Protection of human rights

In 2008, the United Nations continued to protect human rights worldwide through several mechanisms. Its main organs—the Economic and Social Council, the General Assembly and the Security Council—remained actively engaged in protecting those rights. The Assembly’s Human Rights Council carried out its task as the central United Nations intergovernmental body responsible for promoting and protecting all human rights and fundamental freedoms. It addressed human rights violations, worked to prevent abuses, provided overall policy guidance, monitored the observance of human rights around the world and assisted States in fulfilling their human rights obligations.

The special procedures mandate-holders—special rapporteurs, working groups, independent experts and special representatives—monitored, examined, advised and publicly reported on human rights situations in specific countries or on major human rights violations worldwide. In 2008, 30 thematic mandate-holders reported on adequate housing, people of African descent, arbitrary detention, children and armed conflict, the sale of children, education, enforced or involuntary disappearances, extrajudicial executions, effects of foreign debt on human rights, extreme poverty, the right to food, freedom of opinion and expression, freedom of religion or belief, physical and mental health, human rights defenders, independence of the judiciary, indigenous peoples, internally displaced persons, human rights and international solidarity, mercenaries, migrants, minority issues, racism and racial discrimination, slavery, human rights protection while countering terrorism, torture, the illicit movement and dumping of toxic and dangerous products and wastes, trafficking in persons, transnational corporations, and violence against women. During the year, mandate-holders sent 911 communications to 118 countries regarding 2,206 individuals; two thirds were joint communications sent by two or more mandates. They also conducted 53 fact-finding missions to 48 countries, issued 177 statements and press releases, and submitted 135 reports to the Human Rights Council (120 by thematic mandate-holders), including 79 annual reports and 56 country visit reports, and 19 reports to the General Assembly. In June, the Council created the mandate of the independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation.

In May, the Council held a special session to take action on the negative impact on the realization of the right to food of the worsening world food crisis, caused by soaring food prices, among other things.

The rights of minorities continued to be a major focus. The Forum on Minority Issues, created by the Council in 2007, met for the first time in December under the guidance of the independent expert on minority issues. The Permanent Forum on Indigenous Issues addressed indigenous concerns relating to economic and social development, culture, education, the environment, health and human rights, and helped to coordinate related UN activities. The Expert Mechanism on the Rights of Indigenous Peoples, at its first session, discussed participation of indigenous peoples in its work, as well as issues related to discrimination and the rights of indigenous peoples to education.

Preparations continued for the Durban Review Conference, scheduled for 2009, whose objectives included a review of the progress made in implementing the 2001 Durban Programme of Action and an assessment of the effectiveness of mechanisms and instruments for tackling racial discrimination.

Racism and racial discrimination

Follow-up to 2001 World Conference

Intergovernmental Working Group. The Intergovernmental Working Group on the effective implementation of the Durban Declaration and Programme of Action (ddpa), adopted by the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance [YUN 2001, p. 615], held its sixth session in two parts (Geneva, 21 January–1 February and 18 December) [A/HRC/10/87].

The Working Group discussed its contribution to the work of the Preparatory Committee for the Durban Review Conference (see p. 762) and its future work. The Working Group adopted a compilation of conclusions and recommendations adopted at its five previous sessions [A/CONF.211/PC.2/7], which was submitted to the Preparatory Committee as part of the Working Group’s contribution. The recommendations covered, among other issues, education, poverty, racism and health, racism and the Internet, globalization and racism and the migration dimension. A Secretariat note [A/HRC/10/WG.3/2] provided updated information on the Working Group’s sixth session.
In September [A/HRC/9/5], the Office of the United Nations High Commissioner for Human Rights (OHCHR) reported on actions it had taken to implement the recommendations made by the Working Group at its fifth session [YUN 2007, p. 706].

Report of Secretary-General. Pursuant to General Assembly resolution 62/220 [ibid., p. 708], the Secretary-General, in October, submitted a report [A/63/366] on activities undertaken between August 2006 and July 2007 by States, human rights mechanisms and OHCHR to implement DDPA. The report, which built on the Secretary-General’s 2006 report on the topic [YUN 2007, p. 707], concluded that, since the adoption of DDPA, many countries had demonstrated commitment to combating racism and related phenomena. Nearly all constitutions guaranteed the principle of equality, and many countries had reformed their laws to eliminate those that were discriminatory. At the regional level, harmonization of national laws with European Union (EU) human rights principles, including the prohibition of racism and discrimination, had indirectly benefited the implementation of DDPA.

Working Group on people of African descent. At its seventh session (Geneva, 14–18 January) [A/HRC/7/36], the Working Group of Experts on People of African Descent, established by the defunct Commission on Human Rights in 2002 [YUN 2002, p. 661] to consider problems of racial discrimination affecting people of African descent, in accordance with DDPA, reviewed the recommendations made at previous sessions in order to distil its contribution to the Review Conference. After reviewing those recommendations, the Working Group, as part of its contribution to the Preparatory Committee, called upon States that had not yet elaborated national plans of action to combat racism to do so, preferably before the Conference, and those that had should implement them fully and report thereon at the Conference. States should identify factors resulting in the over-representation in arrests, sentencing and incarceration of people of African descent, particularly young men, and take measures to eliminate those factors and adopt crime-prevention strategies and programmes that included alternatives to incarceration. They should also address the disproportionately low levels of representation of people of African descent in the judiciary and other areas of the justice system. States should implement mechanisms for effectively collecting disaggregated information on health, education, access to housing, employment, treatment in the criminal justice system and political participation and representation as regards people of African descent, which should be the basis for creating and monitoring policies and practices that addressed any discrimination found. OHCHR should provide guidelines on the collection of disaggregated information to States requesting them. A code of conduct for the media should be drawn up that, taking into account such issues as the right to freedom of expression, combated racial discrimination against people of African descent by elaborating compulsory standards. The aim would be to eliminate the projection and perpetuation, through the media and new technologies, of negative images and stereotypes of Africa and people of African descent. The code should also include provisions to address and combat incitement to racial hatred. States and international and regional organizations should establish independent bodies, where they did not already exist, to receive complaints by people of African descent of discrimination in accessing housing, education, health, employment and other fundamental rights. The Human Rights Council should request OHCHR to produce best practices in areas such as access to housing, education, health, employment and institutional and legal frameworks pertaining to people of African descent, as well as in combating stereotyping against that group in the media.

The Working Group recommended that the issue of reparations for people of African descent should be considered at the Durban Review Conference. The United Nations should also create a UN fellowship programme for people of African descent.

Human Rights Council action. On 28 March [A/63/53 (res. 7/33)], the Council, by a recorded vote of 34–0–13, saluted the positive developments in the fight against racism, racial discrimination, xenophobia and related intolerance, and urged all Governments to summon the political will to take decisive steps to combat racism in all its forms and manifestations. It acknowledged the report of the Working Group of Experts on People of African Descent on its seventh session (above) and decided to invite the Group to address the Council at its tenth (2010) session.

On 24 September [A/63/53/Add.1 (res. 9/14)], the Council extended the mandate of the Working Group for three years and requested it to report on progress in elaborating its mandate. It recommended that States ensure adequate representation of people of African descent in the judiciary and other areas of the justice system, identify factors that had resulted in their disproportionate arrest, sentencing and incarceration, and take measures to eliminate those factors and adopt crime-prevention strategies and programmes that included alternatives to incarceration.

Preparations for Durban Review Conference

Preparatory Committee session (April–May). The Preparatory Committee for the Durban Review Conference held its first substantive session (Geneva, 21 April–2 May and 26 May) [A/63/112], in accordance with General Assembly resolution 61/149 [YUN
2006, p. 824] and Human Rights Council resolutions 3/2 [ibid.] and 6/23 [YUN 2007, p. 706]. Among the documents before the Committee were the OHCHR questionnaire to Member States [A/CONF.211/PC.2/2], in accordance with a decision adopted at its first session [YUN 2007, p. 706], to facilitate the Durban Review process. The questionnaire consisted of six core questions drafted on the basis of the objectives of the Durban Review Conference [YUN 2007, p. 706], and replies to the questionnaire by States [A/CONF.211/PC.2/CRP.6], the Special Rapporteur on the right to education [A/CONF.211/PC.2/CRP.3], and the Committee on the Elimination of Racial Discrimination [A/CONF.211/PC.2/CRP.5]; proposals by the Committee’s Bureau and Chairperson [A/CONF.211/PC.2/4 & Add.1]; a compilation of contributions submitted by UN system specialized agencies and bodies, other intergovernmental organizations, and non-governmental organizations (NGOs) [A/CONF.211/PC.2/CRP.2]; and a compilation of the conclusions and recommendations adopted by the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action [A/CONF.211/PC.2/CRP.4].

The Committee decided that the Durban Review Conference, which would include a high-level segment, would be convened in Geneva from 20 to 24 April 2009 [A/63/112 (dec. PC.2/13)] under the theme “United against Racism: Dignity and Justice for All” [dec. PC.2/14]. It adopted the provisional agenda of the Conference [dec. PC.2/11], and decided [dec. PC.2/8] on the structure of the draft outcome document, which would be based on the review of progress and assessment on implementation of DDPD [YUN 2001, p. 615] by all stakeholders at all levels, including the assessment of contemporary manifestations of racism, racial discrimination, xenophobia and related intolerance; assessment of the effectiveness of Durban follow-up mechanisms and other UN mechanisms in order to enhance them; promotion of the universal ratification and implementation of the International Convention on the Elimination of All Forms of Racial Discrimination [YUN 1965, p. 433] and consideration of the recommendations on the Committee on the Elimination of Racial Discrimination; identification and sharing of best practices achieved at national, regional and international levels in the fight against racism, racial discrimination, xenophobia and related intolerance; and identification of further measures and initiatives for fostering the implementation of DDPD and addressing challenges and impediments thereto, including in light of developments since its adoption. The Committee also took decisions on the accreditation of NGOs, the participation of observers, an information strategy for the Conference and its logo.

It established an intersessional open-ended intergovernmental working group to follow up on its work, including through reviewing contributions and starting negotiations on the draft outcome document [dec. PC.2/4].

**Intersessional working group.** The intersessional open-ended working group to follow up the work of the Preparatory Committee held two sessions in Geneva: the first from 26 to 28 May, and the second on 5 and 29 September [A/CONF.211/PC.3/2]. At its first session, the working group had before it a “non-paper” submitted by the Chairperson-Rapporteur, containing an inventory of issues corresponding to the structure of the draft outcome document. The working group established an informal “Group of friends of the Chair” to meet during the intersessional period to facilitate work at the second session. At its second session, the working group considered a working document submitted by the Chairperson-Rapporteur entitled “Certain indicative elements in relation to the outcome document”, and a set of draft recommendations on the modalities of the organization of work and negotiations on the draft outcome document at the second session of the Preparatory Committee. On 29 September, the working group adopted recommendations on the organization of work and negotiations on the draft outcome document at the second session of the Preparatory Committee.

**Preparatory Committee session (October).** At its second substantive session (Geneva, 6–17 October) [A/CONF.211/PC.3/11 & Corr.1], the Preparatory Committee considered the report of the intersessional open-ended working group (above), the draft outcome document of the Durban Review Conference, and the organization of work of the Conference. The Preparatory Committee adopted one resolution and nine decisions. It decided to commence negotiation on and the drafting of the outcome document on the basis of the working document entitled “Certain indicative elements in relation to the outcome document” [A/63/112/Add.1 (res. PC.3/1)]. It invited the High Commissioner for Human Rights to report on the implementation of DDPD [YUN 2001, p. 615] and make proposals for enhancing its implementation, as well as for implementation of relevant decisions and resolutions of the Assembly and the Council [dec. PC.3/103]. The Preparatory Committee established an intersessional open-ended intergovernmental working group to finalize the drafting of the outcome document. The working group would meet on 27 November, and 19–23 January and 6–9 April 2009 [dec. PC.3/108]. It requested the Assembly to allocate resources for the participation of relevant human rights treaty bodies, and thematic special procedures and mechanisms in the Review Conference [dec. PC.3/109]. It also adopted decisions on the accreditation of NGOs.
Intersessional working group. At its first meeting (27 November) [A/CONF.211/PC.4/2], the reconvened intersessional working group reviewed the compilation of proposals submitted by delegations at the Preparatory Committee’s second substantive session corresponding to the structure of the draft outcome document [A/CONF.211/PC/WG.2/CRP.1]. The working group agreed that its Chairperson should be entrusted with undertaking a technical review of the proposals with a view to shortening and streamlining the document.

Regional preparatory meetings. Regional preparatory meetings for the Durban Review Conference were held for Latin America and the Caribbean (Brasilia, Brazil, 17–19 June) [A/CONF.211/PC.3/3] and Africa (Abuja, Nigeria, 24–26 August) [A/CONF.211/PC.3/4].


GENERAL ASSEMBLY ACTION

On 24 December [meeting 74], the General Assembly, on the recommendation of the Third (Social, Humanitarian and Cultural) Committee [A/63/428], adopted resolution 63/242 by recorded vote (109-13-35) [agenda item 62 (b)].

Global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action

The General Assembly,

Recalling its resolution 52/111 of 12 December 1997, in which it decided to convene the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and its resolutions 56/260 of 27 March 2002, 57/195 of 18 December 2002, 58/160 of 22 December 2003, 59/177 of 20 December 2004 and 60/144 of 16 December 2005, which guided the comprehensive follow-up to and effective implementation of the World Conference, and in this regard underlining the importance of their full and effective implementation,

Noting its resolution 61/149 of 19 December 2006, in which it decided to convene in 2009 a review conference on the implementation of the Durban Declaration and Programme of Action, hereinafter referred to as the Durban Review Conference, to be conducted within the framework of the General Assembly, and its resolution 62/220 of 22 December 2007,

Noting also, in the above context, the decisions adopted by the Preparatory Committee for the Durban Review Conference at its organizational session and its first and second substantive sessions, including decision PC.1/13 on the objectives of the Durban Review Conference and decision PC.2/8 on the structure of the outcome document,

Noting further all the relevant resolutions and decisions of the Commission on Human Rights and of the Human Rights Council on this subject, and calling for their implementation,

Noting Human Rights Council decision 3/103 of 8 December 2006, by which, heeding the decision and instruction of the 2001 World Conference, the Council established the Ad Hoc Committee of the Human Rights Council on the Elaboration of Complementary Standards,

Reiterating that all human beings are born free and equal in dignity and rights and have the potential to contribute constructively to the development and well-being of their societies, and that any doctrine of racial superiority is scientifically false, morally condemnable, socially unjust and dangerous and must be rejected, together with theories that attempt to determine the existence of separate human races,

Convinced that racism, racial discrimination, xenophobia and related intolerance manifest themselves in a differentiated manner for women and girls and may be among the factors leading to a deterioration in their living conditions, poverty, violence, multiple forms of discrimination and the limitation or denial of their human rights, and recognizing the need to integrate a gender perspective into relevant policies, strategies and programmes of action against racism, racial discrimination, xenophobia and related intolerance in order to address multiple forms of discrimination,

Underlining the primacy of political will, international cooperation and adequate funding at the national, regional and international levels for the successful implementation of the Durban Programme of Action,

Alarmed at the increase in racist violence and xenophobic ideas in many parts of the world, in political circles, in the sphere of public opinion and in society at large, inter alia, as a result of the resurgent activities of associations established on the basis of racist and xenophobic platforms and charters, and the persistent use of those platforms and charters to promote or incite racist ideologies,

Underlining the importance of urgently eliminating continuing and violent trends involving racism and racial discrimination, and conscious that any form of impunity for crimes motivated by racist and xenophobic attitudes plays a role in weakening the rule of law and democracy, tends to encourage the recurrence of such crimes and requires resolute action and cooperation for its eradication,

Welcoming the continued determination of the former United Nations High Commissioner for Human Rights to profile and increase the visibility of the struggle against racism, racial discrimination, xenophobia and related intolerance and the intention of the High Commissioner to make this a cross-cutting issue in the activities and programmes of her Office,

I

General principles

1. Acknowledges that no derogation from the prohibition of racial discrimination, genocide, the crime of apartheid or slavery is permitted, as defined in the obligations under the relevant human rights instruments;
2. Expresses its profound concern about and its unequivocal condemnation of all forms of racism and racial discrimination, including related acts of racially motivated violence, xenophobia and intolerance, as well as propaganda activities and organizations that attempt to justify or promote racism, racial discrimination, xenophobia and related intolerance in any form;

3. Expresses deep concern at the attempts to establish hierarchies among emerging and resurgent forms of racism, racial discrimination, xenophobia and related intolerance, and urges States to adopt measures to address these scourges with the same emphasis and vigour with a view to preventing this practice and protecting victims;

4. Stresses that States and international organizations have a responsibility to ensure that measures taken in the struggle against terrorism do not discriminate in purpose or effect on grounds of race, colour, descent or national or ethnic origin, and urges all States to rescind or refrain from all forms of racial profiling;

5. Recognizes that States should implement and enforce appropriate and effective legislative, judicial, regulatory and administrative measures to prevent and protect against acts of racism, racial discrimination, xenophobia and related intolerance, thereby contributing to the prevention of human rights violations;

6. Also recognizes that racism, racial discrimination, xenophobia and related intolerance occur on the grounds of race, colour, descent or national or ethnic origin and that victims can suffer multiple or aggravated forms of discrimination based on other related grounds, such as sex, language, religion, political or other opinion, social origin, property, birth or other status;

7. Reaffirms that any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law;

8. Emphasizes that it is the responsibility of States to adopt effective measures to combat criminal acts motivated by racism, racial discrimination, xenophobia and related intolerance, including measures to ensure that such motivations are considered an aggravating factor for the purposes of sentencing, to prevent those crimes from going unpunished and to ensure the rule of law;

9. Urges all States to review and, where necessary, revise their immigration laws, policies and practices so that they are free of racial discrimination and compatible with their obligations under international human rights instruments;

10. Calls upon all States, in accordance with the commitments undertaken in paragraph 147 of the Durban Programme of Action, to take all necessary measures to combat incitement to violence motivated by racial hatred, including through the misuse of print, audio-visual and electronic media and new communication technologies, and, in collaboration with service providers, to promote the use of such technologies, including the Internet, to contribute to the fight against racism, in conformity with international standards of freedom of expression and taking all necessary measures to guarantee that right;

11. Encourages all States to include in their educational curricula and social programmes at all levels, as appropriate, knowledge of and tolerance and respect for all cultures, civilizations, religions, peoples and countries, as well as information on the follow-up to and implementation of the Durban Declaration and Programme of Action;

12. Stresses the responsibility of States to mainstream a gender perspective in the design and development of prevention, education and protection measures aimed at the eradication of racism, racial discrimination, xenophobia and related intolerance at all levels, to ensure that they effectively target the distinct situations of women and men;

II

International Convention on the Elimination of All Forms of Racial Discrimination

13. Reaffirms that universal adherence to and full implementation of the International Convention on the Elimination of All Forms of Racial Discrimination are of paramount importance for the fight against racism, racial discrimination, xenophobia and related intolerance, including contemporary forms of racism and racial discrimination, and for the promotion of equality and nondiscrimination in the world;

14. Expresses grave concern at the fact that universal ratification of the Convention was not attained by 2005 in accordance with commitments under the Durban Declaration and Programme of Action, and calls upon those States that have not yet done so to accede to the Convention as a matter of urgency;

15. Urges, in the above context, the Office of the United Nations High Commissioner for Human Rights to maintain on its website and issue regular updates on a list of countries that have not yet ratified the Convention and to encourage such countries to ratify it at the earliest;

16. Expresses its concern at the serious delays in the submission of overdue reports to the Committee on the Elimination of Racial Discrimination, which impedes the effectiveness of the Committee, makes a strong appeal to all States parties to the Convention to comply with their treaty obligations, and reaffirms the importance of the provision of technical assistance to the requesting countries in the preparation of their reports to the Committee;

17. Invites States parties to the Convention to ratify the amendment to article 8 of the Convention on the financing of the Committee, and calls for adequate additional resources from the regular budget of the United Nations to enable the Committee to discharge its mandate fully;

18. Urges all States parties to the Convention to intensify their efforts to implement the obligations that they have accepted under article 4 of the Convention, with due regard to the principles of the Universal Declaration of Human Rights and article 5 of the Convention;

19. Recalls that the Committee holds that the prohibition of the dissemination of ideas based on racial superiority or racial hatred is compatible with the right to freedom of opinion and expression as outlined in article 19 of the Universal Declaration of Human Rights and in article 5 of the Convention;

20. Welcomes the emphasis placed by the Committee on the importance of follow-up to the World Conference and the measures recommended to strengthen the implementation of the Convention as well as the functioning of the Committee;
III
Comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action

21. **Expresses its appreciation** for the commitment of the United Nations High Commissioner for Human Rights to contribute to the successful outcome of the Durban Review Conference, including her appeal to all Member States and other stakeholders to participate in the Durban Review Conference;

22. **Acknowledges** that the outcome of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance is on an equal footing with the outcomes of all the major United Nations conferences, summits and special sessions in the human rights and social fields;

23. Also **acknowledges** that the World Conference, which was the third world conference against racism, was significantly different from the previous two conferences, as evidenced by the inclusion in its title of two important components relating to contemporary forms of racism, namely, xenophobia and related intolerance;

24. **Emphasizes** that the basic responsibility for effectively combating racism, racial discrimination, xenophobia and related intolerance lies with States, and to this end stresses that States have the primary responsibility to ensure full and effective implementation of all commitments and recommendations contained in the Durban Declaration and Programme of Action;

25. **Reaffirms its commitment** to eliminating all forms of racism, racial discrimination, xenophobia and other forms of related intolerance against indigenous peoples, and in this regard notes the attention paid to the objectives of combating prejudice and eliminating discrimination and promoting tolerance, understanding and good relations among indigenous peoples and all other segments of society in the United Nations Declaration on the Rights of Indigenous Peoples;

26. **Emphasizes** the fundamental and complementary role of national human rights institutions, regional bodies or centres and civil society, working jointly with States towards the achievement of the objectives of the Durban Declaration and Programme of Action;

27. **Welcomes** the steps taken by numerous Governments, in particular the elaboration and implementation of national action plans to combat racism, racial discrimination, xenophobia and related intolerance, and steps taken by national human rights institutions and non-governmental organizations, towards the full implementation of the Durban Declaration and Programme of Action, and affirms this trend as a demonstration of commitment to the elimination of all scourges of racism at the national level;

28. **Calls upon** all States that have not yet elaborated their national action plans on combating racism, racial discrimination, xenophobia and related intolerance to comply with their commitments undertaken at the World Conference;

29. **Calls upon** all States to formulate and implement without delay, at the national, regional and international levels, policies and plans of action to combat racism, racial discrimination, xenophobia and related intolerance, including their gender-based manifestations;

30. **Welcomes** the adoption of the laudable initiative led by the States members of the Caribbean Community and other Member States for the establishment of a permanent memorial at the United Nations to the victims of slavery and the transatlantic slave trade as a contribution towards the fulfilment of paragraph 101 of the Durban Declaration, expresses its appreciation for contributions made to the voluntary fund established in this regard, and urges other countries to contribute to the fund;

31. **Urges** States to support the activities of existing regional bodies or centres that combat racism, racial discrimination, xenophobia and related intolerance in their respective regions, and recommends the establishment of such bodies in all regions where they do not exist;

32. **Recognizes** the fundamental role of civil society in the fight against racism, racial discrimination, xenophobia and related intolerance, in particular in assisting States to develop regulations and strategies, in taking measures and action against such forms of discrimination and through follow-up implementation;

33. **Reaffirms** that the General Assembly is the highest intergovernmental mechanism for the formulation and appraisal of policy on matters relating to the economic, social and related fields, in accordance with Assembly resolution 50/227 of 24 May 1996, and that, together with the Human Rights Council, it shall constitute an intergovernmental process for the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action, and further reaffirms that the Council shall continue to have a central role in the follow-up to the implementation of the Declaration and Programme of Action within the United Nations system;

34. **Expresses its appreciation** for the continuing work of the mechanisms mandated to follow up the World Conference, bearing in mind the assessment of the effectiveness of those mechanisms to be undertaken at the Durban Review Conference;

35. **Acknowledges** Human Rights Council resolution 9/14 of 24 September 2008, by which the Council decided to extend for three years the mandate of the Working Group of Experts on People of African Descent;

36. **Takes note** of the convening of the first part of the first session of the Ad Hoc Committee on the Elaboration of Complementary Standards from 11 to 21 February 2008, and requests the Ad Hoc Committee to comply with the mandate contained in Human Rights Council decision 3/103;

37. **Acknowledges** the centrality of resource mobilization, effective global partnership and international cooperation in the context of paragraphs 157 and 158 of the Durban Programme of Action for the successful realization of commitments undertaken at the World Conference, and to this end emphasizes the importance of the mandate of the group of independent eminent experts on the implementation of the Durban Declaration and Programme of Action, especially in mobilizing the necessary political will for the successful implementation of the Declaration and Programme of Action;

38. **Requests** the Secretary-General to provide the necessary resources for the effective fulfilment of the mandates of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Pro-
programme of Action, the Working Group of Experts on People of African Descent, the group of independent eminent experts on the implementation of the Durban Declaration and Programme of Action and the Ad Hoc Committee on the Elaboration of Complementary Standards:

39. Expresses its concern at the increasing incidence of racism in various sporting events, while noting with appreciation the efforts made by some governing bodies of the various sporting codes to combat racism, and in this regard invites all international sporting bodies to promote, through their national, regional and international federations, a world of sport free from racism and racial discrimination;

40. Welcomes, in this context, the initiative of the Fédération internationale de football association to introduce a visible theme on non-racism in football, and invites the Fédération to continue with this initiative at the 2010 soccer World Cup tournament to be held in South Africa;

41. Calls upon those States that have not yet done so to consider signing and ratifying or acceding to the instruments enumerated in paragraph 78 of the Durban Programme of Action, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 1990;

IV

Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and follow-up to his visits

42. Expresses its appreciation for the work done by the former Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, and welcomes Human Rights Council resolution 7/34 of 28 March 2008, by which the Council decided to extend the mandate of the Special Rapporteur for a period of three years;

43. Takes note with appreciation of the report of the Special Rapporteur, and encourages Member States and other relevant stakeholders to consider implementing the recommendations contained in his report;

44. Reiterates its call to all Member States, intergovernmental organizations, relevant organizations of the United Nations system and non-governmental organizations to cooperate fully with the Special Rapporteur, and calls upon States to consider responding favourably to his requests for visits so as to enable him to fulfil his mandate fully and effectively;

45. Recognizes with deep concern the increase in anti-Semitism, Christianophobia and Islamophobia in various parts of the world, as well as the emergence of racial and violent movements based on racism and discriminatory ideas directed against Arab, Christian, Jewish and Muslim communities, as well as all religious communities, communities of people of African descent, communities of people of Asian descent, communities of indigenous people and other communities;

46. Encourages closer collaboration between the Special Rapporteur and the Office of the United Nations High Commissioner for Human Rights, in particular the Anti-Discrimination Unit;

47. Urges the High Commissioner to provide States, at their request, with advisory services and technical assistance to enable them to implement fully the recommendations of the Special Rapporteur;

48. Requests the Secretary-General to provide the Special Rapporteur with all the human and financial assistance necessary to carry out his mandate efficiently, effectively and expeditiously and to enable him to submit a report to the General Assembly at its sixty-fourth session;

49. Requests the Special Rapporteur to continue giving particular attention to the negative impact of racism, racial discrimination, xenophobia and related intolerance on the full enjoyment of civil, cultural, economic, political and social rights by national or ethnic, religious and linguistic minorities, immigrant populations, asylum-seekers and refugees;

50. Invites Member States to demonstrate greater commitment to fighting racism in sport by conducting educational and awareness-raising activities and by strongly condemning the perpetrators of racist incidents, in cooperation with national and international sports organizations;

V

Convening of the Durban Review Conference

51. Welcomes the reports of the Preparatory Committee for the Durban Review Conference on its organizational session and its first and second substantive sessions, and endorses the decisions contained therein;

52. Calls upon all Member States to participate in the Durban Review Conference;

53. Expresses its appreciation for the convening of the regional preparatory meeting for the Durban Review Conference for Latin America and the Caribbean in Brasilia from 17 to 19 June 2008 and the regional preparatory meeting for Africa in Abuja from 24 to 26 August 2008;

54. Takes note of the contributions by Member States, regional groups and all other relevant stakeholders consistent with the objectives of the Durban Review Conference, in accordance with decision PC.1/10 of the Preparatory Committee;

55. Reaffirms that the Durban Review Conference will be undertaken on the basis of and with full respect for the Durban Declaration and Programme of Action and that there will be no renegotiation of the existing agreements therein, and that the issues raised will be in conformity with the contents of the Declaration and Programme of Action;

56. Requests the Secretary-General and the United Nations High Commissioner for Human Rights to undertake initiatives to encourage contributions to the voluntary fund established pursuant to decision PC.1/12 of the Preparatory Committee, including the decision to appeal for contributions from extrabudgetary resources to cover the costs of participation of representatives of the least developed countries in the Durban Review Conference;

VI

General

57. Recommends that the meetings of the Human Rights Council focusing on the follow-up to the World Conference and the implementation of the Durban Declaration and Programme of Action be scheduled in a manner that allows broad participation and that avoids overlap with the meetings devoted to the consideration of this item in the General Assembly;
58. Requests the Secretary-General to submit a report with recommendations on the present resolution to the General Assembly at its sixty-fourth session;

59. Decides to remain seized of this important matter at its sixty-fourth session under the item entitled “Elimination of racism, racial discrimination, xenophobia and related intolerance”.

RECORDED VOTE ON RESOLUTION 63/242:

In favour: Afghanistan, Algeria, Angola, Antigua and Barbuda, Argentina, Azerbaijan, Bahrain, Bangladesh, Barbados, Belarus, Benin, Bolivia, Botswana, Brazil, Brunei Darussalam, Burkina Faso, Burundi, Cambodia, Cameroon, Chile, China, Colombia, Congo, Costa Rica, Côte d’Ivoire, Cuba, Democratic People’s Republic of Korea, Djibouti, Dominican Republic, Ecuador, Egypt, Eritrea, Ethiopia, Gambia, Ghana, Grenada, Guatemala, Guinea-Bissau, Honduras, Iceland, India, Indonesia, Iran, Iraq, Jamaica, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People’s Democratic Republic, Lebanon, Lesotho, Libyan Arab Jamahiriya, Liechtenstein, Madagascar, Malawi, Malaysia, Moldova, Mali, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Qatar, Russian Federation, Samoa, Saudi Arabia, Senegal, Singapore, Solomon Islands, South Africa, Sri Lanka, Sudan, Swaziland, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, Timor-Leste, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, United Arab Emirates, United Republic of Tanzania, Uruguay, Uzbekistan, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.

Against: Australia, Canada, Czech Republic, Denmark, Israel, Marshall Islands, Netherlands, New Zealand, Palau, Poland, Romania, United Kingdom, United States.

Abstaining: Albania, Armenia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, Moldova, Monaco, Montenegro, Portugal, Republic of Korea, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, The former Yugoslav Republic of Macedonia, Ukraine.

Contemporary forms of racism

In a February report [A/HRC/7/19], submitted pursuant to a Human Rights Council request [YUN 2007, p. 662], the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance stated that efforts to combat those phenomena were encountering major challenges, such as the erosion of the political will, as shown by the non-implementation of the Durban Programme of Action; the resurgence of racist and xenophobic violence; the political trivialization of racism and xenophobia, demonstrated by the spread of racist and xenophobic political platforms and their implementation through government alliances with democratic parties; the legitimization of racist and xenophobic discourse through ethnic or racial interpretation of social and political problems and immigration issues; the increase in racial and religious hatred and intolerance, reflected in anti-Semitism and Christianophobia and, more especially, Islamophobia; and the increasing importance in identity constructs of a rejection of diversity and resistance to multiculturalism. To reverse those trends, the Special Rapporteur promoted the development of a dual strategy: political and legal, aimed at strengthening the political will of Governments to combat racism and xenophobia and acquire the legal and administrative instruments for that purpose; and cultural, intellectual and ethical, targeting the root causes of those trends, in particular the value systems which legitimized them, the identity constructs supporting them, and the rejection of racism and multiculturalism which sustained them. The report also dealt with discrimination on the grounds of caste in Asia and Africa.

The Special Rapporteur called on the Council to encourage Member States to adopt legislation against racism, racial discrimination and xenophobia; promote the fight against the defamation of religion, anti-Semitism, Christianophobia and Islamophobia; fight racial and religious hatred by maintaining a careful balance between the defence of secularism and respect for religious freedom; and adopt an approach to questions relating to immigration, asylum and the situation of foreigners and minorities on the basis of international law. He recommended the establishment within OHCHR of a permanent centre for monitoring racist phenomena that would report to the Council and the General Assembly. The Rapporteur’s reports and recommendations should be submitted to all bodies involved in the Durban Review Conference and to regional meetings held as part of that process.

