2004;

(f) The amendment of 2 November 2004 to the Criminal Code of Turkmenistan rescinding article 225/1, which stipulated criminal penalties for unregistered activities of public associations, including non-governmental organizations;

(g) The invitation by the Government of Turkmenistan to the High Commissioner on National Minorities of the Organization for Security and Cooperation in Europe, which was extended on 16 November 2004, to visit the country by the end of 2004;

2. Expresses its grave concern at the continuing and serious human rights violations occurring in Turkmenistan, in particular:

(a) The persistence of a governmental policy based on the repression of all political opposition activities;

(b) The continuing abuse of the legal system through arbitrary detentions, imprisonment and surveillance of persons who try to exercise their freedom of expression, assembly and association, and by harassment of their families;

(c) Further restrictions on the freedom of expression and opinion, including the loss of local retransmissions of Russian language programmes on Radio Mayak, and serious harassment endured by local correspondents and collaborators of Radio Liberty;

(d) Continued discrimination on the exercise of the freedom of thought, conscience, religion and belief;

(e) Continued discrimination by the Government of Turkmenistan against ethnic minorities in the fields of education and employment and by forced displacements, despite assurances by the Government that it will stop this discrimination;

(f) Constraints faced by civil society organizations, including the slow progress in the registration of non-governmental organizations;

3. Regrets the decision of the Government of Turkmenistan not to renew the accreditation for the Head of the Centre of the Organization for Security and Cooperation in Europe at Ashgabat, but hopes that the Turkmen authorities will cooperate fully with her successor;

4. Calls upon the Government of Turkmenistan:

(a) To ensure full respect for all human rights and fundamental freedoms and, in this regard, to implement fully the measures set out in Commission on Human Rights resolutions 2003/11 of 16 April 2003 and 2004/12 of 15 April 2004;

(b) To work closely with the Office of the United Nations High Commissioner for Human Rights with regard to the areas of concern and to cooperate fully with all the mechanisms of the Commission on Human Rights and all the relevant United Nations treaty bodies;

(c) To implement fully the recommendations outlined in the report of the Rapporteur of the Moscow Mechanism of the Organization for Security and Cooperation in Europe and to work constructively with the various institutions of the Organization, in particular following the visit of the Personal Envoy of the Chairman-in-Office of the Organization for Participating States in Central Asia, to work towards implementation of those recommendations and to make the necessary arrangements to facilitate a full visit by the High Commissioner on National Minorities of the Organization by the end of 2004;

(d) To release immediately and unconditionally all prisoners of conscience;

(e) To give real substance to the May 2004 offer of the Government of Turkmenistan for interested representatives of the international community to visit Turkmen prisons by providing appropriate independent bodies, including the International Committee of the Red Cross, with full access to all places of detention in accordance with the usual modalities for those organizations and ensuring that lawyers and relatives have full and repeated access to all those in detention, including those convicted of involvement in the attempted coup d’état of 25 November 2002;

(f) To ensure that the forthcoming parliamentary elections will be held consistent with the commitments of the Organization for Security and Cooperation in Europe and other international standards for democratic elections;

(g) To remove the remaining restrictions on the activities of public associations, including non-governmental organizations, and to enable those organizations, in particular human rights organizations, and other civil society actors to carry out their activities without hindrance, building upon the amendment of 2 November 2004 to the Criminal Code of Turkmenistan abolishing criminal penalties for unregistered activities of public associations;

5. Requests the Secretary-General to submit a report to the General Assembly at its sixtieth session on the implementation of the present resolution.

RECORDED VOTE ON RESOLUTION 59/206:

In favour: Albania, Andorra, Argentina, Australia, Austria, Belgium, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Chile, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, El Salvador, Estonia, Finland, France, Germany, Greece, Guatemala, Guinea-Bissau, Haiti, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malawi, Malta, Marshall Islands, Mexico, Micronesia, Monaco, Nauru, Netherlands, New Zealand, Nicaragua, Norway, Palau, Panama, Paraguay, Peru, Poland, Portugal, Republic of Korea, Romania, Samoa, San Marino, Serbia and Montenegro, Slovakia, Slovenia, Spain, Sweden, Switzerland, The
Europe