An addendum to the report [A/HRC/7/19/Add.1] summarized communications sent to 12 Governments between 1 May and 31 December 2007 on cases of racism and related phenomena and replies received thereto.

As requested by the Human Rights Council in March (see p. 782), the Special Rapporteur in September submitted a report [A/HRC/9/12] on the manifestations of defamation of religions and, in particular, on the serious implications of Islamophobia for the enjoyment of all rights. The Rapporteur stressed that the report did not imply the establishment of any hierarchy in the forms of discrimination to which different religions were subject, and strategies to combat anti-Semitism, Christianophobia and Islamophobia should treat those phobias in the same way and avoid establishing any priorities in combating discrimination. The Rapporteur stressed that political and ideological polarization on the question of the defamation of religions was artificial. Analysis of international, regional and national human rights instruments showed that provisions against inducement to racial or religious hatred were almost universal. However, shifting the debate away from the sociological concepts of defamation of religions towards the legal concept of incitement to national, racial or religious hatred was not only a way of refocusing on human rights but
also a strategy for depolarizing and depoliticizing the discussion. He drew attention to recommendations made in previous reports to the Council for promoting measures to combat racism, racial discrimination and xenophobia.

The Special Rapporteur recommended that the Council invite Member States to accord equal treatment to combating the defamation of religions, having particular regard to: the need to avoid establishing any hierarchy in the different manifestations of discrimination, even if they varied in nature and degree depending on the context; the deep historical and cultural roots of all forms of defamation of religions and the corresponding need to combine legal measures with an intellectual, cultural and ethical approach that took account of the processes, mechanisms and representations at the origin of those manifestations of discrimination over time; the link between the different spiritual, historical and cultural forms of religious discrimination and the universal nature of their underlying causes; the need to create conditions conducive to social harmony, peace, respect for human rights and development, and to combat all forms of racism, xenophobia and discrimination relating to religious and spiritual traditions; and the need to renew the approach to defamation of religions by focusing on the principles embodied in international human rights instruments.

The Special Rapporteur visited Mauritania (20–24 January) [A/HRC/11/36/Add.2] to contribute to the elimination—in the context of the drive towards democracy—of the historical legacy of ethnic discrimination that had long characterized that society.

He concluded that while there were no manifestations of legally endorsed or State-approved racism in the country, the society had been marked by continuing ethnic and racial discriminatory practices rooted in cultural traditions and pervasively present in attitudes, social structures and State institutions, in particular the armed forces and the justice system. Some features of Mauritanian society had given substance and depth to such discrimination over time, including the central role of traditional slavery, the entrenchment of the caste system, and the use of ethnicity as a political tool, such as language policies that had contributed to the polarization of various communities. The pervasiveness of a culture of racism and discrimination was the greatest obstacle to the establishment of democracy and respect for human rights. Mauritania faced three major challenges: construction of a democratic, egalitarian and participatory society; eradication of discriminatory cultural traditions; and the correction of political, economic and social inequalities caused by discrimination.

The Special Rapporteur’s recommendations to the authorities included: consistent communication to the public of a clear political will to combat all forms of racism and discrimination and to foster a democratic, egalitarian and participatory multiculturalism; recognition that the eradication of racism and discrimination was the key to the establishment of sustainable democracy; the adoption of comprehensive legislation against all forms of discrimination and recognition in the Constitution of the multicultural and multi-ethnic character of the society and of its main ethnic groups and communities, as well as their languages and cultures; the insertion of provisions on racial and ethnic discrimination in the criminal code; the creation of an independent special commission tasked with reporting on the status, root causes, manifestations and consequences of discrimination and with establishing an independent national institution responsible for upholding human rights, combating discrimination and promoting multiculturalism; and the adoption of a strategy aimed at eradicating the underlying causes of the culture of discrimination and building a spirit of partnership.

The Special Rapporteur visited the United States (19 May–6 June) [A/HRC/11/36/Add.3], where he had extensive meetings with State institutions, including the Supreme Court, civil society organizations, minority communities and victims of racism. He visited Washington, D.C., New York, Chicago, Omaha, Los Angeles, New Orleans, the Louisiana and Mississippi Gulf Coast, Miami and San Juan (Puerto Rico). He formulated several recommendations, including that: Congress establish a bipartisan commission to evaluate progress and failures in the fight against racism and the ongoing process of resegregation, particularly in housing and education, and to find responses for checking those trends; the Federal Government reassess legislation on racism and related phenomena in view of the main guidelines for addressing the overlapping nature of poverty and race or ethnicity, and linking the fight against racism to the construction of a democratic, egalitarian and interactive multiculturalism; and the Government intensify efforts to enforce federal civil rights laws, and clarify to law enforcement officials the obligation of equal treatment and the prohibition of racial profiling. To monitor trends regarding racial profiling and treatment of minorities by law enforcement officials, federal, state and local governments should collect data about police stops and searches, as well as instances of police abuse. Independent oversight bodies should be established within police agencies, with real authority to investigate complaints of racism. Mandatory minimum sentences should be reviewed to assess disproportionate impact on racial or ethnic minorities. The Government should increase funding for programmes and investigations to assess discrimination, particularly in the areas of housing and employment.

On 18 June, the Council appointed Githu Muigai (Kenya) as Special Rapporteur.

Report by new Special Rapporteur. Pursuant to General Assembly resolution 62/220 [YUN 2007, p. 708], the Secretary-General, in August, transmitted to the Assembly the interim report [A/63/339] of the new Special Rapporteur, who outlined the main objectives for fulfilling his mandate. The International Convention on the Elimination of All Forms of Racial Discrimination, DDPa and other international instruments would remain the central framework for implementing the mandate. In light of the emphasis in DDPa on victim-orientation in anti-racism policies, that approach would be further strengthened in the discharge of the mandate, in cooperation with civil society organizations. The Rapporteur attached central importance to cooperation and engagement with Member States, including engaging with Governments to share expertise and advocate the implementation of anti-racism policies, while continuing to monitor and report on human rights violations. In planning and undertaking country visits, the Rapporteur would take into account the underlying principle that racism was a universal problem, and would strive to achieve geographical balance and address a wide range of situations. The Rapporteur noted the Council’s request for Member States to cooperate fully with him in the discharge of his mandate, including by responding promptly to communications and providing information. He urged Governments to respond favourably to his requests to visit their countries.

Communication. On 13 March [A/HRC/7/G/10], the Dominican Republic transmitted to OHCHR its comments on the joint report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the independent expert on minority issues on their 2007 mission to the country [YUN 2007, p. 715].

GENERAL ASSEMBLY ACTION

On 18 December [meeting 70], the General Assembly, on the recommendation of the Third Committee [A/63/428], adopted resolution 63/162 by recorded vote (129-2-54) [agenda item 62 (a)].

Inadmissibility of certain practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance

The General Assembly,


Recalling also the Charter of the Nuremberg Tribunal and the Judgement of the Tribunal, which recognized, inter alia, the SS organization and all its integral parts, including the Waffen SS, as criminal and declared it responsible for many war crimes and crimes against humanity,

Recalling further the relevant provisions of the Durban Declaration and Programme of Action adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance on 8 September 2001, in particular paragraph 2 of the Declaration and paragraph 86 of the Programme of Action,

Recalling equally the study undertaken by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, and taking note of his report,

Alarmed, in this regard, at the spread in many parts of the world of various extremist political parties, movements and groups, including neo-Nazis and skinhead groups,

1. Reaffirms the provision of the Durban Declaration in which States condemned the persistence and resurgence of neo-Nazism, neo-Fascism and violent nationalist ideologies based on racial and national prejudice and stated that those phenomena could never be justified in any instance or in any circumstances;

2. Expresses deep concern about the glorification of the Nazi movement and former members of the Waffen SS organization, including by erecting monuments and memorials and holding public demonstrations in the name of the glorification of the Nazi past, the Nazi movement and neo-Nazism, as well as by declaring or attempting to declare such members and those who fought against the anti-Hitler coalition and collaborated with the Nazi movement as participants in national liberation movements;

3. Expresses concern at recurring attempts to desecrate or demolish monuments erected in remembrance of those who fought against Nazism during the Second World War, as well as to unlawfully exhume or remove the remains of such persons, and urges States in this regard to fully comply with their relevant obligations, inter alia, under article 34 of Additional Protocol I to the Geneva Conventions of 1949;

4. Notes with concern the increase in the number of racist incidents in several countries and the rise of skinhead groups, which have been responsible for many of these incidents, as well as the resurgence of racist and xenophobic violence targeting members of ethnic, religious or cultural communities and national minorities, as observed by the
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Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance in his latest report;

5. **Reaffirms** that such acts may be qualified to fall within the scope of activities described in article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination, and that they may represent a clear and manifest abuse of the rights to freedom of peaceful assembly and of association as well as the rights to freedom of opinion and expression within the meaning of those rights as guaranteed by the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination;

6. **Stresses** that the practices described above do injustice to the memory of the countless victims of crimes against humanity committed in the Second World War, in particular those committed by the SS organization and those who fought against the anti-Hitler coalition or collaborated with the Nazi movement, and poison the minds of young people, and that those practices are incompatible with the obligations of States Members of the United Nations under its Charter and are incompatible with the goals and principles of the Organization;

7. **Also stresses** that such practices fuel contemporary forms of racism, racial discrimination, xenophobia and related intolerance and contribute to the spread and multiplication of various extremist political parties, movements and groups, including neo-Nazis and skinhead groups;

8. **Emphasizes** the need to take the necessary measures to put an end to the practices described above, and calls upon States to take more effective measures in accordance with international human rights law to combat those phenomena and the extremist movements, which pose a real threat to democratic values;

9. **Reaffirms** that, according to article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination, States parties to that instrument are, inter alia, under the obligation:

   (a) To condemn all propaganda and all organizations that are based on ideas of racial superiority or that attempt to justify or promote racial hatred and discrimination in any form;

   (b) To undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of the Convention;

   (c) To declare as an offence punishable by law all dissemination of ideas based on racial superiority or hatred, and incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;

   (d) To declare illegal and prohibit organizations and organized and all other propaganda activities that promote and incite racial discrimination and to recognize participation in such organizations or activities as an offence punishable by law;

   (e) To prohibit public authorities or public institutions, national or local, from promoting or inciting racial discrimination;

10. **Encourages** those States that have made reservations to article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination to give serious consideration to withdrawing such reservations as a matter of priority;

11. **Recalls** the request of the Commission on Human Rights in its resolution 2005/5 that the Special Rapporteur continue to reflect on this issue, make relevant recommendations in his future reports and seek and take into account in this regard the views of Governments and non-governmental organizations;

12. **Requests** the Special Rapporteur to prepare, within existing resources, for submission to the General Assembly at its sixty-fourth session and the Human Rights Council, reports on the implementation of the present resolution based on the views collected in accordance with the request of the Commission on Human Rights, as recalled by the Assembly in paragraph 11 above;

13. **Urges** Governments and non-governmental organizations to cooperate fully with the Special Rapporteur in the exercise of the aforementioned tasks;

14. **Decides** to remain seized of the issue.

RECORDED VOTE ON RESOLUTION 63/162:

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

Against: Marshall Islands, United States.

Abstaining: Albania, Andorra, Australia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Fiji, Finland, France, Georgia, Germany, Greece, Guinea-Bissau, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Moldova, Montenegro, Netherlands, New Zealand, Norway, Palau, Panama, Papua New Guinea, Poland, Portugal, Republic of Korea, Romania, Samoa, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Tonga, Ukraine, United Kingdom.
Civil and political rights

Right to nationality

Human Rights Council action. On 27 March [A/63/53 (res. 7/10)], the Human Rights Council called on States to refrain from enacting or maintaining legislation that would arbitrarily deprive persons of their nationality on grounds of race, colour, gender, religion, political opinion or national or ethnic origin. It urged States to adopt and implement nationality legislation with a view to avoiding statelessness, in particular by preventing arbitrary deprivation of nationality and statelessness as a result of State succession. States were also urged to ensure that an effective remedy was available to persons who had been arbitrarily deprived of their nationality. The Secretary-General was requested to collect information on human rights and arbitrary deprivation of nationality from all relevant sources and to make it available to the Council at its tenth (2009) session.

Protection of migrants

Reports of Special Rapporteur. In a February report to the Human Rights Council [A/HRC/7/12], the Special Rapporteur on the human rights of migrants, Jorge Bustamante (Mexico), summarized his activities, including visits requested and undertaken, and communications and replies received. The report highlighted some key challenges with regard to the criminalization of irregular migration, and outlined elements for State responsibility with regard to the protection of irregular migrants. The Special Rapporteur drew attention to the increasing criminalization of irregular migration and the abuses committed as a result of persistent anti-immigration sentiments, often reflected in restrictive policies and institutional frameworks for managing migratory flows. He had received reports of the criminal justice practices used by States to combat irregular migration, including greater criminalization of migration offences and cross-national collaboration by police and other authorities resulting in violations against migrants. Within the two broad categories of the externalization of migration control policies and the criminalization of labour migration, he identified three sub-issues for examination: violations against irregular migrants pertaining to interception and rescue at sea, detention and expulsion and smuggling and trafficking. The Special Rapporteur emphasized that the report was not an excuse for irregular migration but underscored the importance of States to adhere to international human rights standards during engagement with all migrants.

The Special Rapporteur encouraged States to view irregular migration as an administrative offence, reversing the trend toward greater criminalization, and to incorporate the applicable human rights framework into their bilateral and regional arrangements for managing migration flows and protecting national security interests, as well as to harmonize their laws and policies with international human rights norms. At the core of immigration policies should be the protection of migrants, regardless of their status or mode of entry. He proposed a number of recommendations for the formation or reform of regional and bilateral cooperation mechanisms and agreements, as well as the enhancement of national training and analysis programmes and policy measures.

An addendum to the report [A/HRC/7/12/Add.1] summarized 25 communications the Special Rapporteur had sent to 22 Governments during 2007 and responses thereto. Fourteen of those communications were urgent appeals. Only 12 communications received a response.

After visiting Mexico (9–15 March) [A/HRC/11/7/Add.2], the Special Rapporteur highlighted the legal framework pertaining to the human rights of migrants at the federal level, underscoring gaps in implementation of laws and noting problematic policies. He examined groups of the Mexican migrant phenomenon and drew attention to challenges such as the detention of migrants, assistance to migrants, organized crime networks and impunity among governmental and law enforcement officials and assistance to migrants. He concluded that Mexico’s progress in implementing programmes to protect the rights of migrants was evident, in terms of both the Government’s capacity and willingness. The authorities had made notable efforts to improve detention centres, especially overcrowding, training of border officials, return, and protection of children. Nevertheless, many issues still warranted attention and resources. The Rapporteur recommended that Mexico: review its law regarding expulsion and formulate policies in line with international human rights standards; classify illegal entry as an administrative rather than a criminal offence; take measures against migrant child labour practices; and continue efforts to professionalize and train the police and border control officials. Mexico should improve bilateral arrangements with countries of origin regarding the return of undocumented migrants, and notify the consular or diplomatic authorities of the State of origin without delay whenever a migrant was arrested or detained. The UN Resident Coordinator, the International Organization for Migration, OHCHR and specialized agencies should review UN system programmes for the protection of migrants and integrate them for a more comprehensive approach.

During his visit to Guatemala (24–28 March) [A/HRC/11/7/Add.3], a country of origin, destination and especially transit, the Special Rapporteur noted
the Government’s interest in addressing some of the problems related to the human rights of migrants, but expressed concern about gaps and ambiguities in the legislative framework on migration. Those gaps led to abuses and violations of the rights of the migrant population, most of which went unreported. He noted information about cases in which, during the interception and deportation of migrants from the United States to Guatemala, various abuses were committed, including ill-treatment, and lack of medical assistance in detention centres, of information on the deportation and of communication with consular representatives. He also noted procedures for deporting undocumented migrants, which lasted longer than necessary, particularly for migrants from countries outside Central America, as their countries of origin had no diplomatic representation in Guatemala.

In his recommendations, the Special Rapporteur invited the Government to conclude regional multilateral agreements among countries of origin and destination, strengthening protection of the rights of migrants. He called upon Guatemala to bring legislation in line with international standards, step up the struggle against corruption and impunity, bring proceedings against those responsible and ensure the execution of sentences, in cooperation with the International Commission against Impunity in Guatemala.

**Report of Secretary-General.** In response to General Assembly resolution 62/156 [YUN 2007, p. 719], the Secretary-General submitted an August report [A/63/287] summarizing information received from 12 Governments on the implementation of resolutions 62/156 and 61/165 [YUN 2006, p. 837] on the protection of migrants. The Secretary-General also reported on the status of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families [YUN 1990, p. 594], the activities of the Special Rapporteur on the human rights of migrants and the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families. Regrettting the lack of precise statistics on migration flows and other migration-related issues, he encouraged States to create a comprehensive database on labour demand in host countries. He also encouraged States to undertake information campaigns addressed to migrants aimed at clarifying their rights and opportunities and stressing the dangers of undocumented migration.

The General Assembly took note of the Secretary-General’s report on 18 December (decision 63/534).

**Human Rights Council action.** On 18 June [A/63/53 (res. 8/10)], the Human Rights Council extended the mandate of the Special Rapporteur for a three-year period. The Council encouraged Governments to invite the Rapporteur to visit their countries and encouraged them to cooperate fully with the Rapporteur.

On 24 September [A/63/53/Add.1 (res. 9/5)], the Council reaffirmed the duty of States to promote and protect the human rights of all migrants, regardless of their immigration status; urged that they adopt effective measures to put an end to arbitrary arrest and detention of migrants and prevent and punish illegal deprivation of the liberty of migrants; emphasized the importance of protecting vulnerable groups, especially migrant children; and stressed the importance of international, regional and bilateral cooperation in the protection of the rights of migrants.

**GENERAL ASSEMBLY ACTION**

On 18 December [meeting 70], the General Assembly, on the recommendation of the Third Committee [A/63/430], adopted resolution 63/184 without vote [agenda item 64/16].

**Protection of migrants**

*The General Assembly,*

Recalling all its previous resolutions on the protection of migrants, the most recent of which is resolution 62/156 of 18 December 2007, and recalling also Human Rights Council resolution 9/5 of 24 September 2008,

Reaffirming, in the year of its sixtieth anniversary, the Universal Declaration of Human Rights, which proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, in particular as to race, colour or national origin,

Reaffirming also that everyone has the right to freedom of movement and residence within the borders of each State, and to leave any country, including his own, and return to his country,

Recalling the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the International Convention on the Elimination of All Forms of Racial Discrimination, the Vienna Convention on Consular Relations and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,

Recalling also the provisions concerning migrants contained in the outcomes of all major United Nations conferences and summits,

Underlining the importance of the Human Rights Council in promoting respect for the protection of the human rights and fundamental freedoms of all, including migrants,

Taking note of advisory opinion OC-16/99 of 1 October 1999 on the Right to Information on Consular Assistance in the Framework of the Guarantees of the Due Process of Law and advisory opinion OC-18/03 of 17 September 2003...
on the Juridical Condition and Rights of Undocumented Migrants, issued by the Inter-American Court of Human Rights,

Taking note also of the Judgment of the International Court of Justice of 31 March 2004 in the case concerning Avena and Other Mexican Nationals, and recalling the obligations of States reaffirmed therein,

Recalling the High-level Dialogue on International Migration and Development, held in New York on 14 and 15 September 2006 for the purpose of discussing the multidimensional aspects of international migration and development, which recognized the relationship between international migration, development and human rights,

Noting the second meeting of the Global Forum on Migration and Development, organized and hosted by the Government of the Philippines from 27 to 30 October 2008, and recognizing the inclusion of a discussion on migration, development and human rights as one of the steps to address the multidimensional nature of international migration,

Recalling its resolution 62/270 of 20 June 2008 on the Global Forum on Migration and Development, as adopted, in which, inter alia, it recognized that exchanges of information and expertise, consultation and closer cooperation between the Global Forum and the United Nations could have a positive impact,

Noting the International Meeting on the Protection of the Rights of Children in the Context of International Migration, held in Mexico City on 30 September and 1 October 2008, and co-organized by the Office of the United Nations High Commissioner for Human Rights,

Emphasizing the global character of the migratory phenomenon, the importance of international, regional and bilateral cooperation and dialogue in this regard, as appropriate, and the need to protect the human rights of migrants, particularly at a time in which migration flows have increased in the globalized economy and take place in a context of new security concerns,

Bearing in mind that policies and initiatives on the issue of migration, including those that refer to the orderly management of migration, should promote holistic approaches that take into account the causes and consequences of the phenomenon, as well as full respect for the human rights and fundamental freedoms of migrants,

Noting that many migrant women are employed in the informal economy and in less skilled work compared with that of men, which puts those women at greater risk of abuse and exploitation,

Concerned about the large and growing number of migrants, especially women and children, who place themselves in a vulnerable situation by attempting to cross international borders without the required travel documents, and recognizing the obligation of States to respect the human rights of those migrants,

Stressing the importance of regulations and laws regarding irregular migration being in accordance with the obligations of States under international law, including international human rights law,

Stressing also that penalties and the treatment given to irregular migrants should be commensurate with their infraction,

Recognizing the importance of having a comprehensive and balanced approach to international migration, and bearing in mind that migration enriches the economical, political, social and cultural fabric of States and the historical and cultural ties that exist among some regions,

Underlining the importance for States, in cooperation with non-governmental organizations, to undertake information campaigns aimed at clarifying opportunities, limitations and rights in the event of migration, so as to enable everyone to make informed decisions and to prevent them from utilizing dangerous means to cross international borders,

1. Calls upon States to promote and protect effectively the human rights and fundamental freedoms of all migrants, regardless of their migration status, especially those of women and children, and to address international migration through international, regional or bilateral cooperation and dialogue and through a comprehensive and balanced approach, recognizing the roles and responsibilities of countries of origin, transit and destination in promoting and protecting the human rights of all migrants, and avoiding approaches that might aggravate their vulnerability;

2. Also calls upon States to ensure that their laws and policies, including in the areas of counter-terrorism and combating transnational organized crime such as trafficking in persons and smuggling of migrants, fully respect the human rights of migrants;

3. Calls upon States that have not done so to consider signing and ratifying or acceding to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families as a matter of priority, and requests the Secretary-General to continue his efforts to raise awareness of and promote the Convention;

4. Urges States parties to the United Nations Convention against Transnational Organized Crime and supplementing protocols thereto, namely, the Protocol against the Smuggling of Migrants by Land, Sea and Air and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, to implement them fully, and calls upon States that have not done so to consider ratifying or acceding to them as a matter of priority;

5. Takes note of the report of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families on its seventh and eighth sessions;

6. Requests all States, international organizations and relevant stakeholders to take into account in their policies and initiatives on migration issues the global character of the migratory phenomenon and to give due consideration to international, regional and bilateral cooperation in this field, including by undertaking dialogues on migration that include countries of origin, destination and transit, as well as civil society, including migrants, with a view to addressing, in a comprehensive manner, inter alia, its causes and consequences and the challenge of undocumented or irregular migration, granting priority to the protection of the human rights of migrants;

7. Expresses concern about legislation and measures adopted by some States that may restrict the human rights and fundamental freedoms of migrants, and reaffirms that, when exercising their sovereign right to enact and implement migratory and border security measures, States have
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the duty to comply with their obligations under international law, including international human rights law, in order to ensure full respect for the human rights of migrants;

8. \textit{Takes note with appreciation} of the measures adopted by some States to reduce detention periods for irregular migrants in the application of domestic regulations and laws regarding irregular migration;

9. \textit{Calls upon} all States to respect the human rights and the inherent dignity of migrants and to put an end to arbitrary arrest and detention and, where necessary, to review detention periods in order to avoid excessive detention of irregular migrants, and to adopt, where applicable, alternative measures to detention;

10. \textit{Urges} all States to adopt effective measures to prevent and punish any form of illegal deprivation of liberty of migrants by individuals or groups;

11. \textit{Requests} States to adopt concrete measures to prevent the violation of the human rights of migrants while in transit, including in ports and airports and at borders and migration checkpoints, to train public officials who work in those facilities and in border areas to treat migrants respectfully and in accordance with the law, and to prosecute, in conformity with applicable law, any act of violation of the human rights of migrants, inter alia, arbitrary detention, torture and violations of the right to life, including extrajudicial executions, during their transit from their country of origin to the country of destination and vice versa, including their transit through national borders;

12. \textit{Recalls} that the Universal Declaration of Human Rights recognizes that everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted to him or her;

13. \textit{Takes note with appreciation} of the successful implementation by some States of alternative measures to detention in cases of undocumented migration as a practice that deserves consideration by all States;

14. \textit{Urges} States to ensure that repatriation mechanisms allow for the identification and special protection of persons in vulnerable situations and take into account, in conformity with their international obligations and commitments, the principle of the best interest of the child and family reunification;

15. \textit{Underlines} the right of migrants to return to their country of citizenship, and recalls that States must ensure that their returning nationals are duly received;

16. \textit{Reaffirms emphatically} the duty of States parties to ensure full respect for and observance of the Vienna Convention on Consular Relations, in particular with regard to the right of all foreign nationals, regardless of their immigration status, to communicate with a consular official of the sending State in case of arrest, imprisonment, custody or detention, and the obligation of the receiving State to inform the foreign national without delay of his or her rights under the Convention;

17. \textit{Strongly condemns} the manifestations and acts of racism, racial discrimination, xenophobia and related intolerance against migrants and the stereotypes often applied to them, including on the basis of religion or belief, and urges States to apply and, where needed, reinforce the existing laws when xenophobic or intolerant acts, manifestations or expressions against migrants occur, in order to eradicate impunity for those who commit xenophobic and racist acts;

18. \textit{Requests} all States, in conformity with national legislation and applicable international legal instruments to which they are party, to enforce labour law effectively, including by addressing violations of such law, with regard to migrant workers’ labour relations and working conditions, inter alia, those related to their remuneration and conditions of health, safety at work and the right to freedom of association;

19. \textit{Encourages} all States to remove obstacles that may prevent the safe, unrestricted and expeditious transfer of remittances of migrants to their country of origin or to any other countries, in conformity with applicable legislation, and to consider, as appropriate, measures to solve other problems that may impede such transfers;

20. \textit{Welcomes} immigration programmes, adopted by some countries, that allow migrants to integrate fully into the host countries, facilitate family reunification and promote a harmonious, tolerant and respectful environment, and encourages States to consider the possibility of adopting these types of programmes;

21. \textit{Requests} Member States, the United Nations system, international organizations, civil society and all relevant stakeholders, especially the United Nations High Commissioner for Human Rights and the Special Rapporteur on the human rights of migrants, to ensure that the perspective of the human rights of migrants is included among the priority issues in the ongoing discussions on international migration and development within the United Nations system, bearing in mind the discussions of the High-level Dialogue on International Migration and Development held pursuant to General Assembly resolution 58/208 of 23 December 2003;

22. \textit{Invites} the Chairperson of the Committee to address the General Assembly at its future sessions under the item entitled “Promotion and protection of human rights”;

23. \textit{Invites} the Special Rapporteur to present his reports to the General Assembly at its future sessions under the item entitled “Promotion and protection of human rights”;

24. \textit{Invites} Member States to strengthen their efforts to raise awareness of the important contribution of migrants to all spheres of society and to consider the development of appropriate tools to highlight the contribution of migrants to recipient countries, including through the collection of data and the development of statistics;

25. \textit{Requests} the Secretary-General to provide the resources necessary, from within existing resources of the United Nations, for the Committee to meet for two separate sessions in 2009, the first session to be of two consecutive weeks’ duration and the second session to be of one week’s duration, for the purpose of meeting the demands of the workload arising from the increasing number of reports of States parties that have been submitted to the Committee, and invites the Committee to consider ways of further improving the effectiveness of its working sessions;

26. \textit{Also requests} the Secretary-General to report on the implementation of the present resolution at its sixty-fourth session and to include in that report an analysis of the ways and means to promote the human rights of
migrants, taking into account the views of the Special Rapporteur, and decides to examine the question further under the item entitled “Promotion and protection of human rights”.

Also on 18 December [meeting 70], the Assembly, on the recommendation of the Third Committee [A/63/430/Add.2], adopted resolution 63/188 by recorded vote (121-4-60) [agenda item 64 (b)].

Respect for the right to universal freedom of travel and the vital importance of family reunification

The General Assembly,

Recalling its resolution 61/162 of 19 December 2006,

Reaffirming that all human rights and fundamental freedoms are universal, indivisible, interdependent and interrelated,

Recalling the provisions of the Universal Declaration of Human Rights, as well as article 12 of the International Covenant on Civil and Political Rights,

Stressing that, as stated in the Programme of Action of the International Conference on Population and Development, family reunification of documented migrants is an important factor in international migration and that remittances by documented migrants to their countries of origin often constitute a very important source of foreign exchange and are instrumental in improving the well-being of relatives left behind,

Noting with great concern that, while some positive developments have occurred during the past few years in the accomplishment of the objectives highlighted in previous resolutions adopted by the General Assembly on this matter, in particular relating to facilitating the flow of remittances across international borders to help families, in certain cases it has been reported that measures have been adopted that increased the restrictions imposed on documented migrants in relation to family reunification and the possibility of sending remittances to their relatives in the country of origin,

Recalling that the family is the basic unit of society and, as such, should be strengthened, and that it is entitled to receive comprehensive protection and support,

1. Once again calls upon all States to guarantee the universally recognized freedom of travel to all foreign nationals legally residing in their territory;
2. Reaffirms that all Governments, in particular those of receiving countries, must recognize the vital importance of family reunification and promote its incorporation into national legislation in order to ensure protection of the unity of families of documented migrants;
3. Calls upon all States to allow, in conformity with international legislation, the free flow of financial remittances by foreign nationals residing in their territory to relatives in the country of origin;
4. Also calls upon all States to refrain from enacting, and to repeal if it already exists, legislation intended as a coercive measure that discriminates against individuals or groups of legal migrants by adversely affecting family reunification and the right to send financial remittances to relatives in the country of origin;

5. Decides to continue its consideration of the question at its sixty-fifth session under the item entitled “Promotion and protection of human rights”.

RECORDED VOTE ON RESOLUTION 63/188:

In favour: Afghanistan, Algeria, Angola, Antigua and Barbuda, Argentina, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Bhutan, Bolivia, Brazil, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, Central African Republic, Chad, Chile, China, Colombia, Comoros, Congo, Costa Rica, Cuba, Democratic People’s Republic of Korea, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Ethiopia, Fiji, Gabon, Gambia, Ghana, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, India, Indonesia, Iran, Iraq, Jamaica, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People’s Democratic Republic, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Maldives, Mali, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nauru, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Qatar, Russian Federation, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Sao Tome and Principe, Saudi Arabia, Senegal, Sierra Leone, Solomon Islands, Somalia, South Africa, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Tajikistan, Timor-Leste, Togo, Tunisia, Turkmenistan, Tuvalu, Uganda, United Arab Emirates, United Republic of Tanzania, Uruguay, Uzbekistan, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.

Against: Israel, Marshall Islands, Palau, United States.

Abstaining: Albania, Andorra, Armenia, Australia, Austria, Belgium, Bosnia and Herzegovina, Botswana, Brunei Darussalam, Bulgaria, Canada, Côte d’Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malaysia, Malta, Micronesia, Moldova, Monaco, Montenegro, Netherlands, New Zealand, Norway, Poland, Portugal, Republic of Korea, Romania, Samoa, San Marino, Serbia, Singapore, Slovakia, Slovenia, Spain, Sweden, Switzerland, Thailand, The former Yugoslav Republic of Macedonia, Tonga, Turkey, Ukraine, United Kingdom, Vanuatu.

Discrimination against minorities

Forum on minority issues. The Forum on Minority Issues, established by the Human Rights Council in 2007 [YUN 2007, p. 723] as a platform for promoting dialogue and cooperation on issues pertaining to persons belonging to national or ethnic, religious and linguistic minorities, held its inaugural session (Geneva, 15–16 December) with a thematic focus on minorities and the right to education. Discussions centred on the identification of challenges and problems facing minorities and States; identification of good practices in relation to minorities and education; and consideration of opportunities, initiatives and solutions. The Forum’s recommendations, contained in the report of the independent expert on minority issues [A/HRC/10/11/Add.1], addressed core principles, essential requirements for an effective education strategy, equal access to quality education for minorities, the learning environment and the content and delivery of

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Chapter II: Protection of human rights

In her recommendations, the Independent Expert said that while States had a prerogative to establish laws governing the acquisition or loss of nationality, they should do so within the framework of international human rights law. In situations relating to constitutional amendments or changes to legislation on the conferment of citizenship, States should not revoke citizenship retroactively. They should not arbitrarily deny or deprive minorities of citizenship on the basis of colour, descent, national or ethnic origin, language, race or religion; and should not consider citizenship a condition for the enjoyment of human rights, including those belonging to minorities. States should grant nationality to children born on their territory if the child would otherwise be stateless, and in that case the immigration status of parents should be irrelevant. States should facilitate the acquisition of citizenship through naturalization or permanent residency to persons lawfully resident in the country for a period commensurate with their having created established ties in the State, and that period should not be longer than 10 years. State requirements for the granting of citizenship should be reasonable and not overly burdensome, and States should conduct information campaigns on the right to citizenship and procedures for obtaining recognition of that right, in a language and form accessible to all.

An addendum to the report [A/HRC/7/23/Add.1] summarized 26 communications the Independent Expert had sent to 19 countries and the United Nations Interim Administration Mission in Kosovo from 29 July 2005 to 25 December 2007, and to which she had received nine replies.

The Independent Expert visited Guyana (28 July–1 August) [A/HRC/10/11/Add.2], where she witnessed a societal malaise that in some instances had deepened into despair, anger and resistance. That was particularly evident among Afro-Guyanese individuals and communities that reported feeling excluded, discriminated against and criminalized. Ethnically divided political and administrative structures and failed political processes had created frustrations and distrust in the institution of government. Violent incidents in 2008 had fuelled a climate of suspicion, rumour and conspiracy theory. Two separate and conflicting narratives and perceptions of reality among Afro- and Indo-Guyanese people threatened to undermine shared values and common goals. The Government had taken steps to address issues of ethnic tensions, criminal activities and economic underdevelopment, but further action was required to restore confidence in good governance and the rule of law among all communities. Afro-Guyanese people felt excluded from having a full voice and stake in the national polity and equal enjoyment of rights in many areas, including employment and economic participation. They reported stigmatization of young males and entire African communities, with derogatory stereotypes of criminality colouring societal perceptions of Afro-Guyanese. Particular challenges affected women from minority communities, including a scarcity of employment opportunities for Afro-Guyanese women, the heavy burden of care shouldered by single mothers and a culture of domestic violence. Women felt that the criminal justice system did not treat seriously cases of domestic violence.

Anti-discrimination legislation and policies were insufficient to address discrimination, exclusion and ethnically based bias. A robust anti-discrimination and equality plan of action should be applied across all sectors of society to break down ingrained barriers.
Reforms had to be far-reaching and highly consultative, and should lead to concrete outputs ensuring non-discrimination and equality. Promises should be delivered upon, including the creation of credible human rights commissions to deliver change and build new foundations. An open, constructive dialogue on inclusive governance was an essential component of such process. The Government, political parties and religious, cultural and civil society groups should reach out beyond the ethnic divide and build bridges between communities. The Government and both political parties should take full responsibility for ensuring that decisions taken to resolve conflict were fully implemented. Decisions taken at the National Stakeholder Forum (February/March) should be implemented, including the establishment of a new Parliamentary Standing Committee on National Security with ministerial representation; the appointment of the constitutional commissions expedited; and the Parliamentary Constitutional Reform Committee convened. The Government should support and fund educational and cultural projects established by institutions and organizations within the Afro-Guyanese community. Affirmative action programmes should address the economic, educational and social inequalities comparable to those in the Indo-Guyanese communities that existed in the Afro-Guyanese community. The Government should reach out beyond the ethnic divide and build bridges between communities. The Government and both political parties should take full responsibility for ensuring that decisions taken to resolve conflict were fully implemented. Decisions taken at the National Stakeholder Forum (February/March) should be implemented, including the establishment of a new Parliamentary Standing Committee on National Security with ministerial representation; the appointment of the constitutional commissions expedited; and the Parliamentary Constitutional Reform Committee convened. The Government should support and fund educational and cultural projects established by institutions and organizations within the Afro-Guyanese community. Affirmative action programmes should address the economic, educational and social inequalities comparable to those in the Indo-Guyanese communities that existed in the Afro-Guyanese community.

The independent expert visited Greece (8–16 September) [A/HRC/10/11/Add.3] to promote the implementation of the Declaration on the Rights of Persons Belonging to National, Ethnic, Religious and Linguistic Minorities (the 1992 Declaration on Minorities) [YUN 1992, p. 722]. Greece recognized only the Muslim religious minority in Western Thrace, protected under the 1923 Treaty of Lausanne, and no other minority communities. The Government was convinced that the claims of the existence of other minorities were unsubstantiated and politically motivated. However, whether a State officially recognized a minority was not conclusive with respect to its obligations. The expert visited Roma communities, which lacked basic facilities and faced the constant threat of eviction. Many Roma children were either in segregated schools or did not have access to education owing to their identity. While commending Government efforts to develop policies through the Integrated Action Programme on Roma, the expert noted problems of implementation at the local level, particularly regarding living conditions and segregation in public schools.

The expert urged the Government to ensure that national policies were not subverted by local authorities responsive to local prejudices. It should comply with European Court judgements with respect to the segregation of Roma children. The Government should refrain from disputing whether there was a Macedonian or a Turkish minority and focus on protecting the rights to self-identification, freedom of expression and freedom of association of those communities. Their rights to minority protections should be honoured in accordance with the 1992 Declaration on Minorities and international human rights treaties. Greece should comply fully with the judgements of the European Court of Human Rights, specifically those decisions recommending that associations should be allowed to use the words “Macedonian” and “Turkish” in their names and to express their ethnic identities.

**Report of Secretary-General.** An August report of the Secretary-General [A/HRC/9/8], submitted in accordance with a Human Rights Council request [YUN 2006, p. 760], outlined interventions undertaken by OHCHR to promote the rights of minorities. Those activities included capacity-building, inter-agency cooperation, building thematic expertise and preparations for the Forum on Minority Issues (see above). The Council was invited to consider whether a final report and a review of relevant developments should be submitted at the Council’s tenth (2009) session. The Council might also consider grouping all reports on minorities, including that of the independent experts on minority issues, the forum on minority issues and the High Commissioner at one time of the year.

**Communications.** On 13 March [A/HRC/7/G/10], the Dominican Republic transmitted to OHCHR its comments on the joint report of the independent expert on minority issues and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on their 2007 mission to the country [YUN 2007, p. 715].

On 19 March [A/HRC/7/G/14], Turkey informed the Human Rights Council secretariat that, according to the Turkish constitutional system, the word “minorities” encompassed only groups of persons defined and recognized as such on the basis of multilateral or bilateral instruments to which Turkey was party. The country’s cooperation with the independent expert concerning Turkey would continue in relation to the minorities recognized in line with the aforementioned understanding.

**Human Rights Council action.** On 27 March [A/63/53 (res. 7/6)], the Human Rights Council extended the mandate of the independent expert for a three-year period and called on States to cooperate with the expert in the performance of her tasks and duties.

**GENERAL ASSEMBLY ACTION**

On 18 December [meeting 70], the General Assembly, on the recommendation of the Third Committee [A/63/430/Add.2], adopted resolution 63/174 without vote [agenda item 64 (b)].
Effective promotion of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities

The General Assembly,

Recalling its resolution 47/135 of 18 December 1992, by which it adopted the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities annexed to that resolution, and bearing in mind article 27 of the International Covenant on Civil and Political Rights as well as other relevant existing international standards and national legislation,

Recalling also its subsequent resolutions on the effective promotion of the Declaration, as well as Human Rights Council resolutions 6/15 of 28 September 2007, by which the Council established the Forum on Minority Issues, and 7/6 of 27 March 2008 on the mandate of the independent expert on minority issues,

Noting that the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities contributes to political and social stability and peace and enriches the cultural diversity and heritage of society, as reaffirmed in the 2005 World Summit Outcome,

Affirming that effective measures and the creation of favourable conditions for the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities, ensuring effective non-discrimination and equality for all, as well as full and effective participation in matters affecting them, contribute to the prevention and peaceful solution of human rights problems and situations involving them,

Expressing concern at the frequency and severity of disputes and conflicts involving persons belonging to national or ethnic, religious and linguistic minorities in many countries and their often tragic consequences, and that they often suffer disproportionately from the effects of conflict resulting in the violation of their human rights and are particularly vulnerable to displacement through, inter alia, population transfers, refugee flows and forced relocation,

Emphasizing the need for reinforced efforts to meet the goal of the full realization of the rights of persons belonging to national or ethnic, religious and linguistic minorities, including by addressing economic and social conditions and marginalization, as well as to end any type of discrimination against them,

Emphasizing also the importance of human rights education, training and learning as well as of dialogue and interaction among all relevant stakeholders and members of society on the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities as an integral part of the development of society as a whole, including the sharing of best practices such as for the promotion of mutual understanding of minority issues, managing diversity by recognizing plural identities and promoting inclusive and stable societies as well as social cohesion therein,

Emphasizing further the important role that national institutions can play in the promotion and protection of rights of persons belonging to national or ethnic, religious and linguistic minorities as well as in early warning and awareness raising for problems regarding minority situations,

Acknowledging that the United Nations has an important role to play regarding the protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities by, inter alia, taking due account of, and giving effect to, the Declaration,

1. Reaffirms the obligation of States to ensure that persons belonging to national or ethnic, religious and linguistic minorities may exercise fully and effectively all human rights and fundamental freedoms without any discrimination and in full equality before the law, as proclaimed in the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, and draws attention to the relevant provisions of the Durban Declaration and Programme of Action, including the provisions on forms of multiple discrimination;

2. Urges States and the international community to promote and protect the rights of persons belonging to national or ethnic, religious and linguistic minorities, as set out in the Declaration, including through the encouragement of conditions for the promotion of their identity, the provision of adequate education and the facilitation of their participation in all aspects of the political, economic, social, religious and cultural life of society and in the economic progress and development of their country, without discrimination, and to apply a gender perspective while doing so;

3. Urges States to take, as appropriate, all necessary constitutional, legislative, administrative and other measures to promote and give effect to the Declaration, and appeals to States to cooperate bilaterally and multilaterally, in particular on the exchange of best practices and lessons learned, in accordance with the Declaration, in order to promote and protect the rights of persons belonging to national or ethnic, religious and linguistic minorities;

4. Welcomes in this regard the initiative of the Office of the United Nations High Commissioner for Human Rights to organize, in cooperation with the International Labour Organization and the United Nations Office on Drugs and Crime, the expert meeting on integration with diversity in policing, held in Vienna on 15 and 16 January 2008, bringing together police service professionals of different regions and countries of the world in order to share good experiences and lessons learned in relation to the inclusion of persons belonging to national or ethnic, religious and linguistic minorities in law enforcement systems, and takes note of the ongoing work on the elaboration of the Office of the United Nations High Commissioner for Human Rights guidelines on integration with diversity in policing;

5. Encourages States, in their follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, to include aspects relating to persons belonging to national or ethnic, religious and linguistic minorities in their national plans of action and, in this context, to take forms of multiple discrimination fully into account;

6. Commends the independent expert on minority issues for the work that she has undertaken so far, for the important role that she has played in raising the level of awareness of, and in giving added visibility to the rights of persons belonging to national or ethnic, religious and linguistic minorities and for her ongoing efforts to promote and protect their rights in order to ensure equitable development and peaceful and stable societies, including through
close cooperation with Governments, the relevant United Nations bodies and mechanisms and non-governmental organizations, as provided for in Human Rights Council resolution 7/6;

7. Calls upon all States to cooperate with the independent expert in the performance of the tasks and duties mandated to her, and encourages the specialized agencies, regional organizations, national human rights institutions and non-governmental organizations to develop regular dialogue and cooperation with the mandate-holder;

8. Takes note with appreciation of the decision of the Human Rights Council to establish the Forum on Minority Issues, which shall provide a platform for promoting dialogue and cooperation on issues pertaining to persons belonging to national or ethnic, religious and linguistic minorities as well as thematic contributions and expertise to the work of the independent expert on minority issues and identify and analyse best practices, challenges, opportunities and initiatives for the further implementation of the Declaration;

9. Invites States, United Nations mechanisms, bodies, the specialized agencies, funds and programmes, regional, intergovernmental and non-governmental organizations and national human rights institutions as well as academics and experts on minority issues to participate actively in the inaugural session of the Forum on Minority Issues, to be held in Geneva in December 2008, which will be dedicated to the subject of the rights of persons belonging to minorities and the right to education;

10. Calls upon the United Nations High Commissioner for Human Rights to promote, within her mandate, the implementation of the Declaration, to continue to engage in a dialogue with Governments for that purpose and to regularly update and disseminate widely the United Nations Guide for Minorities;

11. Welcomes the inter-agency consultation of the High Commissioner with United Nations agencies, funds and programmes on minority issues, and calls upon those agencies, funds and programmes to contribute actively to this process;

12. Also welcomes the cooperation of the independent expert on minority issues with United Nations agencies, funds and programmes, such as the United Nations Children’s Fund, the United Nations Development Programme and the United Nations Educational, Scientific and Cultural Organization, in continuing their engagement with persons belonging to national or ethnic, religious and linguistic minorities in their work in all parts of the world;

13. Requests the High Commissioner to continue her efforts to improve coordination and cooperation among United Nations agencies, funds and programmes on activities related to the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities and to take the work of relevant regional organizations active in the field of human rights into account in her endeavours;

14. Invites the human rights treaty bodies, when considering reports submitted by States parties as well as special procedures of the Human Rights Council, to continue to give attention, within their respective mandates, to situations and rights of persons belonging to national or ethnic, religious and linguistic minorities;

15. Invites the High Commissioner to continue to seek voluntary contributions to facilitate the effective participation of representatives of non-governmental organizations and persons belonging to national or ethnic, religious and linguistic minorities, in particular those from developing countries, in minority-related activities organized by the United Nations, particularly its human rights bodies, and in doing so to give particular attention to ensuring the participation of young people and women;

16. Invites the independent expert on minority issues to report to the General Assembly at its sixty-fifth session on the implementation of the present resolution;

17. Decides to continue consideration of the question at its sixty-fifth session under the item entitled “Human rights questions”.

Leprosy victims

Human Rights Council action. On 18 June [A/63/53 (res. 8/13)], the Human Rights Council called upon Governments to take measures to eliminate discrimination against persons affected by leprosy and their family members, including awareness-raising. OHCHR was requested to include the issue in its human rights and awareness-raising activities, and collect information on measures taken by Governments to eliminate such discrimination and to report to the Council and the Human Rights Council Advisory Committee. The Committee was requested to examine the OHCHR report and formulate draft principles and guidelines for eliminating such discrimination for submission to the Council in 2009.

Religious intolerance

Note by OHCHR. A January Secretariat note [A/HRC/7/10] recalled that the Human Rights Council, in 2007 [YUN 2007, p. 726], had requested the Special Rapporteur on freedom of religion or belief, Asma Jahangir (Pakistan), to submit the next annual report, as well as outstanding reports, to the Council in 2009 in accordance with its annual work programme. The annual report (see below) would summarize communications sent by the Special Rapporteur from 1 December 2006 to 30 November 2007 and replies received from Governments by January 2008.

Reports of Special Rapporteur. The Special Rapporteur’s report, submitted in February [A/HRC/7/10/Add.1], summarized cases transmitted to 31 Governments and replies received thereto during that period.

In July, the Secretary-General transmitted to the General Assembly the Special Rapporteur’s interim report [A/63/161], submitted in accordance with Assembly resolution 62/157 [YUN 2007, p. 728], which addressed citizenship issues and religious discrimination in administrative procedures, as well as applicable legal standards and case law. The Rapporteur
noted that while most States did not openly discriminate on the basis of religion with respect to citizenship issues and administrative procedures, there were instances where State practice or legislation was inconsistent with human rights standards. Of concern were: the denial or deprivation of citizenship based on a person’s religious affiliation; compulsory mentioning of selected religions on official identity cards or passports; requirements to denounce a particular faith when applying for official documents; and restricted eligibility for State functions for persons of certain faiths.

In her conclusions and recommendations, the Special Rapporteur emphasized that the legitimate interests of the State had to be balanced on a case-by-case basis with the individual’s freedom of religion or belief. She highlighted some aspects that might help determine whether certain restrictions on the right to freedom of religion or belief were in contravention of human rights law.

The Special Rapporteur carried out a mission to Israel and the Occupied Palestinian Territory (20–27 January) [A/HRC/10/8/Add.2], where she focused on restricted access to places of worship; the preservation and protection of religious sites; the indication of religious affiliation on official identity cards; matters of personal status; the preferential treatment of Orthodox Judaism; the religious rights of persons deprived of their liberty; advocacy of religious hatred that constituted incitement to discrimination, hostility or violence; conversions and missionary activities; and further concerns within the Occupied Palestinian Territory. She noted that liberty of movement, including access to places of worship, was restricted, in particular for Palestinian Muslims and Christians, through the system of permits, visas, checkpoints and the Barrier. While Israel informed the Special Rapporteur that those restrictions were necessary for security reasons, any measure taken to combat terrorism should comply with States’ obligations under international law.

The Rapporteur recommended, among other things, that all parties bind themselves legally to protect the rights of religious minorities and include comprehensive guarantees for equality and non-discrimination on grounds of religion or belief. Israel should issue non-selective regulations to protect and preserve religious sites on a non-discriminatory basis. Additional recommendations referred to official documents, matters of personal status and training for police, military and prison personnel. Lastly, in both the State of Israel and in the Occupied Palestinian Territory, any advocacy of religious hatred that constituted incitement to discrimination, hostility or violence should be investigated, prosecuted and punished.

The Special Rapporteur visited India (3–20 March) [A/HRC/10/8/Add.3], where she focused on the situation of religious or belief minorities; justice for victims and survivors of communal violence; freedom of religion or belief in Jammu and Kashmir; the negative impact of laws on religious conversion in several states; and implications of religion-based personal laws. The Special Rapporteur noted the religious diversity of society and the positive impact of secularism as embodied in the Constitution, as well as the high degree of human rights activism in the country. However, even though a comprehensive legal framework to protect freedom of religion or belief did exist, many interlocutors, especially from religious minorities, were dissatisfied with its implementation. Owing to the federal nature of the political system, states had wide powers, including in the field of law and order. While recognizing the efforts and achievements of the central Government, the Special Rapporteur expressed concern about intolerance and discrimination based on religion or belief, especially in certain states. Organized groups claiming adherence to religious ideologies had unleashed an all-pervasive fear of mob violence in many parts of the country. Law enforcement officials were often reluctant to take any action against individuals or groups that perpetrated violence in the name of religion or belief. She stressed the need to prevent political exploitation of communal distinctions and to address advocacy of religious hatred that constituted incitement to discrimination, hostility or violence.

In her recommendations, the Rapporteur appealed to the authorities to protect members of religious minorities from attacks and to step up efforts to prevent communal violence. Legislation on communal violence should take into account the concerns of religious minorities and should not reinforce impunity of communalized police forces at the state level. Inquiries into large-scale communal violence should be accorded the highest priority by investigation teams, the judiciary and any commission appointed to study the situation. Laws and bills on religious conversion in several states should be reconsidered since they raised human rights concerns, in particular the use of vague or extremely broad terminology and discriminatory provisions. The eligibility for affirmative action benefits should be restored to those members of scheduled castes and scheduled tribes who had converted to another religion. Religion-based personal laws should be reviewed to prevent discrimination based on religion or belief and to ensure gender equality.

The Special Rapporteur, during her mission to Turkmenistan (4–10 September) [A/HRC/10/8/Add.4], was impressed by the high level of tolerance and the climate of religious harmony. However, there was still mistrust of religious organizations and collective manifestation of religion. Over the past eight years,
reports had been received of arrests, intimidation, harassment and restrictions on the religious activities of individuals and groups allegedly perpetrated by the authorities. Although the situation had much improved since 2007, individuals and religious communities remained under scrutiny and faced difficulties when manifesting their freedom of religion or belief. The Special Rapporteur was concerned about the imposition of legal or policy restrictions on registration, places of worship, religious material, religious education and proselytism. Those laws and their implementation amounted in some instances to undue limitations on freedom to manifest one’s religion or belief, as well as on other rights, such as freedom of association and freedom of expression.

In her conclusions and recommendations, the Special Rapporteur emphasized that the enactment and implementation of laws unduly restricting freedom of religion or belief could not provide a long-term solution to concerns of the Turkmenistan authorities that external extremist groups might disrupt the climate of religious harmony. Law-making in the area of religion or belief was sensitive. Vague or excessive legislative provisions could create tensions and give rise to multiple problems rather than solving them. In addition, they might be subject to arbitrary interpretation by law enforcement agencies and local administration. Consequently, the Rapporteur urged the Government to review the amended law on freedom of conscience and religious organizations so that it no longer infringed on the rights of individuals and groups in their exercise of freedom of religion or belief. In particular, the prohibition on unregistered religious activities and undue restrictions on religious material, education and attire should be removed from the law. Similarly, the Government should ensure that religious communities did not encounter obstructions with regard to the building, opening, renting or use of places of worship. The Council on Religious Affairs should include representatives of religious minorities and become a facilitating rather than a monitoring mechanism. On conscientious objection, the Government should offer an alternative civilian service for those who refused to perform military service owing to their religious beliefs. It should also reform the judiciary, offering legal redress and compensation for denial of freedom of religion or belief. Law enforcement officials and local representatives should receive adequate training about international human rights standards, including on freedom of religion or belief.

**Communication.** On 29 February [A/62/714-S/2008/157], Pakistan, as Chair of the Organization of the Islamic Conference (OIC) Group at New York, transmitted to the Secretary-General a statement by the OIC Group expressing concern about the increasing manifestations of Islamophobia that encouraged incitement to hatred against Islam and Muslims around the world and posed a threat to peace and security within and among States. Those acts called for redoubling efforts to promote understanding and respect for religions, cultures and civilizations.

**Human Rights Council action.** On 27 March [A/63/53 (res. 7/19)], by a recorded vote of 21 to 10, with 14 abstentions, the Human Rights Council deplored attacks and assaults on businesses, cultural centres and places of worship of all religions and targeting of religious symbols. It urged States to prohibit the dissemination of racist and xenophobic ideas and material aimed at any religion or its followers that constituted incitement to racial and religious hatred, hostility or violence. They should provide adequate protection against acts of hatred, discrimination, intimidation and coercion resulting from the defamation of any religion, and take all possible measures to promote tolerance and respect for all religions and their value systems. The High Commissioner should report on the implementation of the resolution and submit a study compiling legislation and jurisprudence on defamation of and contempt for religions to the Council’s ninth (2008) session.

**Reports of High Commissioner.** In response to that request, the High Commissioner, in September, submitted a report [A/HRC/9/7] on the implementation of Council resolution 7/19 on combating defamation of religion. The report summarized replies received from nine States, the Council of Europe and five NGOs.

Also pursuant to the Council’s request, the High Commissioner submitted a study [A/HRC/9/25] compiling legislation and jurisprudence concerning defamation and contempt of religion. The study presented preliminary findings on international, regional and national legislation and relevant jurisprudence; summarized relevant provisions of international instruments and jurisprudence; highlighted the conclusions and recommendations of Special Rapporteurs and former mandate holders; and reviewed regional norms and jurisprudence on freedom of thought, conscience and religion and freedom of expression. The study concluded that further clarity was needed with regard to the demarcation line between freedom of expression and incitement to religious hatred. To protect individuals and groups, a better understanding of the permissible limitations to freedom of expression in accordance with international human rights law should be developed. OHCHR would organize, in October, an expert seminar entitled “Links between articles 19 and 20 of the International Covenant on Civil and Political Rights: Freedom of expression and advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence”.

**Expert seminar.** The expert seminar (Geneva, 2–3 October) [A/HRC/10/31/Add.3] discussed: analo-
gies and parallels with other types of “incitement”; analysis of the notion of advocacy of religious hatred that constituted incitement to discrimination, hostility or violence; limits to the restrictions to freedom of expression: criteria and application; and the international legal framework and the interrelatedness between States’ obligations and articles 19 and 20 of the International Covenant on Civil and Political Rights.

Report of Secretary-General. In accordance with General Assembly resolution 62/154 [YUN 2007, p. 726], the Secretary-General in October submitted a report [A/63/365] on measures and activities undertaken by Member States, UN bodies, regional organizations, national human rights institutions and NGOs to implement that resolution. The Assembly had requested that the report address the possible correlation between defamation of religions and the upsurge in incitement, intolerance and hatred in many parts of the world. The report concluded that a comprehensive review of trends and patterns would be required to establish how and where incidence of religious defamation and incitement to racial and religious hatred were manifested and thereby establish such a correlation. The results of such a review would help in evaluating the effectiveness of the international legal framework, as well as in determining conditions that would facilitate dialogue and joint action for combating racism, discrimination and xenophobia.

Communication. On 26 June [A/HRC/9/G/2], the High Commissioner an updated version of the oic Observatory Report on Islamophobia as its contribution to the implementation of General Assembly resolution 62/154.

GENERAL ASSEMBLY ACTION

On 18 December [meeting 70], the General Assembly, on the recommendation of the Third Committee [A/63/430/Add.2], adopted resolution 63/171 by recorded vote (86-53-42) [agenda item 64 (b)].

Combating defamation of religions

The General Assembly,

Reaffirming the pledge made by all States, under the Charter of the United Nations, to promote and encourage universal respect for and observance of all human rights and fundamental freedoms without distinction as to race, sex, language or religion,

Recalling the relevant international instruments on the elimination of discrimination, in particular the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief, the Declaration on the Human Rights of Individuals Who are not Nationals of the Country in which They Live and the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities,

Reaffirming that all human rights are universal, indivisible, interdependent and interrelated,

Recalling the relevant resolutions of the Commission on Human Rights and the Human Rights Council in this regard,

Welcoming the resolve expressed in the United Nations Millennium Declaration adopted by the General Assembly on 8 September 2000 to take measures to eliminate the increasing acts of racism and xenophobia in many societies and to promote greater harmony and tolerance in all societies, and looking forward to its effective implementation at all levels,

Underlining in this regard the importance of the Durban Declaration and Programme of Action adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban, South Africa, in 2001, welcoming the progress achieved in implementing them, and emphasizing that they constitute a solid foundation for the elimination of all scourges and manifestations of racism, racial discrimination, xenophobia and related intolerance,

Expressing concern at the increase in racist violence and xenophobic ideas in many parts of the world, in political circles, in the sphere of public opinion and in society at large, as a result, inter alia, of the resurgence of activities of political parties and associations established on the basis of racist, xenophobic and ideological superiority platforms and charters, and the persistent use of those platforms and charters to promote or incite racist ideologies,

Deeply alarmed at the rising trends towards discrimination based on religion or belief, including in some national policies, laws and administrative measures that stigmatize groups of people belonging to certain religions and beliefs under a variety of pretexts relating to security and irregular immigration, thereby legitimizing discrimination against them, and consequently impairing their enjoyment of the right to freedom of thought, conscience and religion, and impeding their ability to observe, practise and manifest their religion freely and without fear of coercion, violence or reprisal,

Noting with deep concern the serious instances of intolerance, discrimination and acts of violence based on religion or belief, intimidation and coercion motivated by extremism, religious or otherwise, occurring in many parts of the world, in addition to the negative projection of certain religions in the media and the introduction and enforcement of laws and administrative measures that specifically discriminate against and target persons with certain ethnic and religious backgrounds, particularly Muslim minorities following the events of 11 September 2001, and that threaten to impede their full enjoyment of human rights and fundamental freedoms,

Stressing that defamation of religions is a serious affront to human dignity leading to the illicit restriction of the freedom of religion of their adherents and incitement to religious hatred and violence,

Stressing also the need to effectively combat defamation of all religions, and incitement to religious hatred in general,
Reaffirming that discrimination on the grounds of religion or belief constitutes a violation of human rights and a disavowal of the principles of the Charter,

Noting with concern that defamation of religions, and incitement to religious hatred in general, could lead to social disharmony and violations of human rights, and alarmed at the inaction of some States to combat this burgeoning trend and the resulting discriminatory practices against adherents of certain religions,

Taking note of the reports of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance submitted to the Human Rights Council at its fourth and sixth sessions, which draw attention to the serious nature of the defamation of all religions, and reiterating the call of the Special Rapporteur to all States to wage a systematic campaign against incitement to racial and religious hatred by maintaining a careful balance between the defence of secularism and respect for freedom of religion and by acknowledging and respecting the complementarity of all the freedoms embodied in internationally agreed human rights instruments, including the International Covenant on Civil and Political Rights,

Recalling the proclamation of the Global Agenda for Dialogue among Civilizations, and inviting States, the organizations and bodies of the United Nations system, within existing resources, other international and regional organizations and civil society to contribute to the implementation of the Programme of Action contained in the Global Agenda,

Welcoming the efforts of the Alliance of Civilizations initiative in promoting mutual respect and understanding among different cultures and societies, as well as the forthcoming second forum of the Alliance, to be held in Istanbul, Turkey, on 6 and 7 April 2009,

Convinced that respect for cultural, ethnic, religious and linguistic diversity, as well as dialogue among and within civilizations, is essential for peace, understanding and friendship among individuals and people of the different cultures and nations of the world, while manifestations of cultural prejudice, intolerance and xenophobia towards people belonging to different cultures, religions and beliefs generate hatred and violence among peoples and nations throughout the world,

Recognizing the valuable contributions of all religions and beliefs to modern civilization and the contribution that dialogue among civilizations can make to an improved awareness and understanding of common values,

Underlining the important role of education in the promotion of tolerance, which involves acceptance by the public of, and its respect for, diversity, including with regard to religious expressions, and underlining also the fact that education should contribute in a meaningful way to promoting tolerance and the elimination of discrimination based on religion or belief,

Reaffirming the need for all States to continue their national and international efforts to enhance dialogue and broaden understanding among civilizations, cultures, religions and beliefs, and emphasizing that States, regional organizations, non-governmental organizations, religious bodies and the media have an important role to play in promoting tolerance, respect for and freedom of religion and belief,

Welcoming all international and regional initiatives aimed at promoting cross-cultural and interfaith harmony, including the international dialogue on interfaith cooperation, and the World Conference on Dialogue, held in Madrid from 16 to 18 July 2008, and their valuable efforts towards the promotion of a culture of peace and dialogue at all levels, and taking note with appreciation of the programmes led by the United Nations Educational, Scientific and Cultural Organization in this regard,

Underlining the importance of increasing contacts at all levels in order to deepen dialogue and reinforce understanding among different cultures, religions, beliefs and civilizations, and in this regard taking note with appreciation of the Declaration and Programme of Action adopted by the Ministerial Meeting on Human Rights and Cultural Diversity of the Movement of Non-Aligned Countries, held in Tehran on 3 and 4 September 2007,

Recalling its resolution 62/154 of 18 December 2007,

1. Takes note of the report of the Secretary-General and the conclusions contained therein;

2. Expresses deep concern at the negative stereotyping of religions and manifestations of intolerance and discrimination in matters of religion or belief still evident in the world;

3. Strongly deplores all acts of psychological and physical violence and assaults, and incitement thereto, against persons on the basis of their religion or belief, and such acts directed against their businesses, properties, cultural centres and places of worship, as well as targeting of holy sites and religious symbols of all religions;

4. Expresses deep concern at the programmes and agendas pursued by extremist organizations and groups aimed at creating and perpetuating stereotypes about certain religions, in particular when condoned by Governments;

5. Notes with deep concern the intensification of the overall campaign of defamation of religions, and incitement to religious hatred in general, including the ethnic and religious profiling of Muslim minorities in the aftermath of the tragic events of 11 September 2001;

6. Recognizes that, in the context of the fight against terrorism, defamation of religions and incitement to religious hatred in general become aggravating factors that contribute to the denial of fundamental rights and freedoms of members of target groups, as well as their economic and social exclusion;

7. Expresses deep concern in this respect that Islam is frequently and wrongly associated with human rights violations and terrorism;

8. Reiterates the commitment of all States to the implementation, in an integrated manner, of the United Nations Global Counter-Terrorism Strategy, which was adopted without a vote by the General Assembly on 8 September 2006 and reaffirmed by the Assembly in its resolution 62/272 of 5 September 2008, and which clearly confirms, inter alia, that terrorism cannot and should not be associated with any religion, nationality, civilization or ethnic group, stressing the need to reinforce the international community’s commitment to promote a culture of peace, justice and human development, ethic, national and religious tolerance, and respect for all religions, religious values, beliefs or cultures and prevent the defamation of religions;
9. **Deplores** the use of the print, audio-visual and electronic media, including the Internet, and any other means to incite acts of violence, xenophobia or related intolerance and discrimination against any religion, as well as targeting of religious symbols;

10. **Emphasizes** that, as stipulated in international human rights law, everyone has the right to hold opinions without interference, and has the right to freedom of expression, the exercise of which carries with it special duties and responsibilities and may therefore be subject to limitations as are provided for by law and are necessary for respect of the rights or reputations of others, protection of national security or of public order, public health or morals;

11. **Reaffirms** that general recommendation XV(42) of the Committee on the Elimination of Racial Discrimination, in which the Committee stipulated that the prohibition of the disseminatation of all ideas based upon racial superiority or hatred is compatible with freedom of opinion and expression, is equally applicable to the question of incitement to religious hatred;

12. **Welcomes** the work undertaken by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression in accordance with their mandates defined by the Human Rights Council in its resolutions 7/34 and 7/36 of 28 March 2008;

13. **Strongly denounces** all manifestations and acts of racism, racial discrimination, xenophobia and related intolerance against national or ethnic, religious and linguistic minorities and migrants and the stereotypes often applied to them, including on the basis of religion or belief, and urges all States to apply and, where applicable, reinforce existing laws when such xenophobic or intolerant acts, manifestations or expressions occur, in order to eradicate impunity for those who commit xenophobic and racist acts;

14. **Reaffirms** the obligation of all States to enact the necessary legislation to prohibit the advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, and encourages States, in their follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, to include aspects relating to national or ethnic, religious and linguistic minorities in their national plans of action and, in this context, to take forms of multiple discrimination against minorities fully into account;

15. **Invites** all States to put into practice the provisions of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief;

16. **Urges** all States to provide, within their respective legal and constitutional systems, adequate protection against acts of hatred, discrimination, intimidation and coercion resulting from defamation of religions, and incitement to religious hatred in general, to take all possible measures to promote tolerance and respect for all religions and beliefs and the understanding of their value systems and to complement legal systems with intellectual and moral strategies to combat religious hatred and intolerance;

17. **Also urges** all States to ensure that all public officials, including members of law enforcement bodies, the military, civil servants and educators, in the course of their official duties, respect people regardless of their different religions and beliefs and do not discriminate against persons on the grounds of their religion or belief, and that any necessary and appropriate education or training is provided;

18. **Underscores** the need to combat defamation of religions, and incitement to religious hatred in general, by strategizing and harmonizing actions at the local, national, regional and international levels through education and awareness-raising, and urges all States to ensure equal access to education for all, in law and in practice, including access to free primary education for all children, both girls and boys, and access for adults to lifelong learning and education based on respect for human rights, diversity and tolerance, without discrimination of any kind, and to refrain from any legal or other measures leading to racial segregation in access to schooling;

19. **Calls upon** all States to exert the utmost efforts, in accordance with their national legislation and in conformity with international human rights and humanitarian law, to ensure that religious places, sites, shrines and symbols are fully respected and protected, and to take additional measures in cases where they are vulnerable to desecration or destruction;

20. **Calls upon** the international community to foster a global dialogue to promote a culture of tolerance and peace at all levels, based on respect for human rights and diversity of religion and belief, and urges States, non-governmental organizations, religious leaders and bodies and the print and electronic media to support and foster such a dialogue;

21. **Affirms** that the Human Rights Council shall promote universal respect for all religious and cultural values and address instances of intolerance, discrimination and incitement of hatred against members of any community or adherents of any religion, as well as the means to consolidate international efforts in order to combat impunity for such deplorable acts;

22. **Welcomes** the initiative by the United Nations High Commissioner for Human Rights on the recently held expert seminar on freedom of expression and advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence, on 2 and 3 October 2008, and requests the High Commissioner to continue to build on this initiative, with a view to concretely contributing to the prevention and elimination of all such forms of incitement and the consequences of negative stereotyping of religions or beliefs, and their adherents, on the human rights of those individuals and their communities;

23. **Takes note** of the efforts of the High Commissioner to promote and include human rights aspects in educational programmes, particularly the World Programme for Human Rights Education proclaimed by the General Assembly on 10 December 2004, and calls upon the High Commissioner to continue those efforts, with particular focus on:

(a) The contributions of cultures, as well as religious and cultural diversity;

(b) Collaboration with other relevant bodies of the United Nations system and regional and international organizations in holding joint conferences designed to encourage dialogue among civilizations and promote understanding of the universality of human rights and their implementation at various levels, in particular the Office of the United Nations High Representative for the Alliance of
Civilizations and the unit within the Secretariat mandated to interact with various entities within the United Nations system and coordinate their contribution to the intergovernmental process;

24. **Requests** the Secretary-General to submit a report on the implementation of the present resolution, including on the possible correlation between defamation of religions and the upsurge in incitement, intolerance and hatred in many parts of the world, to the General Assembly at its sixty-fourth session.