Belarus

Commission action. On 15 April [res. 2004/14], by a recorded vote of 23 to 13, with 17 abstentions, the Commission expressed deep concern at reports from credible sources implicating senior Belarus government officials in the forced disappearance and/or summary execution of three political opponents of the incumbent authorities and of a journalist; the electoral process and legislation in Belarus, which remained fundamentally flawed; continued reports of harassment of independent and international human rights organizations, independent media outlets, opposition political parties and independent trade unions, and the harassment of those engaged in democratic activities; increased restrictions on the activities of religious organizations; reports of harassment of independent and internationally oriented educational establishments; opposition to the restructuring of the society in order to promote human rights in the country; a programme of public education and public awareness regarding human rights; and the creation of an international fund for human rights education in Belarus, under the supervision of the Commission on Human Rights. The High Commissioner should convene an international conference on the human rights situation in Belarus.

Communications. Referring to Commission resolution 2004/14 (above), Belarus, in a December communication [E/CN.4/2005/G/11], said it had always been committed to the cause of human rights protection and rejected the resolution, including the Special Rapporteur’s mandate. In further communications, Belarus, in view of the Special Rapporteur’s report (above), submitted information on measures it had taken to strengthen international security, arms control and disarmament [E/CN.4/2005/G/27] and on social and economic developments in the country [E/CN.4/2005/G/28].

For information about a visit to Belarus by the Working Group on Arbitrary Detention, see p. 722.

Cyprus


human rights violations
Human rights concerns stemmed predominantly from the persisting division of the island and the political situation, which had consequences for the enjoyment of the freedoms of movement, association and expression, property rights and religion and the rights to education and health. Also affected were voting rights and the human rights issues pertaining to missing persons. The report said that, although there were some positive developments, the persisting de facto partition of the island constituted a major obstacle to human rights enjoyment throughout the island.

Commission action. On 21 April [dec. 2004/126], the Commission retained the item on Cyprus on its agenda, on the understanding that previous resolutions would continue to remain operative, including its request to the Secretary-General to report on their implementation.

(See also p. 434.)

Russian Federation

A draft resolution [E/2004/23], introduced in the Commission on 15 April, would have expressed deep concern about human rights, the humanitarian situation and security in Chechnya. It would have called on the Russian Federation to cooperate with human rights mechanisms; facilitate the delivery of humanitarian aid; stop and prevent violations of human rights and international humanitarian law; and ensure free, unimpeded and secure access to Chechnya for international organizations, NGOs and the media. By a recorded vote of 23 votes to 12, with 18 abstentions, taken at the request of the Russian Federation, the draft was rejected.

Middle East

Lebanon

Report of Secretary-General. In response to a 2003 Commission resolution on the human rights situation of Lebanese detainees in Israel [YUN 2003, p. 825], the Secretary-General said he had asked Israel for information on the status of implementation of the resolution but had received no reply [E/CN.4/2004/28].

A March addendum to the Secretary-General’s report [E/CN.4/2004/28/Add.1] stated that, on 29 January, 23 Lebanese detainees were released. He had further requested information on the extent of the implementation of the Commission’s 2003 resolution but had received no reply.

Communications. On 24 March [E/CN.4/2004/G/36], Israel said that it was not holding any Lebanese detainees as so-called hostages or for bargaining purposes. It submitted a list of those currently held in Israel and the reasons for their detention. On 25 March [E/CN.4/2004/G/37], Israel submitted a list of names of some Lebanese detainees and those recorded as missing.

Commission action. On 15 April [dec. 2004/105], the Commission decided to defer to its 2005 session consideration of a draft resolution on the human rights situation of Lebanese detainees in Israel.

Territories occupied by Israel

During 2004, 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 2003 Commission request [YUN 2003, p. 826], the Secretary-General reported that he had brought the Commission’s resolution on the occupied Syrian Golan to the attention of all Governments, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations [E/CN.4/2004/24]. 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 UNRWA.

The Secretary-General, in a further report [E/CN.4/2004/25], submitted in response to a 2003 Commission request [YUN 2003, p. 826], said 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 note of the Secretary-General [E/CN.4/2004/26] listed all General Assembly reports issued since 25 April 2003 on the situation of
the population living in the occupied Arab territories.