**RECORDED VOTE ON RESOLUTION 63/171:**

*In favour: Afghanistan, Algeria, Angola, Antigua and Barbuda, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Bhutan, Bolivia, Brunei Darussalam, Cambodia, China, Comoros, Côte d’Ivoire, Cuba, Democratic People’s Republic of Korea, Djibouti, Dominica, Egypt, El Salvador, Eritrea, Ethiopia, Fiji, Gabon, Gambia, Guinea, Guinea-Bissau, Guyana, Honduras, Indonesia, Iran, Iraq, Jamaica, Jordan, Kazakhstan, Kuwait, Kyrgyzstan, Lao People’s Democratic Republic, Lebanon, Lesotho, Libyan Arab Jamahiriya, Malaysia, Maldives, Mali, Mauritania, Morocco, Mozambique, Myanmar, Namibia, Nicaragua, Niger, Nigeria, Oman, Pakistan, Philippines, Qatar, Russian Federation, Saint Vincent and the Grenadines, Sao Tome and Principe, Saudi Arabia, Senegal, Sierra Leone, Singapore, Somalia, South Africa, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Tajikistan, Thailand, Togo, Tunisia, Turkey, Turkmenistan, Uganda, United Arab Emirates, Uzbekistan, Venezuela, Viet Nam, Yemen, Zimbabwe.*

*Against: Andorra, Australia, Austria, Belgium, Belize, Bulgaria, Canada, Cape Verde, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Marshall Islands, Micronesia, Moldova, Monaco, Montenegro, Netherlands, Norway, Palau, Poland, Portugal, Republic of Korea, Romania, Samoa, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Ukraine, United Kingdom, United States.*

*Abstaining: Argentina, Armenia, Benin, Botswana, Brazil, Burkina Faso, Burundi, Central African Republic, Chile, Colombia, Congo, Costa Rica, Dominican Republic, Ecuador, Ghana, Grenada, Guatemala, Haiti, India, Japan, Kenya, Madagascar, Malawi, Mauritius, Mexico, Mongolia, Namibia, Nepal, Panama, Papua New Guinea, Paraguay, Peru, Rwanda, Saint Lucia, Timor-Leste, Tonga, Trinidad and Tobago, Tuvalu, United Republic of Tanzania, Uruguay, Vanuatu, Zambia.*

Also on 18 December [meeting 70], the Assembly, on the recommendation of the Third Committee [A/63/430/Add.2], adopted resolution 63/181 without vote [agenda item 64 (b)].

**Elimination of all forms of intolerance and of discrimination based on religion or belief**

*The General Assembly,*

Recalling its resolution 36/55 of 25 November 1981, by which it proclaimed the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief,

Recalling also article 18 of the International Covenant on Civil and Political Rights, article 18 of the Universal Declaration of Human Rights and other relevant human rights provisions,

Recalling further its previous resolutions on the elimination of all forms of intolerance and of discrimination based on religion or belief, including resolution 62/157 of 18 December 2007, as well as Human Rights Council resolution 6/37 of 14 December 2007, in which the Council, inter alia, extended the mandate of the Special Rapporteur on freedom of religion or belief,

Reaffirming the recognition by the 1993 World Conference on Human Rights that all human rights are universal, indivisible, interdependent and interrelated, and its call upon all Governments to take all appropriate measures in compliance with their international obligations and with due regard to their respective legal systems to counter intolerance and related violence based on religion or belief, including practices of discrimination against women and the desecration of religious sites, recognizing that every individual has the right to freedom of thought, conscience, expression and religion,

Considering that religion or belief, for those who profess either, is one of the fundamental elements in their conception of life and that freedom of religion or belief should be fully respected and guaranteed,

Considering also that the disregard for and infringement of human rights and fundamental freedoms, in particular the right to freedom of thought, conscience and religion or belief, have brought, directly or indirectly, wars and great suffering to humankind,

Recognizing the important work carried out by the Human Rights Committee in providing guidance with respect to the scope of the freedom of religion or belief,

Resolved to speed up the implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief,

Believing that further intensified efforts are therefore required to promote and protect the right to freedom of thought, conscience and religion or belief and to eliminate all forms of hatred, intolerance and discrimination based on religion or belief, as also noted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance,

Reaffirming that everyone has the right to freedom of thought, conscience and religion or belief, which includes the freedom to have or to adopt a religion or belief of one’s choice and the freedom, either alone or in community with others and in public or private, to manifest one’s religion or belief in teaching, practice, worship and observance,

 Seriously concerned at all attacks on religious places, sites and shrines in violation of international law, in particular human rights and humanitarian law, including any deliberate destruction of relics and monuments,

 Seriously concerned also at any misuse of registration procedures and at the resort to discriminatory registration procedures as a means to limit the right to freedom of religion or belief of members of certain religious communities, at the limitations placed on religious materials and at the obstacles placed in the way of construction of places of worship, inconsistent with the exercise of the right to freedom of religion or belief,

Noting that a formal or legal distinction at the national level between different kinds of religions or beliefs may, in some cases, constitute discrimination and may impinge on the enjoyment of the freedom of religion or belief,
Expressing deep concern at all forms of discrimination and intolerance, including prejudices against persons and derogatory stereotyping of persons, based on religion or belief;

Recognizing the importance of enhanced interreligious and intrareligious dialogue in promoting tolerance in matters relating to religion or belief, and welcoming different initiatives in this regard, including the Alliance of Civilizations and the programmes led by the United Nations Educational, Scientific and Cultural Organization,

Emphasizing that States, regional organizations, nongovernmental organizations, religious bodies and the media have an important role to play in promoting tolerance and respect for religious and cultural diversity and in the universal promotion and protection of human rights, including freedom of religion or belief,

Convinced of the need to address the rise in various parts of the world of religious extremism that affects the rights of individuals, the situations of violence and discrimination that affect many women as well as other individuals on the grounds or in the name of religion or belief or in accordance with cultural and traditional practices, and the misuse of religion or belief for ends inconsistent with the Charter of the United Nations, as well as other relevant instruments of the United Nations,

Underlining the importance of education in the promotion of tolerance, which involves the acceptance by the public of, and its respect for, diversity, including with regard to religious expression, and underlining also the fact that education, in particular at school, should contribute in a meaningful way to promoting tolerance and the elimination of discrimination based on religion or belief,

Reaffirming, in this regard, that education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms and shall promote understanding, tolerance and friendship among all nations and racial or religious groups and further the activities of the United Nations for the maintenance of peace,

1. Condemns all forms of intolerance and of discrimination based on religion or belief, as well as violations of freedom of thought, conscience and religion or belief;

2. Stresses that the right to freedom of thought, conscience and religion applies equally to all people, regardless of their religions or beliefs, and without any discrimination as to their equal protection by the law;

3. Emphasizes that, as underlined by the Human Rights Committee, restrictions on the freedom to manifest one’s religion or belief are permitted only if limitations are prescribed by law, are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others, are non-discriminatory and are applied in a manner that does not vitiate the right to freedom of thought, conscience and religion;

4. Recognizes with deep concern the overall rise in instances of intolerance and violence directed against members of many religious and other communities in various parts of the world, including cases motivated by Islamophobia, anti-Semitism and Christianophobia;

5. Expresses concern over the persistence of institutionalized social intolerance and discrimination practised against many in the name of religion or belief;

6. Recalls that legal procedures pertaining to religious or belief-based groups and places of worship are not a prerequisite for the exercise of the right to manifest one’s religion or belief;

7. Emphasizes that such procedures, as described in paragraph 6 above, at the national or local level, as and when legally required, should be non-discriminatory in order to contribute to the effective protection of the right of all persons to practise their religion or belief either individually or in community with others and in public or private;

8. Recognizes with concern the situation of persons in vulnerable situations, including persons deprived of their liberty, refugees, asylum-seekers and internally displaced persons, children, persons belonging to national or ethnic, religious and linguistic minorities and migrants, as regards their ability to freely exercise their right to freedom of religion or belief;

9. Urges States to step up their efforts to protect and promote freedom of thought, conscience and religion or belief, and to this end:

(a) To ensure that their constitutional and legislative systems provide adequate and effective guarantees of freedom of thought, conscience, religion and belief to all without distinction, inter alia, by the provision of effective remedies in cases where the right to freedom of thought, conscience, religion or belief, or the right to practise freely one’s religion, including the right to change one’s religion or belief, is violated;

(b) To ensure that no one within their jurisdiction is deprived of the right to liberty, liberty or security of person because of religion or belief and that no one is subjected to torture or other cruel, inhuman or degrading treatment or punishment, or arbitrary arrest or detention on that account and to bring to justice all perpetrators of violations of these rights;

(c) To ensure that no one is discriminated against on the basis of his or her religion or belief when accessing, inter alia, education, medical care, employment, humanitarian assistance or social benefits;

(d) To review, whenever relevant, existing registration practices in order to ensure that such practices do not limit the right of all persons to manifest their religion or belief, alone or in community with others and in public or private;

(e) To ensure that no official documents are withheld from the individual on the grounds of religion or belief and that everyone has the right to refrain from disclosing information concerning one’s religious affiliation on such documents against one’s will;

(f) To ensure that everyone has the right and the opportunity to have access, on general terms of equality, to public service in one’s country, without any discrimination on the basis of religion or belief;

(g) To ensure, in particular, the right of all persons to worship or assemble in connection with a religion or belief and their right to establish and maintain places for these purposes and the right of all persons to write, issue and disseminate relevant publications in these areas;

(h) To ensure that, in accordance with appropriate national legislation and in conformity with international human rights law, the freedom of all persons and members
of groups to establish and maintain religious, charitable or humanitarian institutions is fully respected and protected;

(i) To exert the utmost efforts, in accordance with their national legislation and in conformity with international human rights law, to ensure that religious places, sites, shrines and symbols are fully respected and protected and to take additional measures in cases where they are vulnerable to desecration and destruction;

(j) To ensure that all public officials and civil servants, including members of law enforcement bodies, the military and educators, in the course of fulfilling their official duties, respect all religions or beliefs and do not discriminate for reasons based on religion or belief, and that all necessary and appropriate education or training is provided;

10. Condemn any advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence, whether it involves the use of print, audio-visual or electronic media or any other means;

11. Emphasizes that freedom of religion or belief and freedom of expression are interdependent, interrelated and mutually reinforcing;

12. Urges States to step up their efforts to eliminate intolerance and discrimination based on religion or belief, notably by:

(a) Taking all necessary and appropriate action, in conformity with international standards of human rights, to combat hatred, discrimination, intolerance and acts of violence, intimidation and coercion motivated by intolerance based on religion or belief, as well as incitement to hostility and violence, with particular regard to members of religious minorities in all parts of the world, and devoting particular attention to practices that violate the human rights of women and discriminate against women, including in the exercise of their right to freedom of thought, conscience and religion or belief;

(b) Promoting and encouraging, through education and other means, understanding, tolerance and respect in all matters relating to freedom of religion or belief and undertaking all appropriate efforts to encourage those engaged in teaching to promote mutual understanding, tolerance and respect;

13. Emphasizes that no religion should be equated with terrorism, as this may have adverse consequences on the enjoyment of the right to freedom of religion or belief of all members of the religious communities concerned;

14. Stresses the need to strengthen dialogue, inter alia, through the Alliance of Civilizations and its High Representative and the focal point within the Secretariat designated by the General Assembly, in its resolution 62/90 of 17 December 2007, to interact with various entities in the United Nations system and coordinate their contribution to dialogue;

15. Emphasizes the importance of a continued and strengthened dialogue among and within religions or beliefs, at all levels and with broader participation, including of women, to promote greater tolerance, respect and mutual understanding;

16. Invites all actors to address, in the context of inter-religious and intercultural dialogue, inter alia, the following issues within the framework of international human rights:

(a) The rise of religious extremism affecting religions in all parts of the world;

(b) The situations of violence and discrimination that affect many women as well as other individuals on the grounds or in the name of religion or belief or in accordance with cultural and traditional practices;

(c) The misuse of religion or belief for ends inconsistent with the Charter of the United Nations, as well as other relevant instruments of the United Nations;

17. Welcomes and encourages the continuing efforts of all actors in society, including non-governmental organizations and bodies and groups based on religion or belief, to promote the implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, and further encourages their work in promoting freedom of religion or belief and in highlighting cases of religious intolerance, discrimination and persecution;

18. Recommends that States, the United Nations and other actors, including non-governmental organizations and bodies and groups based on religion or belief, in their efforts to promote freedom of religion or belief, ensure the widest possible dissemination of the text of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, in as many different languages as possible, and promote its implementation;

19. Welcomes the work and the interim report of the Special Rapporteur on freedom of religion or belief;

20. Urges all Governments to cooperate fully with the Special Rapporteur, to respond favourably to her requests to visit their countries and to provide all necessary information for the effective fulfilment of her mandate;

21. Requests the Secretary-General to ensure that the Special Rapporteur receives the resources necessary to fully discharge her mandate;

22. Requests the Special Rapporteur to submit an interim report to the General Assembly at its sixty-fourth session;

23. Decides to consider the question of the elimination of all forms of religious intolerance at its sixty-fourth session under the item entitled “Promotion and protection of human rights”.

Conscientious objection

OHCHR report. In an August report [A/HRC/9/24] submitted in accordance with a Human Rights Council request [YUN 2006, p. 760], OHCHR addressed recent developments on conscientious objection to military service. An important development was a 2006 decision by the Human Rights Committee regarding two Jehovah’s Witnesses in the Republic of Korea who had refused to be drafted on account of their religious beliefs and conscience. The Committee concluded that the International Covenant on Civil and Political Rights provided certain protection against being forced to act against genuinely held religious belief. It was in practice common to conceive alternatives to compulsory military service that provided
equivalent social good and made equivalent demands on the individual. In other developments, the Ibero-American Convention on Young People’s Rights, which entered into force on 1 March, recognized the right to conscientious objection. OHCHR was preparing a publication on conscientious objection to military service and alternative service programmes for persons determined to be conscientious objectors, so as to consolidate in a single source applicable law and jurisprudence. The publication would also take note of resolutions and recommendations adopted by intergovernmental bodies, and contain examples of national practice. It would provide guidance to States, organizations and academics on applicable law and practice on the subject.

**Right to self-determination**

**Report of Secretary-General.** In response to General Assembly resolution 62/144 [A/63/254], the Secretary-General, in an August report [A/63/429], summarized the Human Rights Council’s consideration of the implementation of the right of peoples to self-determination. It also outlined the jurisprudence of the Human Rights Committee on the treaty-based human rights norms relating to the realization of that right.

**GENERAL ASSEMBLY ACTION**

On 18 December [meeting 70], the General Assembly, on the recommendation of the Third Committee [A/63/429], adopted **resolution 63/163** without vote [agenda item 63].

**Universal realization of the right of peoples to self-determination**

_The General Assembly,

Reaffirming the importance, for the effective guarantee and observance of human rights, of the universal realization of the right of peoples to self-determination enshrined in the Charter of the United Nations and embodied in the International Covenants on Human Rights, as well as in the Declaration on the Granting of Independence to Colonial Countries and Peoples contained in General Assembly resolution 1514(XV) of 14 December 1960,

Welcoming the progressive exercise of the right to self-determination by peoples under colonial, foreign or alien occupation and their emergence into sovereign statehood and independence,

Deeply concerned at the continuation of acts or threats of foreign military intervention and occupation that are threatening to suppress, or have already suppressed, the right to self-determination of peoples and nations,

Expressing grave concern that, as a consequence of the persistence of such actions, millions of people have been and are being uprooted from their homes as refugees and displaced persons, and emphasizing the urgent need for concerted international action to alleviate their condition,

Recalling the relevant resolutions regarding the violation of the right of peoples to self-determination and other human rights as a result of foreign military intervention, aggression and occupation, adopted by the Commission on Human Rights at its sixty-first and previous sessions,

Reaffirming its previous resolutions on the universal realization of the right of peoples to self-determination, including resolution 62/144 of 18 December 2007,

Reaffirming also its resolution 55/2 of 8 September 2000, containing the United Nations Millennium Declaration, and recalling its resolution 60/1 of 16 September 2005, containing the 2005 World Summit Outcome, which, inter alia, upheld the right to self-determination of peoples under colonial domination and foreign occupation,

Taking note of the report of the Secretary-General,

1. **Reaffirms** that the universal realization of the right of all peoples, including those under colonial, foreign and alien domination, to self-determination is a fundamental condition for the effective guarantee and observance of human rights and for the preservation and promotion of such rights;

2. **Declares** its firm opposition to acts of foreign military intervention, aggression and occupation, since these have resulted in the suppression of the right of peoples to self-determination and other human rights in certain parts of the world;

3. **Calls upon** those States responsible to cease immediately their military intervention in and occupation of foreign countries and territories and all acts of repression, discrimination, exploitation and maltreatment, in particular the brutal and inhuman methods reportedly employed for the execution of those acts against the peoples concerned;

4. **Deplores** the plight of millions of refugees and displaced persons who have been uprooted as a result of the aforementioned acts, and reaffirms their right to return to their homes voluntarily in safety and honour;

5. **Requests** the Human Rights Council to continue to give special attention to the violation of human rights, especially the right to self-determination, resulting from foreign military intervention, aggression or occupation;

6. **Requests** the Secretary-General to report on the question to the General Assembly at its sixty-fourth session under the item entitled “Right of peoples to self-determination”.

**Rights of Palestinians**

During the year, the General Assembly reaffirmed the right of the Palestinian people to self-determination, including the right to their independent State of Palestine, as well as the right of all States in the region to live in peace within secure and internationally recognized borders. States and UN system specialized agencies were urged to assist Palestinians in the early realization of the right.

**Human Rights Council action.** On 27 March [A/63/53 (res. 7/17)], the Human Rights Council reaffirmed the inalienable right of the Palestinian people
to self-determination, including their right to establish their sovereign, independent, democratic and viable contiguous State; reaffirmed its support for the solution of two States—Israel and Palestine—living side by side in peace and security; and stressed the need for respect for and preservation of the territorial unity, contiguity and integrity of all of the Occupied Palestinian Territory, including East Jerusalem.

GENERAL ASSEMBLY ACTION

On 18 December [meeting 70], the General Assembly, on the recommendation of the Third Committee [A/63/429], adopted resolution 63/165 by recorded vote (173-5-7) [agenda item 63].

The right of the Palestinian people to self-determination

The General Assembly, Aware that the development of friendly relations among nations, based on respect for the principle of equal rights and self-determination of peoples, is among the purposes and principles of the United Nations, as defined in the Charter,

Recalling, in this regard, its resolution 2625(XXV) of 24 October 1970 entitled "Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations",

Bearing in mind the International Covenants on Human Rights, the Universal Declaration of Human Rights, the Declaration on the Granting of Independence to Colonial Countries and Peoples and the Vienna Declaration and Programme of Action adopted at the World Conference on Human Rights on 25 June 1993,

Recalling the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations,

Recalling also the United Nations Millennium Declaration,

Recalling further the advisory opinion rendered on 9 July 2004 by the International Court of Justice on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, and noting in particular the reply of the Court, including on the right of peoples to self-determination, which is a right erga omnes,

Recalling the conclusion of the Court, in its advisory opinion of 9 July 2004, that the construction of the wall by Israel, the occupying Power, in the Occupied Palestinian Territory, including East Jerusalem, along with measures previously taken, severely impedes the right of the Palestinian people to self-determination,

Expressing the urgent need for the resumption of negotiations within the Middle East peace process on its agreed basis and for the speedy achievement of a just, lasting and comprehensive peace settlement between the Palestinian and Israeli sides,

Stressing the need for respect for and preservation of the territorial unity, contiguity and integrity of all of the Occupied Palestinian Territory, including East Jerusalem,

Recalling its resolution 62/146 of 18 December 2007,

Affirming the right of all States in the region to live in peace within secure and internationally recognized borders,

1. Reaffirms the right of the Palestinian people to self-determination, including their right to their independent State of Palestine;

2. Urges all States and the specialized agencies and organizations of the United Nations system to continue to support and assist the Palestinian people in the early realization of their right to self-determination.

RECORDED VOTE ON RESOLUTION 63/165:

In favour: Afghanistan, Albania, Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cambodia, Cape Verde, Central African Republic, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d’Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic People’s Republic of Korea, Denmark, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Ethiopia, Finland, France, Gabon, Gambia, Georgia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran, Iraq, Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People’s Democratic Republic, Latvia, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Moldova, Monaco, Mongolia, Montenegro, Morocco, Mozambique, Myanmar, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Sao Tome and Principe, Saudi Arabia, Senegal, Serbia, Sierra Leone, Singapore, Slovakia, Slovenia, Solomon Islands, Somalia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, The former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Tuvalu, Uganda, Ukraine, United Arab Emirates, United Kingdom, United Republic of Tanzania, Uruguay, Uzbekistan, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.

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

Abstaining: Australia, Cameroon, Canada, Fiji, Nauru, Tonga, Vanuatu.

Mercenaries

In its annual report [A/HRC/7/7], issued in January, the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination presented an overview of activities undertaken during the reporting period and discussed transnational issues, including the privatization of warfare, the activities of private military and private security companies, and extraterritorial and accountability issues. The Group concluded that the proliferation of private military and security companies worldwide was a direct consequence of the outsourcing and privatization of many military and security functions. Many of those companies were the supply side for contracts...
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had started to establish a framework of principles and criteria for the elaboration of national and international regulation mechanisms to address the activities of those companies, and would continue consultations with Governments, international and regional organizations, civil society and the private military and security industry on possible complementary and new standards. The Group would focus its work on the study and legal codification of the comprehensive system of oversight and regulation of such companies, including legal and procedural means at the international, regional and national levels. The Group concluded that the activities of those companies could not be regulated only on the basis of the 1989 International Convention against the Recruitment, Use, Financing and Training of Mercenaries [YUN 1989, p. 825], even if modernized and amended. A new international legal instrument, possibly in the format of a new UN convention, might be required, supplemented by a model law that would assist Governments in elaborating their legislation.

Human Rights Council action. On 28 March [A/63/53 (res. 7/21)], the Human Rights Council, by a recorded vote of 32 to 11, with 2 abstentions, extended the Working Group’s mandate for a three-year period. States were urged to cooperate with the Working Group in fulfilment of its mandate. The Working Group was requested to report to the Council in 2009.

Mission report. The Working Group visited the United Kingdom (26–30 May) [A/HRC/10/14/Add.2], and noted that although the Government did not have any register for private military and security companies, general industry estimates indicated that there were some 40 such companies based in the country operating internationally. Their revenues were estimated to have risen from $320 million before the war in Iraq to over $1.6 billion by 2004. The Group recognized that a positive step towards better oversight was the elaboration of the United Kingdom Green Paper, which outlined six options for regulating companies operating outside of the country. However, the Government had failed to take those options forward.

The Working Group recommended making public the results of the 2005 review of the United Kingdom Green Paper or undertaking a new review, as well as conducting a comprehensive discussion among concerned bodies on the options for regulation, including the potential sharing of responsibilities and functions between national and international levels of regulation and sanctions. It also recommended that the United Kingdom consider initiating and sponsoring, within the UN system, the elaboration of an international instrument on private military and security companies to complement national regulations, and assure clear criteria and permitted limits for normal operation, as well as full compliance with international law.
Regional consultation. In accordance with General Assembly resolution 62/145 [YUN 2007, p. 734] and Human Rights Council resolution 7/21 (above), the Working Group held a regional consultation for the Eastern European Group and Central Asian Region (Moscow, 17–18 October) [A/HRC/10/14/Add.3] to gain a regional perspective about current practices related to mercenaries and private military and security companies registered, operating or recruiting personnel in the region. It discussed the role of the State as holder of the monopoly on the use of force, and shared information on steps taken by regional States to introduce legislation and other measures to regulate and monitor the activities of such companies on the international market. The Group discussed also general guidelines, norms and basic principles for the regulation and oversight of the activities of those companies to encourage human rights protection.

The Working Group elaborated principles for the legal codification of the comprehensive system of oversight and regulation for private military and security companies. In accordance with those principles, the Working Group believed that an effective vetting system for selecting employees of such companies should be developed to prevent persons posing a higher risk of human rights violations from performing those duties. A draft international convention on the regulation of private military and security companies and a draft model law were introduced.

1989 International Convention


GENERAL ASSEMBLY ACTION

On 18 December [meeting 70], the General Assembly, on the recommendation of the Third Committee [A/63/429], adopted resolution 63/164 by recorded vote (125-52-5) [agenda item 63].

Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

The General Assembly,

Recalling all of its previous resolutions on the subject, including resolution 62/145 of 18 December 2007, and Human Rights Council resolution 7/21 of 28 March 2008, as well as all resolutions adopted by the Commission on Human Rights in this regard,

Recalling also all of its relevant resolutions in which, inter alia, it condemned any State that permitted or tolerated the recruitment, financing, training, assembly, transit and use of mercenaries with the objective of overthrowing the Governments of States; Members of the United Nations, especially those of developing countries, or of fighting against national liberation movements, and recalling further the relevant resolutions and international instruments adopted by the General Assembly, the Security Council, the Economic and Social Council and the Organization of African Unity, inter alia, the Organization of African Unity Convention for the elimination of mercenarism in Africa, as well as by the African Union,

Reaffirming the purposes and principles enshrined in the Charter of the United Nations concerning the strict observance of the principles of sovereign equality, political independence, the territorial integrity of States, the self-determination of peoples, the non-use of force or of the threat of use of force in international relations and non-interference in affairs within the domestic jurisdiction of States,

Reaffirming also that, by virtue of the principle of self-determination, all peoples have the right freely to determine their political status and to pursue their economic, social and cultural development, and that every State has the duty to respect this right in accordance with the provisions of the Charter,

Reaffirming further the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,

Alarmed and concerned at the danger that the activities of mercenaries constitute to peace and security in developing countries, in particular in Africa and in small States,

Deeply concerned at the loss of life, the substantial damage to property and the negative effects on the policy and economies of affected countries resulting from criminal mercenary activities,

Extremely alarmed and concerned about recent mercenary activities in Africa and other places and the threat they pose to the integrity of and respect for the constitutional order of those countries,

Concerned by the new modalities of mercenarism, and noting that the recruitment of former military personnel and ex-policemen by private military and private security companies to serve in their employ as “security guards” in zones of armed conflict seems to be continuing,

Convinced that, notwithstanding the way in which they are used or the form that they take to acquire some semblance of legitimacy, mercenaries or mercenary-related activities are a threat to peace, security and the self-determination of peoples and an obstacle to the enjoyment of all human rights by peoples,

1. Takes note with appreciation of the report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, and expresses its appreciation for the work of the experts of the Working Group;

2. Reaffirms that the use of mercenaries and their recruitment, financing and training are causes for grave concern to all States and violate the purposes and principles enshrined in the Charter of the United Nations;
3. Recognizes that armed conflict, terrorism, arms trafficking and covert operations by third Powers, inter alia, encourage the demand for mercenaries on the global market;

4. Urges once again all States to take the necessary steps and to exercise the utmost vigilance against the menace posed by the activities of mercenaries and to take legislative measures to ensure that their territories and other territories under their control, as well as their nationals, are not used for the recruitment, assembly, financing, training and transit of mercenaries for the planning of activities designed to impede the right of peoples to self-determination, to destabilize or overthrow the Government of any State or to dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the right of peoples to self-determination;

5. Requests all States to exercise the utmost vigilance against any kind of recruitment, training, hiring or financing of mercenaries, including nationals, by private companies offering international military consultancy and security services, as well as to impose a specific ban on such companies intervening in armed conflicts or actions to destabilize constitutional regimes;

6. Encourages States that import the military assistance, consultancy and security services provided by private companies to establish regulatory national mechanisms for the registering and licensing of those companies in order to ensure that imported services provided by those private companies neither impede the enjoyment of human rights nor violate human rights in the recipient country;

7. Calls upon all States that have not yet done so to consider taking the necessary action to accede to or ratify the International Convention against the Recruitment, Use, Financing and Training of Mercenaries;

8. Welcomes the adoption by some States of national legislation that restricts the recruitment, assembly, financing, training and transit of mercenaries;

9. Condemns mercenary activities in Africa and encourages the Governments of Africa on their collaboration in thwarting those illegal actions, which have posed a threat to the integrity of and respect for the constitutional order of those countries and the exercise of the right of their peoples to self-determination, and stresses the importance for the Working Group of looking into sources and root causes, as well as the political motivations of mercenaries and for mercenary-related activities;

10. Calls upon States to investigate the possibility of mercenary involvement whenever and wherever criminal acts of a terrorist nature occur and to bring to trial those found responsible or to consider their extradition, if so requested, in accordance with domestic law and applicable bilateral or international treaties;

11. Condemns any form of impunity granted to perpetrators of mercenary activities and to those responsible for the use, recruitment, financing and training of mercenaries, and urges all States, in accordance with their obligations under international law, to bring them, without distinction, to justice;

12. Calls upon Member States, in accordance with their obligations under international law, to cooperate with and assist the judicial prosecution of those accused of mercenary activities in transparent, open and fair trials;

13. Requests the Working Group to continue the work already done by the previous Special Rapporteurs on the strengthening of the international legal framework for the prevention and sanction of the recruitment, use, financing and training of mercenaries, taking into account the proposal for a new legal definition of a mercenary drafted by the Special Rapporteur in his report to the Commission on Human Rights at its sixtieth session, including the elaboration and presentation of concrete proposals on possible complementary and new standards aimed at filling existing gaps, as well as general guidelines or basic principles encouraging the further protection of human rights, in particular the right of peoples to self-determination, while facing current and emergent threats posed by mercenaries or mercenary-related activities;

14. Requests the Office of the United Nations High Commissioner for Human Rights, as a matter of priority, to publicize the adverse effects of the activities of mercenaries on the right of peoples to self-determination and, when requested and where necessary, to render advisory services to States that are affected by those activities;

15. Welcomes the convening in Panama on 17 and 18 December 2007 of the regional governmental consultation for Latin American and Caribbean States on traditional and new forms of mercenary activities as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, in particular regarding the effects of the activities of private military and security companies on the enjoyment of human rights;

16. Requests the Office of the High Commissioner to inform the Human Rights Council, in a timely manner, of the dates and places for the convening of the other regional governmental consultations on this matter, bearing in mind that this process may lead to the holding of a high-level round table of States, under the auspices of the United Nations, to discuss the fundamental question of the role of the State as holder of the monopoly of the use of force, with the objective of facilitating a critical understanding of the responsibilities of the different actors, including private military and security companies, in the current context, and their respective obligations for the promotion and protection of human rights and in reaching a common understanding as to which additional regulations and controls are needed at the international level;

17. Requests the Working Group to continue to take into account, in the discharge of its mandate, the fact that mercenary activities continue to occur in many parts of the world and are taking on new forms, manifestations and modalities, and in this regard requests its members to continue to pay particular attention to the impact of the activities of private companies offering military assistance, consultancy and security services on the international market on the enjoyment of human rights and the exercise of the right of peoples to self-determination;

18. Urges all States to cooperate fully with the Working Group in the fulfilment of its mandate;

19. Requests the Secretary-General and the United Nations High Commissioner for Human Rights to provide the Working Group with all the necessary assistance and support for the fulfilment of its mandate, both professional and financial, including through the promotion of cooperation between the Working Group and other components...
of the United Nations system that deal with countering mercenary-related activities, in order to meet the demands of its current and future activities;

20. Requests the Working Group to consult States and intergovernmental and non-governmental organizations in the implementation of the present resolution and to report, with specific recommendations, to the General Assembly at its sixty-fourth session its findings on the use of mercenaries to undermine the enjoyment of all human rights and to impede the exercise of the right of peoples to self-determination;

21. Decides to consider at its sixty-fourth session the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of the peoples to self-determination under the item entitled “Right of peoples to self-determination”.

RECORDED VOTE ON RESOLUTION 63/164:

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

Against: Albania, Andorra, Australia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Marshall Islands, Micronesia, Moldova, Monaco, Montenegro, Netherlands, Norway, Palau, Poland, Portugal, Republic of Korea, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, The former Yugoslav Republic of Macedonia, Turkey, Ukraine, United Kingdom, United States.

Abstaining: Chile, Fiji, New Zealand, Switzerland, Tonga.

Administration of justice

Transitional justice

Human Rights Council action. On 24 September [A/63/53/Add.1 (res. 9/10)], the Human Rights Council underlined the urgency of national and international efforts to restore justice and the rule of law in conflict and post-conflict situations and in the context of transitional processes; and emphasized the importance of a comprehensive approach to transitional justice, incorporating judicial and non-judicial measures, including individual prosecutions, reparations, truth-seeking, institutional reform and vetting of public employees and officials to ensure accountability, serve justice, provide remedies to victims, promote healing and reconciliation, establish independent oversight of the security system, restore confidence in State institutions and promote the rule of law. OCHCR was requested to assist States to establish and implement transitional justice mechanisms from a human rights perspective, and to submit an analytical study on human rights and transitional justice.

Fundamental standards of humanity

Report of Secretary-General. A June report by the Secretary-General [A/HRC/8/14], submitted pursuant to a Human Rights Council request [YUN 2006, p. 760], outlined progress in fundamental standards of humanity and issues related to securing the practical protection of all individuals in all circumstances and by all actors. A number of developments had contributed to securing the respect for international human rights and humanitarian law standards. The General Assembly adopted the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law [YUN 2005, p. 793], as well as the International Convention for the Protection of All Persons from Enforced Disappearance [YUN 2006, p. 800]. The work of the International Criminal Tribunals for the Former Yugoslavia and for Rwanda had elaborated on the nature and elements of certain war crimes, genocide and crimes against humanity. The work of the Special Court for Sierra Leone and the Extraordinary Chambers in the Courts of Cambodia represented a further step into incorporating standards of humanity into the work of hybrid courts. The International Court of Justice, in its 2007 decision in the case of the Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro) [YUN 2007, p. 1325], provided further clarification as to the interpretation of the scope and certain key notions of the Convention on the Prevention and Punishment of the Crime of Genocide [YUN 1948–49, p. 959]. That decision further clarified the interpretation of the term “ethnic cleansing” and its significance in international law within the scope of crimes against humanity, genocide and war crimes in the context of the responsibility to protect. Finally, the commencement of operations of the International Criminal Court contributed to securing the protection of victims and achieving accountability for serious violations of international rights.
Humanitarian and human rights law. To build on that progress, the Council might wish to keep itself informed of relevant developments, including further international and regional case law, which contributed to the interpretation of existing standards.

**Civilians in armed conflict**

**Security Council consideration (May).** On 27 May [meeting 5898], the Security Council considered the protection of civilians in armed conflict, during which it was briefed by John Holmes, Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator. Mr. Holmes observed that millions of people were still trapped in the horror of war and conflict, hoping desperately to rise from the chaos surrounding them. While in Kenya, Côte d’Ivoire, Nepal, Timor-Leste and, in a more fragile way, Uganda, violence had subsided, recent upsurges in recovering areas like Burundi and Southern Sudan were of concern. The full deployment of peacekeepers in Chad, the Central African Republic and the Darfur region of the Sudan had the potential to augment efforts to protect and assist those caught in the turmoil in the region, but those missions should be given the requisite support and resources to fulfill their mandates. Despite that progress, countless civilians in conflicts throughout the world continued to see their hopes shattered by violence and displacement, as well as by physical violence, deprivation and neglect.

In the first five months of the year, more than half a million people had been displaced by conflict. In Burundi, the Central African Republic, Chad, Somalia and the Sudan, over 337,000 civilians had been forced to flee violence. In the Democratic Republic of the Congo (DRC), 175,000 people were newly displaced. Continued havoc was occurring in Colombia, Somalia, southern Israel, and Sri Lanka, as well as in the Darfur region of the Sudan and Gaza. In Afghanistan and Iraq, civilians remained victims of suicide attacks, aerial bombardments and search operations against anti-Government elements. There were difficulties in conducting those operations but, nonetheless, any military response to insurgent attacks should comply with international humanitarian law. Robust action was needed against sexual violence, which continued to ravage the women of the DRC, Côte d’Ivoire and the Sudan. Humanitarian access was crucial for protecting civilians, yet millions of people in need of assistance remained beyond reach. Progress had been made in the nine years since the Council first considered the item. There was an increased awareness among Member States of the issues involved, and four resolutions on civilian protection had established an ambitious framework for action. The challenge was to realize that ambition and ensure the systematic consideration of the issue. The establishment of an informal expert group, attached to the Council, would allow for transparent, systematic and timely consultation on the protection of civilians concerns.

**SECURITY COUNCIL ACTION**

On 27 May [meeting 5898], following consultations among Security Council members, the President made statement S/PRST/2008/18 on behalf of the Council:

The Security Council reaffirms its commitment to the full and effective implementation of its resolutions on the protection of civilians in armed conflict and recalls previous statements on the issue made by its President.

The Council remains committed to addressing the impact of armed conflict on civilians. The Council expresses its deepest concern that civilians continue to account for the majority of victims of acts of violence committed by parties to armed conflict, including as a result of deliberate targeting, of indiscriminate and excessive use of force and of sexual and gender-based violence. The Council condemns all violations of international law, including international humanitarian law, human rights law and refugee law committed against civilians in situations of armed conflict. The Council demands that all relevant parties immediately put an end to such practices. The Council reaffirms in this regard that parties to armed conflict bear the primary responsibility to take all feasible steps to ensure the protection of affected civilians, in particular giving attention to the specific needs of women and children.

The Council re-emphasizes the responsibility of States to comply with their relevant obligations to end impunity and to prosecute those responsible for war crimes, genocide, crimes against humanity and serious violations of international humanitarian law.

The Council underlines the importance of safe and unhindered access of humanitarian personnel to provide assistance to civilians in armed conflict in accordance with international law, and stresses the importance, within the framework of humanitarian assistance, of upholding and respecting the humanitarian principles of humanity, neutrality, impartiality and independence.

The Council recognizes the increasingly valuable role that regional organizations and other intergovernmental institutions play in the protection of civilians, and encourages the Secretary-General and the heads of regional and other intergovernmental organizations to continue their efforts to strengthen their partnership in this regard.

The Council takes note of the report of the Secretary-General of 28 October 2007 on the protection of civilians in armed conflict, and requests the Secretary-General to submit his next report on this subject by May 2009. The Council invites the Secretary-General to provide an update in that report on the implementation of protection mandates in United Nations missions as mandated by the Council. The Council encourages the Secretary-General to continue to include such updates on the protection of civilians in his regular reporting on United Nations missions.

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**Chapter II: Protection of human rights**

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Human Rights Council action. On 24 September [A/63/53/Add.1 (res. 9/9)], the Human Rights Council resolved to address systematic and gross violations of the human rights of civilians in conflicts in order to facilitate the work of any mechanism that the Council might decide to establish in response to such violations. It called upon States to respect the human rights of civilians in armed conflicts; stressed the importance of combating impunity; and urged States to bring perpetrators to justice. OHCHR was invited to convene an expert consultation on the issue and to report at the Council’s eleventh (2009) session.

Missing persons

Human Rights Council action. On 28 March [A/63/53 (res. 7/28)], the Human Rights Council called upon States parties to an armed conflict to take all appropriate measures to prevent persons from going missing, account for persons reported missing as a result of such a situation, take all necessary measures to determine the identity and fate of persons reported missing and provide their family members with all relevant information on their fate. It decided to hold a panel discussion on the subject at its ninth (2008) session and asked the High Commissioner to prepare a report on those deliberations, with a view to charging the Council’s Advisory Committee with the preparation of a study on best practices in the matter. It requested the Secretary-General to bring the resolution to the attention of Governments, UN bodies, specialized agencies, regional intergovernmental organizations and international human rights organizations, and to submit a report on its implementation at the Council’s tenth (2009) session.

On 22 September [A/HRC/9/28], the Council held a panel discussion on missing persons. On 24 September [A/63/53/Add.1 (dec. 9/101)], it adopted a text welcoming that discussion and looked forward to receiving the High Commissioner’s summary of the panel’s deliberations. The Council requested the Advisory Committee to prepare a study on best practices in the matter of missing persons and submit it to the Council’s twelfth (2009) session.

Report of Secretary-General. In response to General Assembly resolution 61/155 [YUN 2006, p. 861], the Secretary-General, in August [A/63/299], summarized replies received from 10 Governments, two international humanitarian organizations and the Argentine Forensic Anthropology Team on the implementation of that resolution. The Secretary-General recommended that measures be taken to minimize the problem of missing persons in the context of armed conflict by establishing adequate identification processes and addressing it as part of peacebuilding processes. The right of families to know the fate of missing persons should be respected at all times. Forensic work should be supported as a component of the investigation of human rights violations. Access to independent forensic investigations of such violations should be improved, and mechanisms created to continue the recovery and identification process beyond the mandate of judicial and non-judicial mechanisms. Contacts should be enhanced between independent forensic experts and local judiciaries, prosecutors, judges and lawyers, and accountability for enforced disappearances ensured. States should ratify the International Convention for the Protection of All Persons from Enforced Disappearance [YUN 2006, p. 800], and bring their laws and practices into conformity with the Convention.

GENERAL ASSEMBLY ACTION

On 18 December [meeting 70], the General Assembly, on the recommendation of the Third Committee [A/63/430/Add.2], adopted resolution 63/183 without vote [agenda item 64 (b)].

Missing persons

The General Assembly, Guided by the purposes, principles and provisions of the Charter of the United Nations, Guided also by the principles and norms of international humanitarian law, in particular the Geneva Conventions of 12 August 1949 and the Additional Protocols thereto, of 1977, as well as international standards of human rights, in particular the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993,

Acknowledging the adoption of the International Convention for the Protection of All Persons from Enforced Disappearance, and looking forward to its entry into force,

Recalling all previous relevant resolutions on missing persons adopted by the General Assembly, as well as the resolutions adopted by the Commission on Human Rights and the Human Rights Council,

Noting with deep concern that armed conflicts are continuing in various parts of the world, often resulting in serious violations of international humanitarian law and human rights law,

Noting that the issue of persons reported missing in connection with international or non-international armed conflicts, in particular those who are victims of serious violations of international humanitarian law and human rights law, continues to have a negative impact on efforts to put an end to those conflicts and causes suffering to the families of missing persons, and stressing in this regard the need to address the issue from a humanitarian perspective, among others,
Considering that the problem of missing persons may raise questions of international humanitarian law and international human rights law, as appropriate;

Being cognizant that States that are parties to an armed conflict have a responsibility for countering the phenomenon of missing persons and determining the fate of missing persons and for recognizing their accountability as regards implementing the relevant mechanisms, policies and laws,

Bearing in mind the effective search for and identification of missing persons through traditional forensic methods, and recognizing that great technological progress has been achieved in the field of DNA forensic sciences, which could significantly assist efforts to identify missing persons,

Recalling the Agenda for Humanitarian Action, in particular its general objective 1, to “respect and restore the dignity of persons missing as a result of armed conflicts or other situations of armed violence and of their families”, adopted at the Twenty-eighth International Conference of the Red Cross and Red Crescent, held in Geneva from 2 to 6 December 2003, and resolution 3 entitled “Reaffirmation and implementation of international humanitarian law: preserving human life and dignity in armed conflict”, adopted at the Thirtieth International Conference of the Red Cross and Red Crescent, held in Geneva from 26 to 30 November 2007,

Taking note with appreciation of the report of the Secretary-General of 18 August 2008 on missing persons, prepared pursuant to General Assembly resolution 61/155 of 19 December 2006,

Taking note with appreciation also of the ongoing international and regional efforts to address the question of missing persons and of the initiatives undertaken by international and regional organizations in this field,

1. Urges States strictly to observe and respect and ensure respect for the rules of international humanitarian law, as set out in the Geneva Conventions of 12 August 1949 and, where applicable, in the Additional Protocols thereto, of 1977;

2. Calls upon States that are parties to an armed conflict to take all appropriate measures to prevent persons from going missing in connection with armed conflict and account for persons reported missing as a result of such a situation;

3. Reaffirms the right of families to know the fate of their relatives reported missing in connection with armed conflicts;

4. Also reaffirms that each party to an armed conflict, as soon as circumstances permit and, at the latest, from the end of active hostilities, shall search for the persons who have been reported missing by an adverse party;

5. Calls upon States that are parties to an armed conflict to take all necessary measures, in a timely manner, to determine the identity and fate of persons reported missing in connection with the armed conflict and, to the greatest possible extent, to provide their family members, through appropriate channels, with all relevant information they have on their fate;

6. Recognizes, in this regard, the need for the collection, protection and management of data on missing persons according to international and national legal norms and standards, and urges States to cooperate with each other and with other concerned actors working in this area, inter alia, by providing all relevant and appropriate information related to missing persons;

7. Requests States to pay the utmost attention to cases of children reported missing in connection with armed conflicts and to take appropriate measures to search for and identify those children and to reunite them with their families;

8. Invites States that are parties to an armed conflict to cooperate fully with the International Committee of the Red Cross in establishing the fate of missing persons and to adopt a comprehensive approach to this issue, including all such legal and practical measures and coordination mechanisms as may be necessary, based on humanitarian considerations only;

9. Urges States and encourages intergovernmental and non-governmental organizations to take all necessary measures at the national, regional and international levels to address the problem of persons reported missing in connection with armed conflicts and to provide appropriate assistance as requested by the concerned States, and welcomes in this regard the establishment and efforts of commissions and working groups on missing persons;

10. Calls upon States, without prejudice to their efforts to determine the fate of persons missing in connection with armed conflicts, to take appropriate steps with regard to the legal situation of the missing persons and the need of their family members, in fields such as social welfare, financial matters, family law and property rights;

11. Stresses the need for addressing the issue of missing persons as a part of peacebuilding processes, with reference to all justice and rule of law mechanisms, on the basis of transparency, accountability and public involvement and participation;

12. Welcomes the panel discussion on the question of missing persons held at the ninth session of the Human Rights Council, and takes note of the request of the Council to the United Nations High Commissioner for Human Rights to prepare a summary of the panel’s deliberations;

13. Takes note of the request of the Human Rights Council to its Advisory Committee to prepare a study on the best practices in the matter of missing persons and to submit that study to the Council at its twelfth session;

14. Invites relevant human rights mechanisms and procedures, as appropriate, to address the problem of persons reported missing in connection with armed conflicts in their forthcoming reports to the General Assembly;

15. Requests the Secretary-General to submit a comprehensive report on the implementation of the present resolution, including relevant recommendations, to the Human Rights Council at its relevant session and to the General Assembly at its sixty-fifth session;

16. Also requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations bodies, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations;

17. Decides to consider the question at its sixty-fifth session.


**Arbitrary detention**

**Working Group activities.** The five-member Working Group on Arbitrary Detention held its fifty-first (5–9 May), fifty-second (8–12 September) and fifty-third (19–28 November) sessions, all in Geneva [A/HRC/10/21]. During the year, the Group adopted 46 opinions concerning 183 persons in 22 countries; the texts of those opinions were contained in a separate report [A/HRC/10/21/Add.1]. The Group transmitted 130 urgent appeals to 44 Governments concerning 1,256 individuals, including 57 women, 4 boys and 3 girls. Governments informed the Group that they had taken measures to remedy the situation of the detainees: in some cases, the detainees were released; in other cases, the Group was assured that the detainees concerned would enjoy fair trial guarantees. The Group engaged in a continuous dialogue with the countries it had visited, in respect of which it had recommended changes to legislation governing detention or the adoption of other measures. Information about the implementation of those recommendations was received from Belarus, Canada, China, Ecuador and Turkey.

Several issues had given rise to concern during 2008. In particular, the Working Group denounced the fact that an important proportion of the 9 million persons deprived of their liberty worldwide were unable to benefit from the legal resources and guarantees to which they were entitled for the conduct of their defence. Most did not have the means to afford expensive and complex legal procedures, and had difficulties in verifying the lawfulness of their detention and no effective control of their other rights. Detained persons suspected of terrorist activities should be immediately informed of such charges, brought before a competent judicial authority and enjoy the right to habeas corpus.

The Working Group therefore proposed that the Human Rights Council extend its mandate to include the monitoring of State compliance with their obligations concerning all human rights of detained and imprisoned persons.

The Working Group elaborated a list of principles concerning deprivation of liberty of persons accused of acts of terrorism, which it included in its report, and proposed holding a special forum on the respect of the right not to be arbitrarily deprived of liberty in the counter-terrorism context, especially in emergency situations. It noted that the corruption it had observed in some countries made the whole system of guarantees devoid of any content and reduced the credibility of the entire administration of justice system. The Group called upon States to become a party to the United Nations Convention against Corruption [YUN 2003, p. 1127]. It reiterated that immigrants in irregular situations should not be qualified or treated as criminals nor viewed only from the perspective of national security. Detention should be of the last resort, permissible only for the shortest period of time.

A Working Group delegation visited Mauritania (19 February–3 March) [A/HRC/10/21/Add.2], which was undergoing a transitional period. A number of institutional and legislative reforms had been carried out, including the establishment of a National Human Rights Commission and a general inspectorate of the judicial and penitentiary administration. The Government sought to improve the working conditions of the judiciary and to strengthen its power, reform the system of legal assistance and build new prisons. However, the legacy of the authoritarian system was still making itself felt. There were shortcomings in its legislation, but above all a gap between the legal instruments in force and actual practice. The cases of arbitrary detention that were observed stemmed mainly from dysfunction in the administration of justice, as reflected in a failure to respect the time limit for police custody; violations of the right to a fair trial; ineffective judicial oversight of the police and gendarmerie; corruption; and inconsistent interpretations of sharia.

In its conclusions and recommendations, the Working Group placed priority on guaranteeing the rights of the defence, strengthening oversight of police custody and places of detention, and training programmes for all those involved in the criminal justice system, including judges and prosecutors. The international community and OHCHR should provide technical and financial support to strengthen Mauritania’s national capacity for the protection of human rights and to support the Government’s reform process.

The Working Group visited Colombia (1–10 October) [A/HRC/10/21/Add.3], noting progress and setbacks in applying the new accusatorial criminal procedure for ensuring that national police officers respected the time limits on police detention, and in keeping up-to-date records. It highlighted the work of the Office of the Procurator-General within the Public Prosecutor’s Office, which acted, in judicial proceedings, as guarantor of respect for due process and the right to defence. It also drew attention to the work of the judges responsible for procedural safeguards. The Group expressed satisfaction at the existence of judicial services centres and the work done in prisons by the human rights committees, which were elected by the prisoners by secret ballot.

The Working Group noted the gap between the Constitution, the law and reality. It criticized the practice of administrative pretrial detention; mass or multiple arrests by the military in rural areas; detentions in the poor areas of large cities, especially of beggars, the destitute and members of ethnic and sexual minorities; military round-ups and forced conscrip-
tion; and the absence of criminal enforcement judges in prisons; prison overcrowding; and the practice of citizen’s arrests. It expressed concern at the problem of “false positives”, whereby, to obtain privileges, soldiers would detain innocent, vulnerable people without any valid reason, execute them and later identify such persons as guerrillas killed in combat.

The Working Group highlighted Government efforts to guarantee legislatively the protection of basic rights through such measures as the new code of criminal procedure, but criticized lapses in legislation and case law since its adoption. It noted the practice of mass detentions, as well as the lack of solid evidence required to carry out an arrest, particularly when the only evidence was the accusation of former guerrillas. The Group recommended that the Government eradicate the practice of mass arrests and administrative pretrial detention; eliminate detentions by military personnel and agents of private companies; appoint expedited procedure judges to clear cases under the old code of criminal procedure; and strengthen human rights institutions.

The Working Group visited Ukraine (22 October–5 November) [A/HRC/10/21/Add.4] and noted the reforms implemented with respect to the administration of justice since the country’s independence in 1991. While commending the existence of several monitoring mechanisms, such as the Ombudsperson, mobile monitoring clinics and public councils, which worked to combat arbitrary detention, the Working Group recognized the need for strengthening them. It expressed concern about allegations of confessions obtained under torture from detainees of the Militsia (police force), which abused its arresting powers under the laws on administrative offences and on vagrants. Allegations of torture were not properly addressed by the Office of the Prosecutor General, nor were extracted confessions excluded as evidence in trials. Impunity for perpetrators of ill-treatment largely prevailed. Arbitrary detention resulted from the accumulation of powers in the Office of the Prosecutor General, which had both criminal prosecution and oversight powers, answered extradition requests and could, at the same time, challenge in court the refugee status of the person for whom extradition was sought. It also resulted from the perceived lack of an independent judiciary and an ineffective system of criminal defence and legal aid. The situation was aggravated by corruption throughout the law enforcement system. Also of concern was the high number of arrests, many of them not registered, which some sources estimated at approximately 1 million each year. Moreover, pre-trial detention and restrictions applied during detention on remand were too frequent, with courts not exercising genuine control when authorizing such detention.

The Working Group addressed 24 recommendations to the Government concerning, among other issues, allegations of torture to extract confessions; the various law enforcement institutions governing deprivation of liberty; pre-trial detention and legal aid; imprisonment, administrative offences and immigration detention; detention pending extradition; and juvenile justice and monitoring mechanisms.

The Working Group visited Italy (3–14 November) [A/HRC/10/21/Add.5] and reported numerous safeguards against illegal detention in the criminal justice system. However, the excessive duration of criminal proceedings could lead to situations of arbitrary detention, when defendants were in remand custody or when, though not detained pending trial, they were ordered to serve a prison sentence after an unreasonable amount of time had lapsed since the offence. The percentage of prisoners awaiting final judgement—and thus not serving a final sentence—was far in excess of that of other Western European countries. Immigrants were seriously over-represented in the prison population and did not benefit from access to alternatives to imprisonment to the same extent as Italian citizens.

The Government declared mafia-type organized crime, the threat of international terrorism, and crime by irregular migrants to be public security emergencies and responded by adopting extraordinary measures. The Group expressed concern about the safeguards regarding repeated extensions of detention under the law on the penitentiary system; the deportation of foreigners suspected of terrorist activities to countries where they could face arbitrary detention and torture; and norms that would increase the already disproportionate incarceration of foreigners. Limitations on the liberty of asylum-seekers in first reception centres did not have a sound legal basis. Also of concern was the detention of irregular migrants in identification and expulsion centres, including persons already having served a criminal sentence, asylum-seekers, and persons who were unlikely to be deported.

The Working Group called on the Government to take legislative and other measures to decrease the duration of criminal trials, and to reduce the share of the prison population held on remand. Judicial oversight regarding repeated extensions of detention should be strengthened. Legislation making non-compliance with immigration laws punishable by imprisonment, or as an aggravating circumstance, should be reconsidered. Limitations on the liberty of asylum-seekers should be applied on a sound legal basis and unnecessary or unreasonable detention in identification and expulsion centres of irregular migrants to be deported should be reduced.

Right to the truth

Council, recognizing the importance of respecting and ensuring the right to the truth in order to end impunity and promote and protect human rights, welcomed the establishment in several States of judicial and non-judicial mechanisms, such as truth and reconciliation commissions, to investigate human rights violations; encouraged those States to implement the recommendations of those mechanisms; and encouraged other States to establish such mechanisms to investigate violations of international humanitarian law. OHCHR was requested to prepare a study, to be presented to the Council’s twelfth (2009) session, on best practices for the effective implementation of the right to the truth, and to prepare a report, to be presented to the Council’s fifteenth (2010) session, on the use of forensic experts in cases of gross human rights violations.

Independence of the judicial system

Reports of Special Rapporteur. In a May report [A/HRC/8/4], the Special Rapporteur on the independence of judges and lawyers, Leandro Despouy (Argentina), addressed the impact of states of emergency on the right to a fair trial and access to justice, and discussed recent developments in international justice. The report analysed the two most important aspects of access to justice: access to justice as a fundamental right and the conditions for its effective implementation. It examined in particular the content and scope of the right of access to justice and the different economic, social, cultural and operational barriers to the exercise of that right; how access was affected by the type and characteristics of the various courts dispensing justice and the conditions in which judicial actors carried out their work; and the impact of corruption and judicial delay. The report also indicated the main consequences of the shortcomings in access to justice and recommended, in particular, that a database of best practice be developed to help States bridge that gap.

It also warned of the consequences, for the relatives of Sergio Vieira de Mello, former Special Representative for Iraq, and 21 other staff members who lost their lives in the 19 August 2003 attack on the UN headquarters in Baghdad [YUN 2003, p. 346], of the execution of a witness who could have helped to shed light on the incident, in blatant violation of the right to the truth. The Special Rapporteur urged that a commission of eminent persons be created to establish the facts. He proposed examining more closely the impact of states of emergency on human rights and asked the Council to give the subject the attention it deserved.


In an August note [A/63/271], the Secretary-General transmitted to the General Assembly the Special Rapporteur’s fourth report on the subject. The report stressed the central role of the judiciary in guaranteeing due process and safeguards against arbitrary detention, and warned of the consequences that attempts to deprive judges of that responsibility might have on the exercise of human rights. Judges had an important role in protecting human rights during states of emergency, and States should not interfere with the operation of the justice system in times of national emergency. The role of the judiciary was crucial for guaranteeing that states of emergency were declared and implemented in accordance with the principles governing them and that the measures taken in emergency situations did not interfere with the exercise of human rights, especially with rights considered non-derogable under international law.

The Special Rapporteur urged States not to limit the operation of the judicial system in such circumstances and invited the Assembly to pay special attention to the issue. He recommended that a permanent list of countries in such circumstances should be maintained and continuously updated, as well as a list of the rights suspended and the starting and ending dates of the measures. An international instrument on principles for the protection of human rights during emergencies should also be drafted. In addition to states of emergency, there was a trend towards the restriction of rights in the name of defending national security, combating terrorism and controlling immigration. In such cases, the judiciary should clarify the limits of executive power where human rights were concerned. The Rapporteur undertook to explore how the underpayment of judges or linking their pay levels to the decisions they made compromised their independence and impartiality. He urged that every effort should be made to investigate the criminal attack on the UN headquarters in Baghdad in 2003, and reiterated his proposal that a panel of high-level experts should be established for that purpose.

The General Assembly took note of the report on 18 December (decision 63/534).

The Special Rapporteur visited the Russian Federation (19–29 May) [A/HRC/11/41/Add.2], where important reforms had been implemented since 1993, particularly the adoption of new legislation governing judicial proceedings and the significant improvement of working conditions of the judiciary. However, concerns remained about the practical implementation of equal access to the courts and the fact that many judicial decisions were not implemented. There was insufficient transparency in the selection process of
judges and the implementation of disciplinary measures. Political and other interference had damaged the image of the justice system in the eyes of the population. The role of defence lawyers had not yet been fully recognized. However, the reform aimed at separating the functions of investigation and prosecution had the potential to give judges a stronger guiding role and to achieve a more effective and balanced system in judicial proceedings. A solid legal framework was needed to achieve a judicial system with independent courts and guaranteeing adversarial proceedings, as well as a change in attitude. Recent initiatives, in particular the setting-up of a special working group on judicial reform, were encouraging. The Government’s 2007–2011 reform programme, focusing on increased transparency, accessibility and effectiveness of the courts, should be refined and expanded.

The Rapporteur recommended, among other things, establishing a mechanism for rapid and comprehensive execution of domestic and international judicial decisions; monitoring closely courts’ adherence to jurisprudence established at the highest domestic instances; institutionalizing closer cooperation between bailiffs and courts; and establishing an administrative court system to fight corruption and ensure liability of state officials. Other recommendations sought to strengthen procedural legislation and practice, enhance the independent role of judges and strengthen the role of the bar.

Human Rights Council action. On 18 June [A/63/53 (res. 8/6)], the Human Rights Council extended the mandate of the Special Rapporteur for a three-year period. It called upon Governments to respond favourably to the Rapporteur’s requests to visit their countries and urged them to enter into a constructive dialogue with the Rapporteur.

Capital punishment

Communications. By a January note [A/62/658] to the Secretary-General, 58 Member States referred to General Assembly resolution 62/149 [YUN 2007, p. 744], entitled “Moratorium on the use of the death penalty”, which was adopted by a recorded vote. Those States wished to place on record their persistent objection to any attempt to impose a moratorium on the use of the death penalty or its abolition, in contravention to existing stipulations under international law. There was no international consensus that the death penalty should be abolished, and the issue had proven to be a divisive one. Capital punishment had been characterized as a human rights issue in the context of the right of the convicted prisoner to life. However, it was first and foremost a criminal justice issue and an important deterrent vis-à-vis the most serious crimes. It should therefore be viewed from a broader perspective and weighed against the rights of the victims and the right of the community to live in peace and security. Every State had an inalienable right to choose its political, economic, social, cultural and legal justice systems, without interference by another State. Some States had decided to abolish the death penalty, others had chosen to apply a moratorium on executions, and many others had retained the death penalty in their legislation. All sides were acting in compliance with their international obligations. Each State had decided freely to determine the path that corresponded to its own social, cultural and legal needs, in order to maintain security, order and peace. No side had the right to impose its standpoint on the other.

By a 19 March letter [A/62/761], Uzbekistan informed the Secretary-General that it had abolished the death penalty as of 1 January.

Reports of Secretary-General. Pursuant to a Human Rights Council request [YUN 2006, p. 760], the Secretary-General, in a May report [A/HRC/8/11] on the question of the death penalty, covering the period from January 2006 to May 2008, found that the trend towards abolition had continued. The number of countries that were completely abolitionist had risen from 85 to 93, and the number of retentionist countries had decreased from 65 to 60. The number of countries that had ratified international instruments providing for the abolition of the death penalty had also increased significantly.