**Commission action.** On 23 March [dec. 2004/102], the Commission, by a recorded vote of 34 to 3, with 14 abstentions, called for an urgent special sitting to consider the situation in the Occupied Palestinian Territory resulting from the assassination of Sheikh Ahmed Yassin on 22 March (see p. 457). At the special sitting [E/CN.4/2004/SR.18], on 24 March [res. 2004/1], by a recorded vote of 31 to 2, with 18 abstentions, the Commission strongly condemned the continuing grave human rights violations in the Territory, particularly the assassination of Sheikh Yassin. Noting with grave concern the implications of such targeted assassinations, liquidation and murder of political leadership by the Israeli occupation forces, the Commission called on Israel to respect the principles of international humanitarian law and to desist from all forms of human rights violation in the Territory.

On 15 April [res. 2004/8], by a recorded vote of 31 to 1, with 21 abstentions, the Commission called on Israel to comply with UN resolutions on the 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 disseminate it widely and to report on its implementation by Israel in 2005. He was also asked to provide the Commission with all UN reports issued between the Commission’s sessions that dealt with the conditions of the Palestinian and other Arab territories under Israeli occupation. The Special Rapporteur was requested to report to the General Assembly in 2004 and to the Commission in 2005.

On 22 July, the Economic and Social Council took note of Commission resolution 2004/10 and approved the Commission’s request to the Special Rapporteur (decision 2004/250).

**Reports of Special Rapporteur.** In a February addendum [E/CN.4/2004/6/Add.1] to a report submitted in 2003 [YUN 2003, p. 826], Special Rapporteur John Dugard (South Africa), following his visit to the Occupied Palestinian Territory and Israel (8-15 February), focused on the wall being built by Israel in the West Bank, which had resulted in the creation of a zone between the Green Line (the de facto border between Israel and Palestine) and the wall inside the Occupied Palestinian Territory. He concluded that, based on evidence made available to him and the benefit of on-site inspection, the wall did not serve a legitimate security purpose when it entered into Palestinian land. Thus, it had to be seen as an instrument of annexation, in violation of international law. The wall interfered with the Palestinian right of self-determination as it substantially reduced the size of the self-determination unit within which the right was to be exercised; violated the right to freedom of movement and the rights to family life, to work, to health, to an adequate standard of living and to education; violated principles of international humanitarian law; and constituted de facto annexation of Palestinian territory by forcible means. He recommended that the Commission call on States to
respond to such violations by explicit non-recognition of the acquisition of territory by forcible means occasioned by the wall and by condemning the ensuing violation of human rights and international humanitarian law. He also proposed expanding OHCHR’s mandate in the region to include monitoring of human rights violations in addition to technical assistance.

An August note of the Secretary-General [A/59/256] transmitted a report of the Special Rapporteur, in response to Commission resolution 2004/10 (above), based on his visit to the Occupied Palestinian Territory (Gaza and the West Bank, 18-25 June). The report focused on the consequences of military incursions into the Gaza Strip, violations of human rights and humanitarian law arising from the construction of the wall and the pervasiveness of restrictions on freedom of movement. The Special Rapporteur pointed out that the International Court of Justice held that the wall was contrary to international law (see p. 1272). Thus, the unlawfulness of the wall was now made clear under international law. Israel was legally and morally obliged to bring its practices and policies into line with international law, said the Special Rapporteur. He reminded States of their obligation not to recognize the illegal situation resulting from the construction of the wall and not to render aid or assistance in maintaining the situation created by its construction.

On 20 December, the General Assembly took note of the report (decision 59/528).

(For information on a visit to the Occupied Palestinian Territory by the Special Rapporteur on violence against women, see p. 776)

Communications, Israel, in a 29 March letter [E/CN.4/2004/G/42], responding to the Special Rapporteur’s February report (above), said that his allegations were based almost entirely on rumour and speculation. The report was rife with unsubstantiated and unattributed reports and made no mention of Israel’s efforts to ease the impact of the wall on the lives of affected Palestinians. Referring to the Special Rapporteur’s August report (above), Israel, on 25 October [E/CN.4/2005/G/9], said it distorted both fact and law, all in the service of a narrow and extreme political agenda. Israel made a number of general observations on the report.