Pursuant to General Assembly resolution 62/149, the Secretary-General, in an August report [A/63/293 & Corr.1] on moratoriums on the use of the death penalty, surveyed respect for the rights of those sentenced to death as set out in the international human rights treaties and the guidelines established by the Economic and Social Council in 1984 [YUN 1984, p. 709]. Drawing on contributions of Member States, the report examined the motivations for establishing a moratorium on or abolishing the death penalty, as well as those for retaining it. The report confirmed the global trend towards abolition; suggested that the establishment of a moratorium was a key step towards eventual abolition; and observed that for States maintaining the death penalty, the standards to safeguard the rights of those sentenced to death were crucial for ensuring that the punishment was carried out in a manner consistent with States’ international legal obligations. Further work could usefully be carried out on specific restrictions on the use of capital punishment, such as the prohibition of the execution of certain groups of individuals; the prohibition of torture and other cruel, inhuman or degrading treatment; or punishment in the application of the death penalty, including the conditions of detention on death row.
On 18 December [meeting 70], the General Assembly, on the recommendation of the Third Committee [A/63/430/Add.2], adopted resolution 63/168 by recorded vote (106-46-34) [agenda item 64 (b)].

Moratorium on the use of the death penalty

The General Assembly,

Reaffirming its resolution 62/149 of 18 December 2007 on a moratorium on the use of the death penalty,

Welcoming the decisions taken by an increasing number of States to apply a moratorium on executions and the global trend towards the abolition of the death penalty,

1. Welcomes the report of the Secretary-General on the implementation of resolution 62/149, and the conclusions and recommendations contained therein;

2. Requests the Secretary-General to provide a report on progress made in the implementation of resolution 62/149 and the present resolution, for consideration during its sixty-fifth session, and calls upon Member States to provide the Secretary-General with information in this regard;

3. Decides to continue consideration of the matter at its sixty-fifth session under the item entitled "Promotion and protection of human rights".

RECORDED VOTE ON RESOLUTION 63/168:

In favour: Albania, Algeria, Andorra, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Belgium, Benin, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Burundi, Cambodia, Canada, Cape Verde, Chile, Colombia, Congo, Costa Rica, Côte d’Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Ethiopia, Finland, France, Gabon, Georgia, Germany, Greece, Guinea-Bissau, Haiti, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Kazakhstan, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Mali, Malta, Marshall Islands, Mauritius, Mexico, Micronesia, Moldova, Monaco, Montenegro, Mozambique, Namibia, Nauru, Nepal, Netherlands, New Zealand, Nicaragua, Norway, Palau, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Romania, Russian Federation, Rwanda, Samoa, Saudi Arabia, Serbia, Seychelles, Sierra Leone, Singapore, Solomon Islands, Sudan, Swaziland, Syria, Taiwan, Thailand, Togo, Turkey, Turkmenistan, Tuvalu, Ukraine, United Kingdom, Uruguay, Uzbekistan, Vanuatu, Venezuela.

Against: Afghanistan, Antigua and Barbuda, Bahamas, Bangladesh, Barbados, Belize, Botswana, Brunei Darussalam, China, Comoros, Democratic People’s Republic of Korea, Dominica, Eritrea, Egypt, Ethiopia, Estonia, Finland, France, Gabon, Georgia, Germany, Greece, Guinea-Bissau, Haiti, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Kazakhstan, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Mali, Malta, Marshall Islands, Mauritius, Mexico, Micronesia, Moldova, Monaco, Montenegro, Mozambique, Namibia, Nauru, Nepal, Netherlands, New Zealand, Nicaragua, Norway, Palau, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Romania, Russian Federation, Rwanda, Samoa, Saudi Arabia, Serbia, Seychelles, Sierra Leone, Singapore, Solomon Islands, Sudan, Swaziland, Syria, Taiwan, Thailand, Togo, Turkey, Turkmenistan, Tuvalu, Ukraine, United Kingdom, Uruguay, Uzbekistan, Vanuatu, Venezuela.

Abstaining: Bahrain, Belarus, Bhutan, Cameroon, Central African Republic, Cuba, Djibouti, Eritrea, Fiji, Gabon, Ghana, Guatemala, Guinea, Jordon, Kenya, Lao People’s Democratic Republic, Lebanon, Lesotho, Liberia, Malawi, Mauritania, Morocco, Niger, Oman, Papua New Guinea, Republic of Korea, Senegal, Sierra Leone, Suriname, Togo, United Arab Emirates, United Republic of Tanzania, Viet Nam, Zimbabwe.

Other issues

Extralegal executions

Reports of Special Rapporteur. The Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston (Australia), in a May report [A/HRC/8/3 & Corr.1], submitted pursuant to a Human Rights Council request [YUN 2006, p. 759], reviewed activities undertaken in 2007 to address extralegal executions worldwide. The report highlighted the Special Rapporteur’s communications to and replies received from Governments [A/HRC/8/3/Add.1]. Between 1 December 2006 and 15 March 2008, the Rapporteur sent 127 communications to 46 countries, including 58 urgent appeals and 69 letters of allegation. The main issues covered in the communications were the death penalty, deaths in custody, the death penalty for minors, excessive use of force, impunity, attacks or killings, armed conflict and death threats. As in previous years, the proportion of Government replies was problematically low. In addition, 22 countries had so far not responded affirmatively to requests for a visit.

The Special Rapporteur highlighted three issues of particular importance: the role of national commissions of inquiry in impunity for extrajudicial executions; the right to seek pardon or commutation of a death sentence; and prisoners running prisons. According to the Rapporteur, Governments were obliged to hold an independent inquiry into deaths where extrajudicial execution might have taken place. Commissions of inquiry were often established as a result of concerted demands by civil society or the international community, and usually in the aftermath of major incidents in which the authorities normally relied on to investigate were feared to be reluctant or unlikely to do so adequately. However, the mere setting up of a commission of inquiry and its formal completion were often not adequate to satisfy the obligation to undertake an independent inquiry. Evidence had shown that such inquiries were frequently used to avoid meaningful accountability. The international community should scrutinize such initiatives more carefully and develop a mechanism for monitoring and evaluating their adequacy. Concerning the right to seek pardon or commutation of a death sentence, the Special Rapporteur concluded that both law and practice demanded that the right be accompanied by guarantees, if it were not to be a meaningless formalism. Those procedural guarantees included the right of the condemned person to affirmatively request pardon or commutation; to make representation in support of that request; to be informed in advance of when the request would be considered; and be informed promptly thereafter of whatever decision was reached. The issue of prisoners running prisons demanded the
attention of the Council. The temptation to rely on prisoners to carry out basic functions of maintaining order and imposing discipline was appealing to administrators grappling with shrinking budgets, staff shortages, overcrowded facilities, demanding gang-based populations and little public or Government support. However, there were major problems in opting for that choice. States should develop plans to reassert responsible control over prison populations and effectively protect prisoners from each other.

The Special Rapporteur recommended that the Council appoint a Special Rapporteur on the rights of detainees and address the failure of States where there were serious concerns over extrajudicial executions to respond to requests to visit by the Special Rapporteur. The Council should reconsider its action in not renewing the mandate of the Group of Experts on Darfur in December 2007, despite its conclusion that the Sudan had failed to meet many of the benchmarks that had been set, as it represented the triumph of politics over human rights.

**Human Rights Council action.** On 18 June [A/63/53 (res. 8/3)], the Human Rights Council noted the Special Rapporteur’s report and extended the Rapporteur’s mandate for a three-year period. It urged States to consider responding favourably to the Rapporteur’s requests to visit their countries, and urged Governments that had not yet responded to his communications to answer without further delay.

By an August note [A/63/313], the Secretary-General transmitted the Special Rapporteur’s report to the General Assembly, in response to resolution 61/173 [YUN 2006, p. 870]. The report focused on outstanding country visit requests and on visits undertaken since the previous report [YUN 2007, p. 746]. It also addressed two neglected but vital dimensions of the struggle to combat impunity for extrajudicial executions: the provision of effective witness protection arrangements; and the importance of ensuring that military justice systems were compatible with human rights standards. In many States, witness protection programmes were wholly inadequate, and military justice systems were structured in ways that promoted impunity for killings. The report surveyed best practices in both areas. The Special Rapporteur recommended that Governments develop policy tools to encourage and facilitate greater attention to witness protection in national level programmes to combat impunity for killings and other crimes; and that the Assembly call upon States to report on the extent to which their military justice systems complied with human rights standards.

The Assembly took note of the Secretary-General’s note on 18 December (decision 63/534).

**Reports on country visits.** A further addendum to the Special Rapporteur’s May report [A/HRC/8/3/Add.3] tracked the implementation of recommendations made by visits to Nigeria [YUN 2005, p. 808] and Sri Lanka [ibid., p. 809]. The Rapporteur stated that recommendations made with respect to Sri Lanka had not been implemented. Those directed to the Government were all but completely disregarded, and in most areas there was significant backward movement. The same was true of recommendations directed to the Liberation Tigers of Tamil Eelam. As to Nigeria, the Government had enacted some reforms in partial fulfilment of the Special Rapporteur’s recommendations, but for the majority of them, Nigeria had failed to make sufficient progress, or any progress at all. Moreover, on some issues, the situation appeared to be worse. The high level of extrajudicial executions reported by the Special Rapporteur continued. However, the positive initiatives implemented by the Government over the past two and a half years were encouraging, and Nigeria should continue to promote their effective follow-through. With respect to the measures upon which there had been no progress, the Government should take action to ensure their implementation.

The Special Rapporteur visited the Central African Republic (31 January–7 February) [A/HRC/11/2/Add.3], where a low-intensity conflict continued in the north-west. Large-scale abuses had declined significantly by mid-2007 due to positive steps taken by President François Bozizé and the waning of conflict in the north-east. Since the Rapporteur’s visit, there had been encouraging moves towards securing a durable peace in the north. Those steps were, however, interrupted during 2008 by sporadic fighting in the north-west and renewed rebel activity in the north-east. Overall progress in resolving that conflict had not been matched with progress in securing human rights. Killings continued, accountability for past abuses was non-existent, and a general lack of security in the north prevailed. The most pressing human rights issues remained securing the population from banditry, remedying general lawlessness, countering impunity and reforming the security forces. As fighting between the Government and the rebels ebbed, banditry took its place as the prime threat to civilians. The security forces were largely unwilling and unable to protect villagers, and were responsible for killings of suspected criminals and killings motivated by personal or corrupt ends. Killings in police custody and in detention centres were common, as were killings of persons alleged to be “witches”, which were often carried out with the participation of the security forces. Investigations and prosecutions rarely occurred due to the unwillingness to tackle abuses by State actors and a lack of resources in the justice sector.

The Special Rapporteur proposed a number of recommendations for implementation so as to reduce extrajudicial executions and provide for accountabil-
ity when they occurred. He recommended that the security forces should be reformed so that they could protect the people from cross-border raids and threats by rebel groups and bandits, and obey human rights norms in carrying out military and law enforcement operations. Although those reforms were extensive, the country was at an unusually favourable juncture for change. In June, the Government pledged wide-ranging security sector reform, and the President showed a willingness to take steps to reduce killings by his troops. Former rebel groups were brought into a multiparty Government. International financial institutions had re-engaged in the country, and international aid and the presence of humanitarian organizations had increased substantially. If the Government’s willingness to reform was supported internationally, the country could break its long pattern of abuse and impunity.

The Special Rapporteur visited Afghanistan (4–15 May) [A/HRC/11/2/Add.4], a country engulfed in a conflict in which large numbers of civilians were killed every day. An estimated 2,118 civilians were killed in 2008, nearly 40 per cent more than in 2007. The Rapporteur’s concern was to understand how and why those killings were happening, and to formulate recommendations for reducing them. The Taliban, Afghan forces and international military forces all bore responsibility, and therefore responsibility for reducing the killings. The Taliban leadership should order its fighters to respect human rights and humanitarian law, particularly by ending the use of human shields, the assassination of civilians and the use of suicide attacks. Human rights proponents should engage in dialogue with the leadership to promote those objectives. Afghan and international forces should review procedures for conducting air strikes and raids. More effective procedures for vetting targets should be developed, and the forces should ensure that their methods of attack did not result in civilian casualties that were excessive in relation to the military advantage. The international forces should pay significantly more attention to promoting transparency and accountability in their operations and investigations. Estimates of civilian casualties should be made public. International forces should ensure that Afghans could readily obtain information on the progress of investigations and prosecutions of killings. Military operations by unaccountable foreign intelligence personnel should not be permitted.

The Rapporteur also addressed other unlawful killings in a law enforcement or private context, such as by police and other armed personnel acting under the authority of Government officials, which were rarely investigated seriously. Also, a significant number of Afghans, especially women, were the victims of “honour killings”. The State largely failed to investigate and prosecute those murders. Moreover, the criminal justice system was deeply flawed, and corruption and incompetence were widespread. Powerful or wealthy perpetrators were set free, while the likelihood of innocent people being sentenced to death was high. The Special Rapporteur recommended that action should be taken against serious cases of corruption by Government officials as a first step in reducing systemic corruption. The focus of police reform efforts should be on creating a truly national police force, and on breaking the links between police, militias and particular tribes and politicians. A moratorium on the death penalty should be imposed.

The Special Rapporteur visited the United States (16–30 June) [A/HRC/11/2/Add.5] and commended the country’s record on extrajudicial killings: there was no lack of laws or procedures for addressing potentially unlawful killings and data were generally gathered systematically and responsibly. However, improvement was necessary in three areas to bring the Government’s actions into line with its stated commitment to human rights and the rule of law. The imposition of the death penalty should comply with fundamental due process requirements: the current system’s flaws increased the likelihood that innocent people would be executed. The Government should provide greater transparency in law enforcement, military and intelligence operations that resulted in potentially unlawful deaths. It should also ensure greater accountability for potentially unlawful deaths in its international operations: political expediency was never a permissible basis for any State to deviate from its obligation to investigate and punish violations of the right to life. Deficiencies that should be remedied included the lack of adequate counsel for indigent defendants and racial disparities in sentencing. Given the inadequacies of state criminal justice systems, Congress should enact legislation permitting federal court review of state and federal death penalty cases. Transparency should also be promoted in the case of potentially unlawful killings. Although the Government did well in collecting data, it failed to provide timely and meaningful information about deaths in immigration detention or arising out of law-enforcement activities. Transparency failures were far more acute in the Government’s international military and intelligence operations. The Government did not track and make public the number of civilian casualties or the conditions under which deaths occurred. The military justice system did not provide ordinary people, including United States citizens and the families of Iraqi or Afghan victims, with basic information on the status of investigations and prosecutions related to civilian casualties. The Government had also refused to disclose the legal basis for targeted killings conducted in other States through drone attacks or to identify any safeguards in place to reduce collateral civilian casualties and ensure that the Government
had targeted the correct person. Those transparency failures contributed to the lack of accountability for wrongful deaths.

All States had an obligation to investigate, prosecute and punish violations of the right to life, including in situations of armed conflict. While some aspects of the rule of law had been taken seriously during United States military operations, there were chronic accountability failures with respect to policies, practices and conduct that had resulted in alleged unlawful killings. The Government had failed to investigate and punish those responsible and had created a zone of impunity for private contractors and intelligence agents by failing to investigate and prosecute them. In addition to prosecuting violations of the right to life, the Government should create a national commission of inquiry to conduct an independent investigation of policies and practices that led to deaths and abuses. It should also appoint a special prosecutor independent of the pressures on the political branches of Government.

**Communication.** On 30 May [A/HRC/8/G/6], the Philippines replied to the Special Rapporteur’s report on his 2007 visit to the country [YUN 2007, p. 746].

**GENERAL ASSEMBLY ACTION**

On 18 December [meeting 70], the General Assembly, on the recommendation of the Third Committee [A/63/430/Add.2], adopted resolution 63/182 by recorded vote (127-0-58) [agenda item 64 (b)].

**Extrajudicial, summary or arbitrary executions**

_The General Assembly,_

_Recalling_ the Universal Declaration of Human Rights, which guarantees the right to life, liberty and security of person, the relevant provisions of the International Covenant on Civil and Political Rights and other relevant human rights conventions,

_Reaffirming_ the mandate of the Special Rapporteur of the Human Rights Council on extrajudicial, summary or arbitrary executions, as set out in Council resolution 8/3 of 18 June 2008,

_Welcoming_ the universal ratification of the Geneva Conventions of 12 August 1949, which alongside human rights law provide an important framework of accountability in relation to extrajudicial, summary or arbitrary executions during armed conflict,

_Mindful_ of all its resolutions on the subject of extrajudicial, summary or arbitrary executions and the resolutions of the Commission on Human Rights and of the Human Rights Council on the subject,

_Noticing_ with deep concern that impunity continues to be a major cause of the perpetuation of violations of human rights, including extrajudicial, summary or arbitrary executions,

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

_Noticing_ with deep concern the growing number of civilians and persons hors de combat killed in situations of armed conflict and internal strife,

_Acknowledging_ that extrajudicial, summary or arbitrary executions may under certain circumstances amount to genocide, crimes against humanity or war crimes, as defined in international law, including in the Rome Statute of the International Criminal Court, and recalling in this regard that each individual State has the responsibility to protect its populations from such crimes as set out in General Assembly resolution 60/1 of 16 September 2005,

_Convinced_ of the need for effective action to prevent, combat and eliminate the abhorrent practice of extrajudicial, summary or arbitrary executions, which represent flagrant violations of human rights, particularly the right to life,

1. **Strongly condemns once again** all the extrajudicial, summary or arbitrary executions that continue to occur throughout the world;
2. **Demands** that all States ensure that the practice of extrajudicial, summary or arbitrary executions is brought to an end and that they take effective action to prevent, combat and eliminate the phenomenon in all its forms and manifestations;
3. **Reiterates** the obligation of all States to conduct exhaustive and impartial investigations into all suspected cases of extrajudicial, summary or arbitrary executions, to identify and bring to justice those responsible, while ensuring the right of every person to a fair and public hearing by a competent, independent and impartial tribunal established by law, to grant adequate compensation within a reasonable time to the victims or their families, and to adopt all necessary measures, including legal and judicial measures, to put an end to impunity and to prevent the further occurrence of such executions, as recommended in the Principles on the Effective Prevention and Investigation of Extralegal, Arbitrary and Summary Executions;
4. **Calls upon** Governments and invites intergovernmental and non-governmental organizations to pay greater attention to the work of national-level commissions of inquiry into extrajudicial, summary or arbitrary executions with a view to ensuring the effective contribution of these commissions to accountability and to combating impunity;
5. **Calls upon** all States, in order to prevent extrajudicial, summary and arbitrary executions, to comply with their obligations under relevant provisions of international human rights instruments, and further calls upon those States which have not abolished the death penalty to pay particular regard to the provisions contained in articles 6, 14 and 15 of the International Covenant on Civil and Political Rights and articles 37 and 40 of the Convention on the Rights of the Child, bearing in mind the safeguards and guarantees set out in Economic and Social Council resolutions 1984/50 of 25 May 1984 and 1989/64 of 24 May 1989, and taking into account the recommendations of the Special Rapporteur of the Human Rights Council on extrajudicial, summary or arbitrary executions regarding the need to respect essential procedural guarantees, including the right to seek pardon or commutation of sentence;
6. **Urges** all States:

   (a) To take all necessary and possible measures, in conformity with international human rights law and international humanitarian law, to prevent loss of life, in particular that of children, during public demonstrations, internal and communal violence, civil unrest, public emergencies or armed conflicts, and to ensure that the police, law enforcement agents, armed forces and other agents acting on behalf of or with the consent or acquiescence of the State act with restraint and in conformity with international human rights law and international humanitarian law, including the principles of proportionality and necessity, and in this regard to ensure that police and law enforcement officials are guided by the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;

   (b) To ensure the effective protection of the right to life of all persons under their jurisdiction and to investigate promptly and thoroughly all killings, including those targeted at specific groups of persons, such as racially motivated violence leading to the death of the victim, killings of persons belonging to national or ethnic, religious and linguistic minorities, killings of persons affected by terrorism, hostage-taking or foreign occupation, killings of refugees, internally displaced persons, migrants, street children or members of indigenous communities, killings of persons for reasons related to their activities as human rights defenders, lawyers, journalists or demonstrators, killings committed in the name of passion or in the name of honour, all killings committed for any discriminatory reason, including sexual orientation, as well as all other cases where a person’s right to life has been violated, and to bring those responsible to justice before a competent, independent and impartial judiciary at the national or, where appropriate, international level, and to ensure that such killings, including those committed by security forces, police and law enforcement agents, paramilitary groups or private forces, are neither condoned nor sanctioned by State officials or personnel;

7. **Affirms** the obligation of States, in order to prevent extrajudicial, summary or arbitrary executions, to protect the lives of all persons deprived of their liberty in all circumstances and to investigate and respond to deaths in custody;

8. **Urges** all States to ensure that persons deprived of their liberty are treated humanely and with full respect for their human rights and to ensure that their treatment, including judicial guarantees, and conditions conform to the Standard Minimum Rules for the Treatment of Prisoners and, where applicable, to the Geneva Conventions of 12 August 1949 and the Additional Protocols thereto, of 8 June 1977 in relation to all persons detained in armed conflict, as well as to other pertinent international instruments;

9. **Welcomes** the International Criminal Court as an important contribution to ending impunity concerning extrajudicial, summary or arbitrary executions, and, taking note of the growing awareness of the Court worldwide, calls upon those States that are under an obligation to cooperate with the Court to provide such cooperation and assistance in the future, in particular with regard to arrest and surrender, the provision of evidence, the protection and relocation of victims and witnesses and the enforcement of sentences, and further welcomes the fact that one hundred and eight States have already ratified or acceded to and one hundred and thirty-nine States have signed the Rome Statute of the Court, and calls upon all those States that have not ratified or acceded to the Rome Statute to give serious consideration to doing so;

10. **Acknowledges** the importance of ensuring the protection of witnesses for the prosecution of those suspected of extrajudicial, summary or arbitrary executions, and urges States to intensify efforts to establish and implement effective witness protection programmes or other measures, and in this regard encourages the Office of the United Nations High Commissioner for Human Rights to develop practical tools designed to encourage and facilitate greater attention to the protection of witnesses;

11. **Encourages** Governments and intergovernmental and non-governmental organizations to organize training programmes and to support projects with a view to training or educating military forces, law enforcement officers and government officials in human rights and humanitarian law issues connected with their work and to include a gender and child rights perspective in such training, and appeals to the international community and requests the Office of the High Commissioner to support endeavours to that end;

12. **Takes note with appreciation** of the report of the Special Rapporteur to the General Assembly;

13. **Commends** the important role that the Special Rapporteur plays towards the elimination of extrajudicial, summary or arbitrary executions, and encourages the Special Rapporteur to continue, within his mandate, to collect information from all concerned, to respond effectively to reliable information that comes before him, to follow up on communications and country visits and to seek the views and comments of Governments and to reflect them, as appropriate, in his reports;

14. **Acknowledges** the important role of the Special Rapporteur in identifying cases where extrajudicial, summary or arbitrary executions could amount to genocide and crimes against humanity or war crimes, and urges him to collaborate with the United Nations High Commissioner for Human Rights and, as appropriate, the Special Adviser to the Secretary-General on the Prevention of Genocide, in addressing situations of extrajudicial, summary or arbitrary executions that are of particularly serious concern or in which early action might prevent further deterioration;

15. **Welcomes** the cooperation established between the Special Rapporteur and other United Nations mechanisms and procedures in the field of human rights, and encourages the Special Rapporteur to continue efforts in that regard;

16. **Urges** all States, in particular those that have not done so, to cooperate with the Special Rapporteur so that his mandate can be carried out effectively, including by favourably and rapidly responding to requests for visits, mindful that country visits are one of the essential tools for the fulfilment of the mandate of the Special Rapporteur, and by responding in a timely manner to communications and other requests transmitted to them by the Special Rapporteur;

17. **Expresses its appreciation** to those States that have received the Special Rapporteur and asks them to examine his recommendations carefully, invites them to inform him of the actions taken on those recommendations, and requests other States to cooperate in a similar way;
18. Again requests the Secretary-General to continue to use his best endeavours in cases where the minimum standards of legal safeguards provided for in articles 6, 9, 14 and 15 of the International Covenant on Civil and Political Rights appear not to have been respected;

19. Requests the Secretary-General to provide the Special Rapporteur with adequate human, financial and material resources to enable him to carry out his mandate effectively, including through country visits;

20. Also requests the Secretary-General to continue, in close collaboration with the High Commissioner, in conformity with the mandate of the High Commissioner established by the General Assembly in its resolution 48/141 of 20 December 1993, to ensure that personnel specialized in human rights and humanitarian law issues form part of United Nations missions, where appropriate, in order to deal with serious violations of human rights, such as extrajudicial, summary or arbitrary executions;

21. Requests the Special Rapporteur to submit to the General Assembly at its sixty-fourth and sixty-fifth sessions a report on the situation worldwide in regard to extrajudicial, summary or arbitrary executions and his recommendations for more effective action to combat this phenomenon;

22. Decides to continue its consideration of the question at its sixty-fifth session.

RECORDED VOTE ON RESOLUTION 63/182:

In favour: Afghanistan, Albania, Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Barbados, Belarus, Belgium, Belize, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Chad, Chile, Colombia, Comoros, Congo, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Dominica, Dominican Republic, Ecuador, El Salvador, Eritrea, Estonia, Ethiopia, Fiji, Finland, France, Gabon, Georgia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, Iceland, India, Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kyrgyzstan, Latvia, Lebanon, Liechtenstein, Lithuania, Luxembourg, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Micronesia, Moldova, Monaco, Mongolia, Montenegro, Morocco, Mozambique, Nepal, Netherlands, New Zealand, Nicaragua, Norway, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Romania, Samoa, San Marino, Sao Tome and Principe, Serbia, Singapore, Slovenia, Somalia, South Africa, Spain, Suriname, Sweden, Switzerland, Tajikistan, Thailand, The former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Tonga, Tunisia, Ukraine, United Kingdom, Uruguay, Uzbekistan, Vanuatu, Venezuela.

Against: None.

Abstaining: Bahamas, Bahrain, Bangladesh, Benin, Brunei Darussalam, Burkina Faso, Central African Republic, China, Côte d’Ivoire, Democratic People’s Republic of Korea, Djibouti, Egypt, Gambia, Indonesia, Iran, Iraq, Israel, Kenya, Kuwait, Lao People’s Democratic Republic, Lebanon, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Marshall Islands, Myanmar, Namibia, Niger, Nigeria, Oman, Pakistan, Palau, Qatar, Russian Federation, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Senegal, Sierra Leone, Solomon Islands, Sri Lanka, Sudan, Swaziland, Syrian Arab Republic, Trinidad and Tobago, Turkey, Tuvalu, Uganda, United Arab Emirates, United Republic of Tanzania, United States, Viet Nam, Yemen, Zambia, Zimbabwe.

Disappearance of persons

Working Group activities. The five-member Working Group on Enforced or Involuntary Disappearances held three sessions in 2008: its eighty-fourth (Geneva, 10–14 March), eighty-fifth (Buenos Aires, Argentina, 24–26 July) and eighty-sixth (Geneva, 26 November–4 December) [A/HRC/10/9]. In addition to its core mandate to act as a communication channel between families of disappeared persons and the Governments concerned, with a view to ensuring that sufficiently documented individual cases were investigated, the Working Group monitored compliance with the 1992 Declaration on the Protection of All Persons from Enforced Disappearance [YUN 1992, p. 744]. Cases under active consideration by the Group totalled 42,393, concerning 79 countries. The Working Group had clarified 1,763 cases over the past five years. Between 1 December 2007 and 30 November 2008, the Working Group transmitted 1,203 new cases of enforced disappearance to 28 Governments, 83 of which allegedly occurred during the same period. Of those, 69 were urgent action appeals sent to 14 countries. The Group also clarified 54 cases in 12 countries. The Group’s report summarized information on disappearances relating to 81 countries and the Palestinian Authority.

The Working Group remained concerned that of the 79 States with outstanding cases, some Governments (Burundi, Guinea, Israel, Mozambique, Namibia, Seychelles and Timor-Leste, as well as the Palestinian Authority) had never replied to the Group’s communications. Some Governments provided responses that did not contain relevant information. The Working Group urged those Governments to fulfil their obligations under international law. The Group also noted that 79 countries had signed and five had ratified the International Convention for the Protection of All Persons from Enforced Disappearance, adopted in 2006 [YUN 2006, p. 800].

Following its visit to Argentina (21–24 July) [A/HRC/10/9/Add.1], the Working Group recommended that the Government define enforced disappearance as an autonomous crime and adopt a comprehensive protection programme for victims, families, lawyers, prosecutors, judges and civil society organizations involved in the investigation of cases of enforced disappearance. Efforts to locate disappeared persons should be strengthened by establishing a public body with operational and financial autonomy. Government policies launched in 2007, which created the Programme of Truth and Justice, should be consolidated through legislation into State policies unaffected by Government changes. An Integral Reparation Plan should be established for the families of victims, carried out through a body established by the National Congress.

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Human Rights Council action. On 27 March [A/63/53 (res. 7/12)], the Human Rights Council noted the Working Group's 2007 report [YUN 2007, p. 747], and extended its mandate for a further three-year period. It urged Governments to make provision in their legal systems for victims of enforced or involuntary disappearances, or their families, to seek fair, prompt and adequate reparation, and consider symbolic measures recognizing the suffering of victims and restoring their dignity and reputation. The Council called on Governments that had not recently provided substantive replies concerning claims of enforced disappearances to do so.

Holocaust remembrance

Report of Secretary-General. In accordance with General Assembly resolution 60/7 [YUN 2005, p. 811], the Secretary-General reported, in August [A/63/316], on the programme of outreach on the Holocaust and the United Nations, carried out by the UN Department of Public Information. Since its establishment in 2006, the outreach programme had developed an international network of civil society groups, collaborated with world-renowned institutions and garnered the support of experts in Holocaust and genocide studies to develop a multifaceted programme that included seminars for UN information officers, exhibitions, discussion papers drafted by distinguished scholars, panel discussions, a film series, innovative online information products for educators, a permanent exhibition at UN Headquarters, and the annual observance in January of the International Day of Commemoration in memory of the victims of the Holocaust. The outreach programme worked closely with survivors to ensure that their stories were heard and heeded as a warning of the consequences of anti-Semitism and other forms of discrimination. It also provided civil society with communications tools to combat Holocaust denial.

By decision 63/552 of 24 December, the General Assembly decided that the agenda item on Holocaust remembrance remained for consideration during its resumed sixty-third (2009) session.

Torture and cruel treatment

Reports of Special Rapporteur. In a 15 January report [A/HRC/7/3], the Special Rapporteur on the question of torture, Manfred Nowak (Austria), summarized his activities and focused on the protection of women from torture. With regard to a gender-sensitive definition of torture, the Special Rapporteur noted the element of discrimination contained in the definition of the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment [YUN 1984, p. 813]. He proposed to introduce an additional element: “powerlessness”, of which detention contexts were classic situations. Powerlessness could also pertain, however, to situations outside of detention or direct State control. De facto deprivation of liberty might occur in private settings, especially where fear created a situation of total control, as was the case with battered wives, victims of trafficking, and abused women prisoners. The Special Rapporteur considered that the State had a duty to prevent acts of torture in the private sphere, and recalled that the concept of due diligence should be applied to examine whether States had lived up to their obligations. To ensure a gender-inclusive approach to torture, the Special Rapporteur underlined the need to understand that stigma was an element at all stages of sexual violence. It was crucial to interpret the torture protection framework in light of a wide range of human rights guarantees, in particular the rules developed to combat violence against women. In many contexts, the criminal law system, court rules of procedure and evidence, as well as reparation and rehabilitation programmes, were not sufficiently gender-sensitive. He called upon States to ensure that women victims of torture and of ill-treatment by officials enjoyed full protection under the law and that special measures be taken to prevent sexual violence in detention. States should address stigma as an obstacle hindering women victims from seeking justice. Special measures should be taken to ensure that women reported torture and ill-treatment, and that those who received those reports secured the evidence in a gender-sensitive manner. Court rules needed to be adapted to the needs of victims of sexual violence.

An addendum [A/HRC/7/3/Add.1] summarized communications transmitted to Governments by the Special Rapporteur and the replies received thereto between 16 December 2006 and 14 December 2007. He had sent 79 letters of allegations of torture to 51 Governments and 187 urgent appeals to 59 Governments on behalf of persons who might be at risk of torture or ill-treatment.

In accordance with General Assembly resolution 62/148 [YUN 2007, p. 750], the Secretary-General, in July [A/63/175], transmitted the Special Rapporteur’s interim report, which drew the Assembly’s attention to the situation of persons with disabilities, who were frequently subjected to neglect, severe forms of restraint and seclusion, as well as physical, mental and sexual violence. Such practices, perpetrated in public institutions, as well as in the private sphere, remained invisible and were not recognized as torture or other cruel, inhuman or degrading treatment or punishment. The anti-torture framework should be reviewed in relation to persons with disabilities. By reframing violence and abuse perpetrated against them as torture or ill-treatment, victims and advocates could be afforded stronger legal protection and redress for human rights violations.

The Special Rapporteur also examined the use of solitary confinement for detainees, with its negative impact on mental health, and accordingly should be used only in exceptional circumstances or when absolutely necessary for criminal investigations, and for the shortest period of time only. The Special Rapporteur recommended that States should adopt legislation recognizing the legal capacity of persons with disabilities; ensure that they were provided with the support needed to make informed decisions; issue clear guidelines on what constituted “free and informed consent”; and make available accessible procedures. Attention was drawn also to the Istanbul Statement on the Use and Effects of Solitary Confinement, adopted at the International Psychological Trauma Symposium (Istanbul, Turkey, 9 December 2007), as a useful tool for promoting respect for and protection of the rights of detainees.

Following his mission to Denmark (2–9 May) [A/HRC/10/44/Add.2], the Special Rapporteur noted the country’s long-standing leadership in anti-torture efforts worldwide and its history of support to civil society in the rehabilitation for torture victims. While no allegations of torture and very few complaints of ill-treatment from detainees were received, he cautioned against complacency, encouraging the Government to ensure that all allegations and suspicions of torture and ill-treatment were investigated, and the perpetrators punished. Noting legislative initiatives to add torture as an aggravating circumstance of various criminal offences, he regretted that a specific crime of torture was still missing in criminal law. The Special Rapporteur noted the high standard of conditions of detention, both in terms of infrastructure and day-to-day living standards. However, the extensive recourse to the use of solitary confinement remained a concern, particularly with respect to pretrial detainees. The establishment of an inter-ministerial working group to investigate alleged Central Intelligence Agency rendition flights operating through Denmark and Greenland was encouraging.

The Special Rapporteur, together with the Special Rapporteur on violence against women, its causes and consequences, Yakin Ertürk (Turkey), visited Moldova, including the Transnistrian region (4–11 July) [A/HRC/10/44/Add.3]. The Rapporteur noted the Government’s commitment to promoting human rights, the progress made since independence in 1991, and the initiatives to prevent torture, in particular the creation of a national preventive mechanism. However, ill-treatment during the initial period of police custody was widespread, and allegations were received of torture in some police stations and reports of ill-treatment in other institutions. While some torture cases had reached the courts, most complaints mechanisms were ineffective. Conditions in police cells did not conform to international standards and were not suited to holding people for long periods. Detention in such conditions for up to several months amounted to inhuman treatment. Within the legal framework, torture had been criminalized and legislation provided for safeguards. However, for these to be effective, the various players in the criminal law cycle should live up to their responsibilities and denounce cases of torture.

The Rapporteur recommended that the Government implement fully its obligations under international human rights law; equip the recently created national preventive mechanism with the necessary human and other resources; and ensure that the penitentiary system was truly aimed at the rehabilitation and reintegration of offenders. Accessible and confidential complaints mechanisms, as well as effective and independent criminal investigation and prosecution mechanisms against alleged perpetrators of torture, should be established. The time limits for police custody should be reduced to 48 hours. The prosecution should be required to prove beyond reasonable doubt that no unlawful means had been used to obtain evidence, rather than leave the burden of proof on the victim. The Rapporteur expressed concern about the lack of a complaints and monitoring mechanism in the Transnistrian region, and recommended extending the activities of the national preventive mechanism to the region, criminalizing torture and abolishing the death penalty. The practice of solitary confinement for persons sentenced to death or to life imprisonment should be stopped immediately. The international community should assist the Government in its fight against torture by providing financial and technical support.

Following his visit to Equatorial Guinea (9–18 November) [A/HRC/13/39/Add.4], the Special Rapporteur noted the adoption in 2006 of a comprehensive law prohibiting torture and providing for its prosecution,
but found torture by the police to be systematic in the initial period after arrest and during interrogation. Neither safeguards against ill-treatment nor complaints mechanisms were effective, and perpetrators of torture and ill-treatment were not prosecuted. On the contrary, in many cases, victims of torture experienced a total lack of justice, which, combined with the physical and psychological consequences of ill-treatment and the absence of any rehabilitation or compensation mechanism, caused suffering that might amount to inhuman treatment. Conditions of detention in many prisons and police custody facilities were in need of refurbishment to fulfil international minimum standards. In one prison, persons suspected of political crimes had been held in solitary confinement for up to four years. Women and children in police and gendarmerie custody were not separated from male adults and were therefore vulnerable to sexual violence and other forms of abuse. Immigrants detained pending deportation were frequently held in police detention in poor conditions for long periods, with little access to food and water. A comprehensive institutional and legal overhaul establishing law enforcement bodies based on the rule of law, an independent judiciary, and effective monitoring and accountability mechanisms were necessary to combat torture, and comply with the country’s Constitution and its obligations under international law. The international community, including transnational corporations, should ensure that, in their development cooperation and business practices, they were not complicit in violations of human rights by State authorities.

Human Rights Council action. On 18 June [A/63/53 (res. 8/8)], the Human Rights Council welcomed the report of the Special Rapporteur and extended the mandate for a further three years. It urged States to implement effective measures to prevent torture and other cruel, inhuman or degrading treatment, particularly in places of detention and other places where persons were deprived of their liberty, and to adopt a gender-sensitive approach in the fight against torture, paying special attention to violence against women. States should respond favourably to the Special Rapporteur’s requests for visits to their countries and ensure follow-up to his recommendations and conclusions.

Voluntary fund for torture victims

Report of Board of Trustees (February). At its twenty-eighth session (Geneva, 6–8 February), the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture allocated grants amounting to $1,219,100 to 43 projects carried out by NGOs, and recommended setting aside $665,400 for intersessional grants for 2008. It issued revised guidelines for use during 2008, including new decisions on admission criteria for projects. It decided that grantees should identify in-kind contributions in order to enable the secretariat to determine future policy in that regard. The Board also discussed a number of policy issues. It approved the principle of multi-year funding for a three-year period, and endorsed a secretariat suggestion on strengthening the capacity of grantees and to resume the practice of meeting with them.

Report of Secretary-General. In his annual report [A/63/220] to the General Assembly on the status of the Fund, the Secretary-General provided information on the recommendations of the Board of Trustees at its twenty-seventh [YUN 2007, p. 750] and twenty-eighth (see above) sessions. Contributions from 11 countries and three individuals from 3 October 2007 to 30 June 2008 amounted to $1,731,668, while pledges from eight countries totalled $1,116,543. The High Commissioner approved those recommendations on behalf of the Secretary-General.

Human Rights Council action. On 18 June [A/63/53 (res. 8/8)], the Human Rights Council took note of the Secretary-General’s report and called on the Board of the Fund to report to the Council in accordance with the annual programme of work. It appealed to Governments, organizations and individuals to increase contributions to the Fund and encouraged contributions to the Special Fund established by the Optional Protocol to the Convention, as well as education programmes of national preventive mechanisms.

Report of Board of Trustees (October). At its twenty-ninth session (Geneva, 13–17 October) [A/HRC/10/40], the Board recommended allocating grants amounting $10,200,950 to 195 projects in more than 65 countries, which the High Commissioner approved on behalf of the Secretary-General on 27 October. Between 1 January and 3 December, the fund received $11,397,548 from 34 countries and the Holy See. The Board also maintained its practice of financing requests for training and seminars, and recommended allocating $136,400 to nine organizations in seven countries for that purpose.

GENERAL ASSEMBLY ACTION

On 18 December [meeting 70], the General Assembly, on the recommendation of the Third Committee [A/63/430/Add.1], adopted resolution 63/166 without vote [agenda item 64 (a)].

Torture and other cruel, inhuman or degrading treatment or punishment

The General Assembly,
Reaffirming that no one shall be subjected to torture or to other cruel, inhuman or degrading treatment or punishment,
Recalling that freedom from torture and other cruel, inhuman or degrading treatment or punishment is a non-derogable right that must be protected under all circumstances, including in times of international or internal armed conflict or disturbance, and that the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment is affirmed in relevant international instruments,

Recalling also that the prohibition of torture is a peremptory norm of international law and that international, regional and domestic courts have held the prohibition of cruel, inhuman or degrading treatment or punishment to be customary international law,

Recalling further the definition of torture contained in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, without prejudice to any international instrument or national legislation which contains or may contain provisions of wider application,

Emphasizing the importance of properly interpreting and implementing the obligations of States with respect to torture and other cruel, inhuman or degrading treatment or punishment, and of abiding strictly by the definition of torture contained in article 1 of the Convention,

Noting that under the Geneva Conventions of 1949 torture and inhuman treatment are a grave breach and that under the statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, the statute of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 and the Rome Statute of the International Criminal Court acts of torture can constitute crimes against humanity and, when committed in a situation of armed conflict, constitute war crimes,

Acknowledging the adoption of the International Convention for the Protection of All Persons from Enforced Disappearance in its resolution 61/177 of 20 December 2006, and recognizing that its entry into force as soon as possible and its implementation will make a significant contribution to the prevention of torture, including by prohibiting places of secret detention,

Commending the persistent efforts of civil society organizations, including non-governmental organizations, national human rights institutions and the considerable network of centres for the rehabilitation of victims of torture, to combat torture and to alleviate the suffering of victims of torture,

Welcoming the entry into force of the Convention on the Rights of Persons with Disabilities, which reafirms that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,

1. Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment;

2. Emphasizes that States must take persistent, determined and effective measures to prevent and combat torture and other cruel, inhuman or degrading treatment or punishment, and stresses that all acts of torture must be made offences under domestic criminal law;

3. Welcomes the establishment of national preventive mechanisms to prevent torture and encourages all States that have not yet done so to establish such mechanisms, and calls upon States parties to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to fulfil their obligation to designate or establish truly independent and effective national preventive mechanisms for the prevention of torture;

4. Emphasizes the importance of States’ ensuring proper follow-up to the recommendations and conclusions of the relevant treaty bodies and mechanisms, including the Committee against Torture, the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment;

5. Condemns any action or attempt by States or public officials to legalize, authorize or acquiesce in torture and other cruel, inhuman or degrading treatment or punishment under any circumstances, including on grounds of national security or through judicial decisions;

6. Stresses that all allegations of torture or other cruel, inhuman or degrading treatment or punishment must be promptly and impartially examined by the competent domestic authority, and that those who encourage, order, tolerate or perpetrate such acts must be held responsible, brought to justice and punished in a manner commensurate with the severity of the offence, including the officials in charge of the place of detention where the prohibited act is found to have been committed;

7. Takes note in this respect of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Principles) as a useful tool in efforts to prevent and combat torture and of the updated set of principles for the protection of human rights through action to combat impunity;

8. Calls upon all States to implement effective measures to prevent torture and other cruel, inhuman or degrading treatment or punishment, particularly in places of detention and other places where persons are deprived of their liberty, including education and training of personnel who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment;

9. Also calls upon all States to adopt a gender-sensitive approach in the fight against torture and other cruel, inhuman or degrading treatment or punishment, paying special attention to violence against women and girls;

10. Calls upon States to ensure that the rights of persons with disabilities, bearing in mind the Convention on the Rights of Persons with Disabilities, are fully integrated into torture prevention and protection, and welcomes the efforts of the Special Rapporteur in this regard;
11. **Encourages** all States to ensure that persons convicted of torture or other cruel, inhuman or degrading treatment or punishment have no subsequent involvement in the custody, interrogation or treatment of any person under arrest, detention, imprisonment or other deprivation of liberty;

12. **Emphasizes** that acts of torture in armed conflict are serious violations of international humanitarian law and in this regard constitute war crimes, that acts of torture can constitute crimes against humanity and that the perpetrators of all acts of torture must be prosecuted and punished;

13. **Strongly urges** States to ensure that no statement that is established to have been made as a result of torture is invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made;

14. **Stresses** that States must not punish personnel for not obeying orders to commit or conceal acts amounting to torture or other cruel, inhuman or degrading treatment or punishment;

15. **Urges** States not to expel, return ("refoulter"), extradite or in any other way transfer a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture, and recognizes that diplomatic assurances, where used, do not release States from their obligations under international human rights, humanitarian and refugee law, in particular the principle of non-refoulement;

16. **Recalls** that, for the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations, including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights;

17. **Calls upon** States parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to fulfil their obligation to submit for prosecution or extradite those alleged to have committed acts of torture, and encourages other States to do likewise, bearing in mind the need to fight impunity;

18. **Stresses** that national legal systems must ensure that victims of torture and other cruel, inhuman or degrading treatment or punishment obtain redress, are awarded fair and adequate compensation and receive appropriate social and medical rehabilitation, urges States to take effective measures to this end, and in this regard encourages the development of rehabilitation centres;

19. **Recalls** its resolution 43/173 of 9 December 1988 on the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and in this context stresses that ensuring that any individual arrested or detained is promptly brought before a judge or other independent judicial officer in person and permitting prompt and regular medical and legal counsel as well as visits by family members and independent monitoring mechanisms are effective measures for the prevention of torture and other cruel, inhuman or degrading treatment or punishment;

20. **Reminds** all States that prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and dignity of the person;

21. **Notes** the concerns about solitary confinement expressed in the interim report of the Special Rapporteur, and highlights the importance of reflecting on this in efforts to promote respect for and protection of the rights of detainees;

22. **Calls upon** all States to take appropriate effective legislative, administrative, judicial and other measures to prevent and prohibit the production, trade, export and use of equipment that is specifically designed to inflict torture or other cruel, inhuman or degrading treatment or punishment;

23. **Urges** all States that have not yet done so to become parties to the Convention as a matter of priority, and calls upon States parties to give early consideration to signing and ratifying the Optional Protocol to the Convention;

24. **Invites** all States parties to the Convention that have not yet done so to make the declarations provided for in articles 21 and 22 of the Convention concerning inter-State and individual communications, to consider the possibility of withdrawing their reservations to article 20 of the Convention and to notify the Secretary-General of their acceptance of the amendments to articles 17 and 18 of the Convention with a view to enhancing the effectiveness of the Committee against Torture as soon as possible;

25. **Urges** States parties to comply strictly with their obligations under the Convention, including, in view of the high number of reports not submitted in time, their obligation to submit reports in accordance with article 19 of the Convention, and invites States parties to incorporate a gender perspective and information concerning children and juveniles and persons with disabilities when submitting reports to the Committee;

26. **Welcomes** the work of the Committee and its report submitted in accordance with article 24 of the Convention, recommends that the Committee continue to include information on the follow-up by States to its recommendations, and supports the Committee in its intention to further improve the effectiveness of its working methods;

27. **Invites** the Chairpersons of the Committee and the Subcommittee to present oral reports on the work of the committees and to engage in an interactive dialogue with the General Assembly at its sixty-fourth session under the sub-item entitled "Implementation of human rights instruments";

28. **Calls upon** the United Nations High Commissioner for Human Rights, in conformity with her mandate established by the General Assembly in its resolution 48/141 of 20 December 1993, to continue to provide, at the request of States, advisory services for the prevention of torture and other cruel, inhuman or degrading treatment or punishment, including for the preparation of national reports to the Committee and for the establishment and operation of national preventive mechanisms, as well as technical assistance for the development, production and distribution of teaching material for this purpose;

29. **Notes with appreciation** the interim report of the Special Rapporteur, and encourages the Special Rapporteur to continue to include in his recommendations proposals...
on the prevention and investigation of torture and other cruel, inhuman or degrading treatment or punishment, including its gender-based manifestations;

30. Requests the Special Rapporteur to continue to consider including in his report information on the follow-up by States to his recommendations, visits and communications, including progress made and problems encountered, and on other official contacts;

31. Calls upon all States to cooperate with and assist the Special Rapporteur in the performance of his task, to supply all necessary information requested by the Special Rapporteur, to fully and expeditiously respond to and follow up his urgent appeals, to give serious consideration to responding favourably to requests by the Special Rapporteur to visit their countries and to enter into a constructive dialogue with the Special Rapporteur on requested visits to their countries as well as with respect to the follow-up to his recommendations;

32. Stresses the need for the continued regular exchange of views among the Committee, the Subcommittee, the Special Rapporteur and other relevant United Nations mechanisms and bodies, as well as for the pursuance of cooperation with relevant United Nations programmes, notably the United Nations Crime Prevention and Criminal Justice Programme, with regional organizations and mechanisms, as appropriate, and civil society organizations, including non-governmental organizations, with a view to enhancing further their effectiveness and cooperation on issues relating to the prevention and eradication of torture, inhuman or degrading treatment or punishment;

33. Recognizes the global need for international assistance to victims of torture, stresses the importance of the work of the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture, appeals to all States and organizations to contribute annually to the Fund, preferably with a substantial increase in the level of contributions, and encourages contributions to the Special Fund established by the Optional Protocol to help finance the implementation of the recommendations made by the Subcommittee as well as education programmes of the national preventive mechanisms;

34. Requests the Secretary-General to continue to transmit to all States the appeals of the General Assembly for contributions to the Funds and to include the Funds on an annual basis among the programmes for which funds are pledged at the United Nations Pledging Conference for Development Activities;

35. Also requests the Secretary-General to submit to the Human Rights Council and to the General Assembly at its sixty-fourth session a report on the operations of the Funds;

36. Further requests the Secretary-General to ensure, within the overall budgetary framework of the United Nations, the provision of adequate staff and facilities for the bodies and mechanisms involved in preventing and combating torture and assisting victims of torture or other cruel, inhuman or degrading treatment or punishment commensurate with the strong support expressed by Member States for preventing and combating torture and assisting victims of torture;

37. Calls upon all States, the Office of the United Nations High Commissioner for Human Rights and other United Nations bodies and agencies, as well as relevant intergovernmental and civil society organizations, including non-governmental organizations, to commemorate, on 26 June, the United Nations International Day in Support of Victims of Torture;

38. Decides to consider at its sixty-fourth session the reports of the Secretary-General, including the report on the United Nations Voluntary Fund for Victims of Torture and the Special Fund established by the Optional Protocol, the report of the Committee against Torture and the interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

Freedom of expression

Report of Special Rapporteur. In a February report [A/HRC/7/14], the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Ambeyi Ligabo (Kenya), reviewed the main trends and issues addressed during his tenure expiring in August. He had focused on the right of access to information, safety and protection of media professionals, legal restrictions on freedom of opinion and expression, as well as the impact of freedom of expression on the realization of other human rights. The Rapporteur urged Governments to assess legislation and judicial practices related to freedom of opinion and expression and to reform processes to guarantee conformity with international human rights standards. Governments should focus on the protection and promotion of media independence as a priority, and adopt legislation prohibiting all forms of censorship in media outlets. Defamation, libel and insult charges, particularly when stemming from public figures and State authorities, did not justify any form of prior censorship. Governments should extend the measures to protect freedom of opinion and expression to the Internet, in particular to web site contributors and bloggers, who should be granted the same level of protection as any other type of media. The Human Rights Council should focus on the safety and protection of journalists, in particular in situations of armed conflict, and request the Special Rapporteur to prepare a study on the causes of violence against media professionals, including draft guidelines for their protection. Media professionals should be conscious of the potential impact their expressed ideas might have in raising cultural and religious sensitivities. The Special Rapporteur emphasized that although international instruments foresaw limitations to the right to freedom of opinion and expression to prevent incitement of hatred, those limitations were designed to protect individuals against violations of their rights, and were not intended to suppress the expression of critical views, controversial opinions or politically incorrect statements.

An addendum to the report [A/HRC/7/14/Add.1] summarized 241 communications on behalf of 623
persons sent by the Special Rapporteur in 2007 to 81 Governments and the Palestinian Authority, and replies received thereto by 15 January 2008.

**Human Rights Council action.** On 28 March [A/63/53 (res. 7/36)], the Human Rights Council, by a recorded vote of 32 to none, with 15 abstentions, took note of the Special Rapporteur’s report, extended the mandate for three years, and requested the Rapporteur to report to the Council annually.

On 18 June, the Human Rights Council appointed Frank William La Rue (Guatemala) as Special Rapporteur.

**Terrorism**

**Human Rights Council action.** On 27 March [A/63/53 (res. 7/7)], the Human Rights Council reaffirmed that counter-terrorism measures should be implemented in full consideration of the human rights of minorities and should not be discriminatory. It called on States not to resort to profiling based on stereotypes founded on grounds of discrimination, and to comply with their obligations in respect of torture and other cruel, inhuman or degrading treatment or punishment. States should, while encountering terrorism, ensure due-process guarantees. It requested the High Commissioner to continue efforts regarding the protection of human rights and fundamental freedoms while countering terrorism and to report regularly to the Council.

**Report of High Commissioner.** In response to that request, the High Commissioner submitted a report in June [A/HRC/8/13] highlighting the need to protect and promote all human rights and effective counter-terrorism measures. Those two complementary and mutually reinforcing objectives should be pursued together as part of States’ duty to protect. Human rights should be placed at the core of international cooperation in counter-terrorism, and States had an obligation to ensure that measures taken to combat terrorism crimes complied with their obligations under international human rights law—in particular the right to recognition as a person before the law, due process and non-refoulement. Compliance with international human rights standards was essential, especially where counter-terrorism measures involved the deprivation of individual liberty. The High Commissioner expressed concern about the obstacles to truly effective international and judicial cooperation in counter-terrorism, such as unlawful interference with privacy, search, seizure and surveillance; the insufficient remedies for human rights violations in the context of evidence-gathering and information-sharing; the transfer and admissibility of evidence gathered by unlawful means; insufficient respect for the principle of legality in relation to the definition of terrorist offences; the protection of witnesses; and inappropriate redistribution of burdens of proof in legal proceedings. Failure by States to safeguard human rights in countering terrorism would lead to increased instability and decreased legitimacy of Governments, polarization in and between societies, and increased radicalization.

**Reports of Special Rapporteur.** In an August note [A/63/223], the Secretary-General transmitted to the General Assembly the report of Special Rapporteur Martin Scheinin (Finland) on the protection and promotion of human rights while countering terrorism, submitted in accordance with Assembly resolution 62/159 [YUN 2007, p. 757]. The report focused on the fundamental right to a fair trial in the context of prosecuting terrorist suspects. It reviewed the applicable legal framework as reflected in international human rights treaties, treaty and customary international law, and conventions to counter terrorism, and analysed the role of the judiciary as a legal recourse to ensure that all terrorist suspects had effective access to the courts. Also addressed were the independence and impartiality of a judicial institution, and key areas of concern regarding access to justice in the context of the listing and de-listing of individuals and groups as terrorist or associated entities. The Special Rapporteur emphasized that fundamental principles of the right to a fair trial might not be subject to derogation, and any derogation should not circumvent the protection of non-derogable rights. All aspects of counter-terrorism law and practice had to be in compliance with international human rights law, including the right to a fair trial. Having regard to emerging practices in the fight against terrorism, the Special Rapporteur emphasized a number of basic principles as elements of best practice in securing the right to a fair trial in terrorism cases.

On 18 December, the Assembly took note of the Special Rapporteur’s report (decision 63/534).

The Special Rapporteur visited Spain (7–14 May) [A/HRC/10/3/Add.2] and welcomed national and international efforts promote human rights in the fight against terrorism and to foster tolerance and solidarity so as to avoid conditions conducive to terrorism. However, certain legal definitions of terrorist crimes did not ensure full respect for the principle of legality. The Special Rapporteur highlighted the positive aspects in the trial of those accused of the 11 March 2004 bombings in Madrid [YUN 2004, p. 72] carried out by members of an international terrorist cell, but expressed concerns regarding the pretrial phase and the right to review by a higher court. A successful and legitimate fight against terrorism required that provisions on terrorist offences strictly adhered to the principle of legality, so that all elements of the crime were explicitly and precisely encapsulated in the legal
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definitions of the crimes. The Government should therefore initiate a review of the penal code to improve the current definition.

The Special Rapporteur recommended that any proscription of illicit organizations be carried out in accordance with the law and the principles of necessity and proportionality. Spain should bring vague formulations of Organic Law on Political Parties in line with international standards on the limitation of freedom of expression to avoid the risk of applying it to non-violent political parties sharing the political orientation of a terrorist organization. The country should also revise mechanisms of appeal in terrorist cases, reduce the duration of pretrial detention for cases linked to the notion of terrorism but did not entail the intention of deadly or serious violence and eradicate the institution of incommunicado detention—an exceptional regime that entailed a risk of prohibited treatment against the detainee.

Report of Secretary-General. In response to General Assembly resolution 62/159 [YUN 2007, p. 757], the Secretary-General, in August, submitted a report [A/63/337] on the protection of human rights and fundamental freedoms while countering terrorism. The report examined States’ practice in protecting non-derogable rights, in particular the right to life and the absolute prohibition of torture and ill-treatment, as well as obligations concerning the transfer of persons suspected of engagement in terrorist activities or deemed to be a threat to national security. It also examined States’ practice to protect human rights and the limitations placed on the exercise of fundamental freedoms and human rights in the context of counter-terrorism, particularly freedom of expression, and considered the impact on the right to a fair trial. The Secretary-General noted in his conclusions that the High Commissioner, human rights treaty bodies and special procedures mandate-holders had expressed concerns regarding extrajudicial killings and summary executions, the alleged use of secret detention centres, the practice of irregular transfers of terrorism suspects and the use of diplomatic assurances to justify the transfer of suspects to countries where they might face a risk of torture. States should ensure respect for all rights—in particular non-derogable rights, such as the right to life and the prohibition of torture. Derogation measures should be allowed only in exceptional circumstances, and should be proportional and necessary. Member States should prohibit torture and cruel, inhuman or degrading treatment in national law; prosecute those responsible for torture and ill-treatment; and prohibit the use of statements extracted under torture. Measures should be taken to ensure the access of monitoring bodies to all prisoners in all places of detention, and to abolish places of secret detention. Member States should abide by the principle of non-refoulement and refrain from returning persons to countries where they might face torture. States resorting to military or specialized courts or tribunals in countering terrorism should accord due attention to the basic standards of fair trial and the right of equality before the courts.

General Assembly Action

On 18 December [meeting 70], the General Assembly, on the recommendation of the Third Committee [A/63/430/Add.2], adopted resolution 63/185 without vote [agenda item 64 (b)].

Protection of human rights and fundamental freedoms while countering terrorism

The General Assembly,
Reaffirming the purposes and principles of the Charter of the United Nations,
Reaffirming also the fundamental importance, including in response to terrorism and the fear of terrorism, of respecting all human rights and fundamental freedoms and the rule of law,
Reaffirming further the Universal Declaration of Human Rights,
Reaffirming that States are under the obligation to protect all human rights and fundamental freedoms of all persons,
Reiterating the important contribution of measures taken at all levels against terrorism, consistent with international law, in particular international human rights, refugee and humanitarian law, to the functioning of democratic institutions and the maintenance of peace and security and thereby to the full enjoyment of human rights, as well as the need to continue this fight, including through international cooperation and the strengthening of the role of the United Nations in this respect,
Deeply deploring the occurrence of violations of human rights and fundamental freedoms in the context of the fight against terrorism, as well as violations of international refugee law and international humanitarian law,
Recognizing that respect for all human rights, respect for democracy and respect for the rule of law are interrelated and mutually reinforcing,
Noting with concern measures that can undermine human rights and the rule of law, such as the detention of persons suspected of acts of terrorism in the absence of a legal basis for detention and due process guarantees, the deprivation of liberty that amounts to placing a detained person outside the protection of the law, the trial of suspects without fundamental judicial guarantees, the illegal deprivation of liberty and transfer of individuals suspected of terrorist activities, and the return of suspects to countries without individual assessment of the risk of there being substantial grounds for believing that they would be in danger of subjecting them to torture, and limitations to effective scrutiny of counter-terrorism measures,
Stressing that measures used in the fight against terrorism, including the profiling of individuals and the use of diplomatic assurances, memorandums of understanding
and other transfer agreements or arrangements, must be in compliance with the obligations of States under international law, including international human rights law, international refugee law and international humanitarian law,

Recalling article 30 of the Universal Declaration of Human Rights, and reaffirming that acts, methods and practices of terrorism in all its forms and manifestations are activities aimed at the destruction of human rights, fundamental freedoms and democracy, threatening the territorial integrity and security of States and destabilising legitimately constituted Governments, and that the international community should take the necessary steps to enhance cooperation to prevent and combat terrorism,

Reaffirming its unequivocal condemnation of all acts, methods and practices of terrorism in all its forms and manifestations, wherever and by whomsoever committed, regardless of their motivation, as criminal and unjustifiable, and renewing its commitment to strengthen international cooperation to prevent and combat terrorism,

Reaffirming that terrorism cannot and should not be associated with any religion, nationality, civilization or ethnic group,

Noting the declarations, statements and recommendations of a number of human rights treaty monitoring bodies and special procedures on the question of the compatibility of counter-terrorism measures with human rights obligations,

Emphasizing the importance of properly interpreting and implementing the obligations of States with respect to torture and other cruel, inhuman or degrading treatment or punishment, and of abiding strictly by the definition of torture contained in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in the fight against terrorism,


Recalling also Human Rights Council resolution 6/28 of 14 December 2007, by which the Council decided to extend the mandate of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism for a period of three years,

Recalling further its resolution 48/141 of 20 December 1993 and, inter alia, the responsibility of the United Nations High Commissioner for Human Rights to promote and protect the effective enjoyment of all human rights,

Acknowledging the work of the Human Rights Council in promoting respect for the protection of human rights and fundamental freedoms in the fight against terrorism,

Recognizing the importance of the United Nations Global Counter-Terrorism Strategy, adopted on 8 September 2006, and reaffirming its relevant clauses on measures to ensure respect for human rights for all, international humanitarian law and the rule of law as the fundamental basis for the fight against terrorism,

Recalling its resolution 62/272 of 5 September 2008, in which it called upon the United Nations entities involved in supporting counter-terrorism efforts to continue to facilitate the promotion and protection of human rights and fundamental freedoms while countering terrorism,

1. Reaffirms that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law;

2. Deeply deplores the suffering caused by terrorism to the victims and their families, expresses its profound solidarity with them, and stresses the importance of providing them with assistance;

3. Expresses serious concern at the occurrence of violations of human rights and fundamental freedoms in the context of countering terrorism;

4. Reaffirms the obligation of States, in accordance with article 4 of the International Covenant on Civil and Political Rights, to respect certain rights as non-derogable in any circumstances, recalls, in regard to all other Covenant rights, that any measures derogating from the provisions of the Covenant must be in accordance with that article in all cases, and underlines the exceptional and temporary nature of any such derogations;

5. Calls upon States to raise awareness about the importance of these obligations among national authorities involved in combating terrorism;

6. Reaffirms that counter-terrorism measures should be implemented in full consideration of the human rights of all, including persons belonging to national or ethnic, religious and linguistic minorities, and must not be discriminatory on grounds such as race, colour, sex, language, religion or social origin;

7. Calls upon States not to resort to profiling based on stereotypes founded on grounds of discrimination prohibited by international law, including discrimination on racial, ethnic and/or religious grounds;

8. Urges States, while countering terrorism, to fully comply with their obligations with regard to the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment;

9. Also urges States to fully respect non-refoulement obligations under international refugee and human rights law and, at the same time, to review, with full respect for these obligations and other legal safeguards, the validity of a refugee status decision in an individual case if credible and relevant evidence comes to light that indicates that the person in question has committed any criminal acts, including terrorist acts, falling under the exclusion clauses under international refugee law;

10. Calls upon States to refrain from returning persons, including in cases related to terrorism, to their countries of origin or to a third State whenever such transfer would be contrary to their obligations under international law, in particular international human rights law, international humanitarian law and international refugee law, including in cases where there are substantial grounds for believing that they would be in danger of subjection to torture, or where their life or freedom would be threatened in violation of international refugee law on account of their race, reli-
gion, nationality, membership of a particular social group or political opinion, bearing in mind obligations that States may have to prosecute individuals not returned;

11. Also calls upon States to ensure that guidelines and practices in all border control operations and other pre-entry mechanisms are clear and fully respect their obligations under international law, particularly refugee law and human rights law, towards persons seeking international protection;

12. Urges States, while countering terrorism, to ensure due process guarantees, consistent with all relevant provisions of the Universal Declaration of Human Rights, and their obligations under the International Covenant on Civil and Political Rights, the Geneva Conventions of 1949 and the Additional Protocols thereto, of 1977, and the 1951 Convention relating to the Status of Refugees and the 1967 Protocol thereto in their respective fields of applicability;

13. Urges all States to take all steps necessary to ensure that persons deprived of liberty, regardless of the place of arrest or detention, benefit from the guarantees to which they are entitled under international law, including the review of the detention and, if they are subjected to trial, fundamental judicial guarantees;

14. Opposes any form of deprivation of liberty that amounts to placing a detained person outside the protection of the law, and urges States to respect the safeguards concerning the liberty, security and dignity of the person and to treat all prisoners in all places of detention in accordance with international law, including international human rights law and international humanitarian law;

15. Acknowledges the adoption of the International Convention for the Protection of All Persons from Enforced Disappearance in its resolution 61/177 of 20 December 2006, and recognizes that the entry into force of the Convention will be an important step in support of the rule of law in countering terrorism;

16. Reaffirms that it is imperative that all States work to uphold and protect the dignity of individuals and their fundamental freedoms, as well as democratic practices and the rule of law, while countering terrorism;

17. Encourages States, while countering terrorism, to take into account relevant United Nations resolutions and decisions on human rights, and encourages them to give due consideration to the recommendations of the special procedures and mechanisms of the Human Rights Council and the relevant comments and views of United Nations human rights treaty bodies;

18. Calls upon States to ensure that their laws criminalizing acts of terrorism are accessible, formulated with precision, non-discriminatory, non-retroactive and in accordance with international law, including human rights law;

19. Recognizes the need to continue ensuring that fair and clear procedures under the United Nations terrorism-related sanctions regime are strengthened in order to enhance their efficiency and transparency, and welcomes and encourages the Security Council’s continued enhancement of efforts in support of these objectives, while emphasizing the importance of these sanctions in countering terrorism;

20. Urges States, while ensuring full compliance with their international obligations, to include adequate human rights guarantees in their national procedures for the listing of individuals and entities with a view to combating terrorism;

21. Takes note with appreciation of the report of the Secretary-General and the report of the Special Rapporteur of the Human Rights Council on the promotion and protection of human rights and fundamental freedoms while countering terrorism submitted pursuant to resolution 62/159, and takes note of the recommendations and conclusions contained therein;

22. Welcomes the ongoing dialogue established in the context of the fight against terrorism between the Security Council and its Counter-Terrorism Committee and the relevant bodies for the promotion and protection of human rights, and encourages the Security Council and its Counter-Terrorism Committee to strengthen the links and to continue to develop cooperation with relevant human rights bodies, in particular with the Office of the United Nations High Commissioner for Human Rights, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and other relevant special procedures and mechanisms of the Human Rights Council, giving due regard to the promotion and protection of human rights in the ongoing work pursuant to relevant Security Council resolutions relating to terrorism;

23. Calls upon States and other relevant actors, as appropriate, to continue to implement the United Nations Global Counter-Terrorism Strategy, which, inter alia, reaffirms respect for human rights for all and the rule of law as the fundamental basis of the fight against terrorism;

24. Requests the Office of the High Commissioner and the Special Rapporteur to continue to contribute to the work of the Counter-Terrorism Implementation Task Force, including by raising awareness about the need to respect human rights while countering terrorism;

25. Requests the Counter-Terrorism Implementation Task Force to continue its efforts to ensure that the United Nations can better coordinate and enhance support to Member States in their efforts to implement their obligations under international law, including international human rights law, international refugee law and international humanitarian law, while countering terrorism;

26. Calls upon international, regional and subregional organizations to strengthen information-sharing, coordination and cooperation in promoting the protection of human rights and fundamental freedoms while countering terrorism;

27. Acknowledges with appreciation the cooperation between the Special Rapporteur and all other relevant procedures and mechanisms of the Human Rights Council as well as the United Nations human rights treaty bodies, and urges them to continue their cooperation, in accordance with their mandates, and to coordinate their efforts, where appropriate, in order to promote a consistent approach on this subject;

28. Requests the Special Rapporteur, in the context of his mandate, to continue to make recommendations with regard to preventing, combating and redressing violations of human rights and fundamental freedoms in the context of countering terrorism;

29. Requests all Governments to cooperate fully with the Special Rapporteur in the performance of the tasks and
duties mandated, including by reacting promptly to the urgent appeals of the Special Rapporteur and providing the information requested, as well as to cooperate with other relevant procedures and mechanisms of the Human Rights Council dealing with the promotion and protection of human rights and fundamental freedoms while countering terrorism;

30. Calls upon States to give serious consideration to responding favourably to requests by the Special Rapporteur to visit their countries;

31. Welcomes the work of the United Nations High Commissioner for Human Rights to implement the mandate given to her in 2005, in resolution 60/158, and requests the High Commissioner to continue her efforts in this regard;

32. Requests the Secretary-General to submit a report on the implementation of the present resolution to the Human Rights Council and to the General Assembly at its sixty-fourth session;

33. Decides to consider at its sixty-fourth session the report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.

Peace and security

Human Rights Council action. On 18 June [A/63/53 (res. 8/9)], the Human Rights Council, by a recorded vote of 32 to 13, with 2 abstentions, reaffirmed that all peoples had a sacred right to peace, and the preservation of that right and promotion of its implementation constituted a fundamental obligation of each State. It requested the High Commissioner to convene a workshop on the right of peoples to peace to clarify its content and scope, propose measures to raise awareness of its importance and suggest actions to mobilize States, intergovernmental and non-governmental organizations in the promotion of the right. The High Commissioner should select 10 experts for the workshop and report on its outcome at the Council’s eleventh (2009) session.

Economic, social and cultural rights

Report of Secretary-General. In a 15 February report [A/HRC/7/58] on the question of the realization in all countries of economic, social and cultural rights, submitted in accordance with a 2007 Human Rights Council request [YUN 2007, p. 761], the Secretary-General reviewed the activities of UN human rights mechanisms and OHCHR relating to those rights during 2007. The report also covered OHCHR assistance and technical cooperation to States, UN agencies, civil society and others. In line with the Strategic Management Plan for 2006–2007 [YUN 2006, p. 766], the report reflected a significant increase in the work on those rights, highlighting major areas of enhanced capacity and engagement. Those activities included the monitoring of violations, providing technical assistance to States to promote such rights, including the drafting of legislation; strengthening the legal protection of those rights; undertaking research into new and challenging issues, such as the right to water, climate change and human rights; following up the recommendations of treaty bodies and special procedures; and building and strengthening partnerships with UN bodies, intergovernmental organizations and NGOs.

Right to development

Working Group activities. The high-level task force of the Working Group on the Right to Development, established by the Commission on Human Rights in 2004 [YUN 2004, p. 746] to assist the Working Group in making recommendations on the implementation of that right, held its fourth session in Geneva (7–15 January) [A/HRC/4/WG.2/TF/2]. The task force considered progress made towards application to selected partnerships of the criteria for the evaluation of global partnerships for development, adopted by the Working Group in 2006 [YUN 2006, p. 886]. It revised the criteria in light of lessons learned from their application and recommended their approval. The task force recommended continued dialogue and follow-up activities with institutional partners on previously selected global development partnerships [YUN 2007, p. 762]; and, in the context of assessing additional partnerships, that priority be given to Latin America and the Caribbean in terms of geographical expansion and to access to affordable essential drugs, debt relief, and trading and financial systems in terms of thematic expansion.

The Working Group on the Right to Development, at its ninth session (Geneva, 18–22 August) [A/HRC/9/17], considered the report of the task force on its fourth session (above). The Working Group recommended that the task force improve the right-to-development criteria in light of lessons learned from their application in, and with a view to, submitting a revised list of criteria. The criteria should be analytically and methodologically rigorous, empirically oriented and cover all aspects of the Millennium Development Goal to develop a global partnership for development and other aspects not yet covered. The Group recommended a workplan for the task force covering phase II (2008) and phase III (2009). The Group recommended that the Human Rights Council extend the task force’s mandate until 2010, or until it completed the tasks entrusted to it by the Council.

In September [A/63/340], the Secretary-General reported to the Assembly on the outcome of the ninth session of the Working Group.
Reports of Secretary-General. In an April report [A/HRC/8/9], submitted in accordance with General Assembly resolution 62/161 [YUN 2007, p. 763], the Secretary-General summarized OHCHR activities to implement the right to development, in particular those in support of the Working Group and its task force, as well as other activities that contributed to the implementation of that right.

Also in response to that resolution, the Secretary-General, in a 22 August note [A/63/318], reported on the work on the right to development undertaken by the former Subcommission on the Promotion and Protection of Human Rights, and the Human Rights Council Advisory Committee at its first session (4–15 August) (see p. 715).

The General Assembly took note of the Secretary-General’s note on 18 December (decision 63/534).

Human Rights Council action. On 24 September [A/63/53/Add.1 (res. 9/3)], the Human Rights Council welcomed the Working Group’s report (see p. 818) and endorsed the task force’s work plan for 2008–2010 outlined in the report. It decided that the criteria for the periodic evaluation of global partnerships, once endorsed by the Working Group, should be used in elaborating a comprehensive set of standards for the implementation of the right to development, which could include guidelines on the implementation of the right to development and evolve into a binding international legal standard. The Council also decided to renew the mandate of the Working Group until it completed the tasks entrusted to it, as well as that of the task force until the Working Group’s eleventh (2010) session.

GENERAL ASSEMBLY ACTION

On 18 December [meeting 70], the General Assembly, on the recommendation of the Third Committee [A/63/430/Add.2], adopted resolution 63/178 by recorded vote (182-4-2) [agenda item 64 (6)].

The right to development

Guided by the Charter of the United Nations, which expresses, in particular, the determination to promote social progress and better standards of life in larger freedom, as well as to employ international mechanisms for the promotion of the economic and social advancement of all peoples,

Recalling the Universal Declaration of Human Rights, as well as the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights,

Recalling also the outcomes of all the major United Nations conferences and summits in the economic and social fields,

Recalling further that the Declaration on the Right to Development, adopted by the General Assembly in its resolution 41/128 of 4 December 1986, confirmed that the right to development is an inalienable human right and that equality of opportunity for development is a prerogative both of nations and of individuals who make up nations, and that the individual is the central subject and beneficiary of development,

Stressing that the Vienna Declaration and Programme of Action reaffirmed the right to development as a universal and inalienable right and an integral part of fundamental human rights, and the individual as the central subject and beneficiary of development,

Reaffirming the objective of making the right to development a reality for everyone, as set out in the United Nations Millennium Declaration, adopted by the General Assembly on 8 September 2000,

Deeply concerned that the majority of indigenous peoples in the world live in conditions of poverty, and recognizing the critical need to address the negative impact of poverty and inequity on indigenous peoples by ensuring their full and effective inclusion in development and poverty eradication programmes,

Reaffirming the universality, indivisibility, interrelatedness, interdependence and mutually reinforcing nature of all civil, cultural, economic, political and social rights, including the right to development,

Expressing deep concern over the lack of progress in the trade negotiations of the World Trade Organization, and reaffirming the need for a successful outcome of the Doha Development Round in key areas such as agriculture, market access for non-agricultural products, trade facilitation, development and services,

Recalling the outcome of the twelfth session of the United Nations Conference on Trade and Development, held in Accra from 20 to 25 April 2008, on the theme “Addressing the opportunities and challenges of globalization for development”,

Recalling also all its previous resolutions, Human Rights Council resolution 9/3 of 24 September 2008, previous resolutions of the Council and those of the Commission on Human Rights on the right to development, in particular Commission resolution 1998/72 of 22 April 1998, on the urgent need to make further progress towards the realization of the right to development as set out in the Declaration on the Right to Development,

Welcoming the outcome of the ninth session of the Working Group on the Right to Development of the Human Rights Council, held in Geneva from 18 to 22 August 2008, as contained in the report of the Working Group and as referred to in the report of the Secretary-General on the right to development,

Recalling the Fourteenth Conference of Heads of State or Government of Non-Aligned Countries, held in Havana on 15 and 16 September 2006, the Fifteenth Ministerial Conference of the Movement of Non-Aligned Countries, held in Tehran on 29 and 30 July 2008, and the Ministerial Meeting of the Coordinating Bureau of the Movement of Non-Aligned Countries, held in Putrajaya, Malaysia, on 29 and 30 May 2006,

Reiterating its continuing support for the New Partnership for Africa’s Development as a development framework for Africa,

Recognizing that poverty is an affront to human dignity,
Recognizing also that extreme poverty and hunger are the greatest global threat that requires the collective commitment of the international community for its eradication, pursuant to millennium development goal 1, and therefore calling upon the international community, including the Human Rights Council, to contribute towards achieving that goal,

Recognizing further that historical injustices have undeniably contributed to the poverty, underdevelopment, marginalization, social exclusion, economic disparity, instability and insecurity that affect many people in different parts of the world, in particular in developing countries,

Stressing that poverty eradication is one of the critical elements in the promotion and realization of the right to development and that poverty is a multifaceted problem that requires a multifaceted and integrated approach in addressing economic, political, social, environmental and institutional dimensions at all levels, especially in the context of the millennium development goal of halving, by 2015, the proportion of the world’s people whose income is less than one dollar a day and the proportion of people who suffer from hunger,

1. Endorses the conclusions and recommendations adopted by consensus by the Working Group on the Right to Development of the Human Rights Council at its ninth session, and calls for their immediate, full and effective implementation by the Office of the United Nations High Commissioner for Human Rights and other relevant actors;

2. Supports the realization of the mandate of the Working Group as renewed by the Human Rights Council in its resolution 9/3, with the recognition that the Working Group will convene annual sessions of five working days and submit its reports to the Council;

3. Also supports the realization of the mandate of the high-level task force on the implementation of the right to development, established within the framework of the Working Group, as renewed by the Human Rights Council in its resolution 9/3, with the further recognition that the task force will convene annual sessions of seven working days and submit its reports to the Working Group;

4. Emphasizes the relevant provisions of General Assembly resolution 60/251 of 15 March 2006 establishing the Human Rights Council, and in this regard calls upon the Council to implement the agreement to continue to act to ensure that its agenda promotes and advances sustainable development and the achievement of the Millennium Development Goals, and also in this regard, to lead to raising the right to development, as set out in paragraphs 5 and 10 of the Vienna Declaration and Programme of Action, to the same level and on a par with all other human rights and fundamental freedoms;

5. Notes with appreciation that the high-level task force, at its second meeting, examined millennium development goal 8, on developing a global partnership for development, and suggested criteria for its periodic evaluation with the aim of improving the effectiveness of global partnership with regard to the realization of the right to development;

6. Stresses the importance of endorsement of the work-plan for the task force for the period 2008–2010, outlined in paragraph 43 of the report of the Working Group, which requires that the criteria for the periodic evaluation of global partnerships, as identified in millennium development goal 8, to be submitted by the task force to the Working Group at its eleventh session in 2010, be extended to other components of millennium development goal 8;

7. Also stresses that the above criteria, once considered, revised and endorsed by the Working Group, should be used, as appropriate, in the elaboration of a comprehensive and coherent set of standards for the implementation of the right to development;

8. Emphasizes the importance that, upon completion of the three phases of the road map, the Working Group take appropriate steps to ensure respect for and practical application of these standards, which could take various forms, including guidelines on the implementation of the right to development, and evolve into a basis for consideration of an international legal standard of a binding nature, through a collaborative process of engagement;

9. Stresses the importance of the core principles contained in the conclusions of the Working Group at its third session, congruent with the purpose of international human rights instruments, such as equality, non-discrimination, accountability, participation and international cooperation, as critical to mainstreaming the right to development at the national and international levels, and underlines the importance of the principles of equity and transparency;

10. Also stresses that it is important that the high-level task force and the Working Group, in the discharge of their mandates, take into account the need:

(a) To promote the democratization of the system of international governance in order to increase the effective participation of developing countries in international decision-making;

(b) To also promote effective partnerships such as the New Partnership for Africa’s Development and other similar initiatives with the developing countries, particularly the least developed countries, for the purpose of the realization of their right to development, including the achievement of the Millennium Development Goals;

(c) To strive for greater acceptance, operationalization and realization of the right to development at the international level, while urging all States to undertake at the national level the necessary policy formulation and to institute the measures required for the implementation of the right to development as an integral part of fundamental human rights, and also urging all States to expand and deepen mutually beneficial cooperation in ensuring development and eliminating obstacles to development in the context of promoting effective international cooperation for the realization of the right to development, bearing in mind that lasting progress towards the implementation of the right to development requires effective development policies at the national level and a favourable economic environment at the international level;

(d) To consider ways and means to continue to ensure the operationalization of the right to development as a priority;

(e) To mainstream the right to development in the policies and operational activities of the United Nations and the specialized agencies, programmes and funds, as well as in policies and strategies of the international financial and multilateral trading systems, taking into account in this regard that the core principles of the international eco-
nomic, commercial and financial spheres, such as equity, non-discrimination, transparency, accountability, participation and international cooperation, including effective partnerships for development, are indispensable in achieving the right to development and preventing discriminatory treatment arising out of political or other non-economic considerations, in addressing the issues of concern to the developing countries;

11. **Encourages** the Human Rights Council to consider how to ensure follow-up to the ongoing work of the former Subcommission on the Promotion and Protection of Human Rights on the right to development, in accordance with the relevant provisions of the resolutions General Assembly and the Commission on Human Rights, and in compliance with decisions to be taken by the Human Rights Council;

12. **Invites** Member States and all other stakeholders to participate actively in future sessions of the Social Forum, while recognizing the strong support extended to the Forum at its previous four sessions by the Subcommission on the Promotion and Protection of Human Rights;

13. **Reaffirms** the commitment to implement the goals and targets set out in all the outcome documents of the major United Nations conferences and summits and their review processes, in particular those relating to the realization of the right to development, recognizing that the realization of the right to development is critical to achieving the objectives, goals and targets set in those outcome documents;

14. **Also reaffirms** that the realization of the right to development is essential to the implementation of the Vienna Declaration and Programme of Action, which regards all human rights as universal, indivisible, interdependent and interrelated, places the human person at the centre of development and recognizes that, while development facilitates the enjoyment of all human rights, the lack of development may not be invoked to justify the abridgement of internationally recognized human rights;

15. **Stresses** that the primary responsibility for the promotion and protection of all human rights lies with the State, and reaffirms that States have the primary responsibility for their own economic and social development and that the role of national policies and development strategies cannot be overemphasized;

16. **Reaffirms** the primary responsibility of States to create national and international conditions favourable to the realization of the right to development, as well as their commitment to cooperate with each other to that end;

17. **Also reaffirms** the need for an international environment that is conducive to the realization of the right to development;

18. **Stresses** the need to strive for greater acceptance, operationalization and realization of the right to development at the international and national levels, and calls upon States to institute the measures required for the implementation of the right to development as an integral part of fundamental human rights;

19. **Emphasizes** the critical importance of identifying and analysing obstacles impeding the full realization of the right to development at both the national and the international levels;

20. **Affirms** that, while globalization offers both opportunities and challenges, the process of globalization remains deficient in achieving the objectives of integrating all countries into a globalized world, and stresses the need for policies and measures at the national and global levels to respond to the challenges and opportunities of globalization if this process is to be made fully inclusive and equitable;

21. **Recognizes** that, despite continuous efforts on the part of the international community, the gap between developed and developing countries remains unacceptably wide, that most of the developing countries continue to face difficulties in participating in the globalization process and that many risk being marginalized and effectively excluded from its benefits;

22. **Expresses its deep concern** in this regard at the negative impact on the realization of the right to development owing to the further aggravation of the economic and social situation, in particular of developing countries, as the result of the ongoing international energy, food and financial crises;

23. **Underlines** the fact that the international community is far from meeting the target set in the United Nations Millennium Declaration of halving the number of people living in poverty by 2015, reaffirms the commitment made to meet that target, and emphasizes the principle of international cooperation, including partnership and commitment, between developed and developing countries towards achieving the goal;

24. **Urges** developed countries that have not yet done so to make concrete efforts towards meeting the targets of 0.7 per cent of their gross national product for official development assistance to developing countries and 0.15 to 0.2 per cent of their gross national product to least developed countries, and encourages developing countries to build on the progress achieved in ensuring that official development assistance is used effectively to help to meet development goals and targets;

25. **Recognizes** the need to address market access for developing countries, including in agriculture, services and non-agricultural products, in particular those of interest to developing countries;

26. **Calls for** the implementation of a desirable pace of meaningful trade liberalization, including in areas under negotiation in the World Trade Organization; implementation of commitments on implementation-related issues and concerns; review of special and differential treatment provisions, with a view to strengthening them and making them more precise, effective and operational; avoidance of new forms of protectionism; and capacity-building and technical assistance for developing countries as important issues in making progress towards the effective implementation of the right to development;

27. **Recognizes** the important link between the international economic, commercial and financial spheres and the realization of the right to development, stresses, in this regard, the need for good governance and broadening the base of decision-making at the international level on issues of development concern and the need to fill organizational gaps, as well as to strengthen the United Nations system and other multilateral institutions, and also stresses the need to broaden and strengthen the participation of developing countries and countries with economies in transition in international economic decision-making and norm-setting;
28. Also recognizes that good governance and the rule of law at the national level assist all States in the promotion and protection of human rights, including the right to development, and agrees on the value of the ongoing efforts being made by States to identify and strengthen good governance practices, including transparent, responsible, accountable and participatory government, that are responsive and appropriate to their needs and aspirations, including in the context of agreed partnership approaches to development, capacity-building and technical assistance.

29. Further recognizes the important role and the rights of women and the application of a gender perspective as a cross-cutting issue in the process of realizing the right to development, and notes in particular the positive relationship between women's education and their equal participation in the civil, cultural, economic, political and social activities of the community and the promotion of the right to development;

30. Stresses the need for the integration of the rights of children, girls and boys alike, in all policies and programmes, and for ensuring the promotion and protection of those rights, especially in areas relating to health, education and the full development of their capacities;

31. Welcomes the Political Declaration on HIV/AIDS adopted at the High-level Meeting of the General Assembly on 2 June 2006, stresses that further and additional measures must be taken at the national and international levels to fight HIV/AIDS and other communicable diseases, taking into account ongoing efforts and programmes, and reiterates the need for international assistance in this regard;

32. Also welcomes the entry into force of the Convention on the Rights of Persons with Disabilities on 3 May 2008;

33. Stresses its commitment to indigenous peoples in the process of the realization of the right to development, and reaffirms the commitment to promote their rights in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security in accordance with recognized international human rights obligations and taking into account, as appropriate, the United Nations Declaration on the Rights of Indigenous Peoples, adopted by the General Assembly in its resolution 61/295 of 13 September 2007;

34. Recognizes the need for strong partnerships with civil society organizations and the private sector in pursuit of poverty eradication and development, as well as for corporate social responsibility;

35. Emphasizes the urgent need for taking concrete and effective measures to prevent, combat and criminalize all forms of corruption at all levels, to prevent, detect and deter in a more effective manner international transfers of illicitly acquired assets and to strengthen international cooperation in asset recovery consistent with the principles of the United Nations Convention against Corruption, particularly chapter V thereof, stresses the importance of a genuine political commitment on the part of all Governments through a firm legal framework, and in this context urges States to sign and ratify the Convention as soon as possible, and States parties to implement it effectively;

36. Also emphasizes the need to strengthen further the activities of the Office of the United Nations High Commissioner for Human Rights in the promotion and realization of the right to development, including ensuring effective use of the financial and human resources necessary to fulfill its mandate, and calls upon the Secretary-General to provide the Office of the High Commissioner with the necessary resources;

37. Reaffirms the request to the United Nations High Commissioner for Human Rights, in mainstreaming the right to development, to undertake effectively activities aimed at strengthening the global partnership for development between Member States, development agencies and the international development, financial and trade institutions, and to reflect those activities in detail in her next report to the Human Rights Council;

38. Calls upon the United Nations agencies, funds and programmes, as well as the specialized agencies, to mainstream the right to development in their operational programmes and objectives, and stresses the need for the international financial and multilateral trading systems to mainstream the right to development in their policies and objectives;

39. Requests the Secretary-General to bring the present resolution to the attention of Member States, United Nations organs and bodies, specialized agencies, funds and programmes, international development and financial institutions, in particular the Bretton Woods institutions, and non-governmental organizations;

40. Also requests the Secretary-General to submit a report to the General Assembly at its sixty-fourth session and an interim report to the Human Rights Council on the implementation of the present resolution, including efforts undertaken at the national, regional and international levels in the promotion and realization of the right to development, and invites the Chairperson of the Working Group on the Right to Development to present a verbal update to the Assembly at its sixty-fourth session.

RECORDED VOTE ON RESOLUTION 63/178:

In favour: Afghanistan, Albania, Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, Central African Republic, Chad, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d’Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic People’s Republic of Korea, Denmark, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Ethiopia, Fiji, Finland, France, Gabon, Gambia, Georgia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran, Iraq, Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People’s Democratic Republic, Latvia, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Micronesia, Moldova, Monaco, Mongolia, Montenegro, Morocco, Mozambique, Myanmar, Namibia, Nauru, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Sao Tome and Principe, Saudi Arabia, Senegal, Serbia, Sierra Leone, Sin-
gapore, Slovakia, Slovenia, Solomon Islands, Somalia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, The former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Tonga, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Tuvalu, Uganda, United Arab Emirates, United Kingdom, United Republic of Tanzania, Uruguay, Uzbekistan, Vanuatu, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.

Against: Marshall Islands, Palau, Ukraine, United States.

Abstaining: Canada, Israel.

Human rights and international solidarity

Human Rights Council action (March). On 27 March [A/63/53 (res. 7/5)], the Human Rights Council, by a recorded vote of 34 to 13, extended the mandate of the independent expert on human rights and international solidarity for a three-year period. The independent expert would continue to prepare a draft declaration on the right of peoples and individuals to international solidarity and submit a report to the Council.

Report by independent expert. By a 15 August note [A/HRC/9/10], the High Commissioner transmitted the report of the Independent Expert on human rights and international solidarity, Rudi Muhammad Rizki (Indonesia), pursuant to a 2007 Human Rights Council request [YUN 2007, p. 767]. The report focused on international cooperation and outlined steps for preparing the draft declaration on the rights of peoples and individuals to international solidarity. In that regard, the independent expert intended to seek, through a questionnaire, the views and contributions from Governments, UN agencies, other relevant international organizations and NGOs on the content, scope and nature of obligations for the promotion and protection of that right.

Human Rights Council action (September). On 24 September [A/63/53/Add.1 (res. 9/2)], the Council, by a recorded vote of 33 to 13, requested the independent expert to continue his work in the preparation of the draft declaration, and in developing guidelines, standards, norms and principles to promote and protect the right to international solidarity. It also requested the Human Rights Council Advisory Committee to prepare inputs to the draft declaration and to the development of guidelines, standards, norms and principles. The independent expert was requested to submit a report to the Council’s twelfth (2009) session.

Democratic and equitable international order

Human Rights Council action. On 18 June [A/63/53 (res. 8/5)], the Human Rights Council, by a recorded vote of 33 to 13 with 1 abstention, affirmed that everyone and every people had the right to a democratic and equitable international order. Such an international order required the realization of the right of all peoples to self-determination; the right of peoples and nations to permanent sovereignty over their natural wealth and resources; the right of every individual and all peoples to development; the right of all peoples to peace; and the right to an international economic order based on equal participation in decision-making, interdependence, mutual interest, international solidarity and cooperation.

GENERAL ASSEMBLY ACTION

On 18 December [meeting 70], the General Assembly, on the recommendation of the Third Committee [A/63/430/Add.2], adopted resolution 63/189 by recorded vote (124-55-7) [agenda item 64 (6)].

Promotion of a democratic and equitable international order

The General Assembly,

Recalling its previous resolutions on the promotion of a democratic and equitable international order, including resolution 61/160 of 19 December 2006, and taking note of Human Rights Council resolution 8/5 of 18 June 2008,

Reaffirming the commitment of all States to fulfil their obligations to promote universal respect for, and observance and protection of, all human rights and fundamental freedoms for all, in accordance with the Charter of the United Nations, other instruments relating to human rights and international law,

Affirming that the enhancement of international cooperation for the promotion and protection of all human rights should continue to be carried out in full conformity with the purposes and principles of the Charter and international law as set forth in Articles 1 and 2 of the Charter and, inter alia, with full respect for sovereignty, territorial integrity, political independence, the non-use of force or the threat of force in international relations and non-interference in matters that are essentially within the domestic jurisdiction of any State,

Reaffirming the Preamble to the Charter, in particular the determination to reaffirm faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and of nations large and small,

Reaffirming that everyone is entitled to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights can be fully realized,

Reaffirming also the determination expressed in the Preamble to the Charter to save succeeding generations from the scourge of war, to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, to promote social progress and better standards of life in larger freedom, to practise tolerance and good-neighbourliness, and to employ international machinery for the promotion of the economic and social advancement of all peoples,

Stressing that the responsibility for managing worldwide economic and social issues, as well as threats to international peace and security, must be shared among the na-
tions of the world and should be exercised multilaterally, and that in this regard the central role must be played by the United Nations, as the most universal and representative organization in the world.

Considering the major changes taking place on the international scene and the aspirations of all peoples for an international order based on the principles enshrined in the Charter, including promoting and encouraging respect for human rights and fundamental freedoms for all and respect for the principle of equal rights and self-determination of peoples, peace, democracy, justice, equality, the rule of law, pluralism, development, better standards of living and solidarity,

Considering also that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Reaffirming that democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing, and that democracy is based on the freely expressed will of the people to determine their own political, economic, social and cultural systems and their full participation in all aspects of their lives,

Emphasizing that democracy is not only a political concept but that it also has economic and social dimensions,

Recognizing that democracy, respect for all human rights, including the right to development, transparent and accountable governance and administration in all sectors of society, and effective participation by civil society are an essential part of the necessary foundations for the realization of social and people-centred sustainable development,

Noting with concern that racism, racial discrimination, xenophobia and related intolerance may be aggravated by, inter alia, inequitable distribution of wealth, marginalization and social exclusion,

Underlining the fact that it is imperative for the international community to ensure that globalization becomes a positive force for all the world’s people, and that only through broad and sustained efforts, based on common humanity in all its diversity, can globalization be made fully inclusive and equitable,

Recognizing the complex character of the current global food, fuel and financial crises, in which the adequate enjoyment of all human rights is threatened to be violated, as a combination of several major factors, including macroeconomic and other factors, such as environmental degradation, desertification and global climate change, natural disasters and the lack of the technology necessary to confront their impact, particularly in developing countries and least developed countries,

Stressing that efforts to make globalization fully inclusive and equitable must include policies and measures, at the global level, that correspond to the needs of developing countries and countries with economies in transition and are formulated and implemented with their effective participation,

Stressing also the need for adequate financing of and technology transfer to developing countries, in particular the landlocked developing countries and small island develop-
national flow of information, in particular correcting the inequalities in the flow of information to and from developing countries;

(k) Respect for cultural diversity and the cultural rights of all, since this enhances cultural pluralism, contributes to a wider exchange of knowledge and understanding of cultural backgrounds, advances the application and enjoyment of universally accepted human rights across the world and fosters stable, friendly relations among peoples and nations worldwide;

(l) The right of every person and all peoples to a healthy environment and to enhanced international cooperation that responds effectively to the needs for assistance of national efforts to adapt to climate change, particularly in developing countries, and that promotes the fulfilment of international agreements in the field of mitigation;

(m) The promotion of equitable access to benefits from the international distribution of wealth through enhanced international cooperation, in particular in economic, commercial and financial international relations;

(n) The enjoyment by everyone of ownership of the common heritage of mankind in connection to the public right of access to culture;

(o) The shared responsibility of the nations of the world for managing worldwide economic and social development as well as threats to international peace and security that should be exercised multilaterally;

5. Stresses the importance of preserving the rich and diverse nature of the international community of nations and peoples, as well as respect for national and regional particularities and various historical, cultural and religious backgrounds in the enhancement of international cooperation in the field of human rights;

6. Also stresses that all human rights are universal, indivisible, interdependent and interrelated and that the international community must treat human rights globally in a fair and equal manner, on the same footing and with the same emphasis, and reaffirms that, while the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms;

7. Urges all actors on the international scene to build an international order based on inclusion, justice, equality and equity, human dignity, mutual understanding and promotion of and respect for cultural diversity and universal human rights, and to reject all doctrines of exclusion based on racism, racial discrimination, xenophobia and related intolerance;

8. Reaffirms that all States should promote the establishment, maintenance and strengthening of international peace and security and, to that end, should do their utmost to achieve general and complete disarmament under effective international control, as well as to ensure that the resources released by effective disarmament measures are used for comprehensive development, in particular that of the developing countries;

9. Recalls the proclamation by the General Assembly of its determination to work urgently for the establishment of an international economic order based on equity, sovereign equality, interdependence, common interest and coopera-

tion among all States, irrespective of their economic and social systems, which shall correct inequalities and redress existing injustices, make it possible to eliminate the widening gap between the developed and the developing countries, and ensure steadily accelerating economic and social development and peace and justice for present and future generations;

10. Reaffirms that the international community should develop ways and means to remove the current obstacles and meet the challenges to the full realization of all human rights and to prevent the continuation of human rights violations resulting there from throughout the world;

11. Urges States to continue their efforts, through enhanced international cooperation, towards the promotion of a democratic and equitable international order;

12. Requests the Human Rights Council, the human rights treaty bodies, the Office of the United Nations High Commissioner for Human Rights, the special mechanisms extended by the Council and the Human Rights Council Advisory Committee to pay due attention, within their respective mandates, to the present resolution and to make contributions towards its implementation;

13. Calls upon the Office of the High Commissioner to build upon the issue of the promotion of a democratic and equitable international order;

14. Requests the Secretary-General to bring the present resolution to the attention of Member States, United Nations organs, bodies and components, intergovernmental organizations, in particular the Bretton Woods institutions, and non-governmental organizations, and to disseminate it on the widest possible basis;

15. Decides to continue consideration of the matter at its sixty-fifth session under the item entitled “Promotion and protection of human rights”.

RECORDED VOTE ON RESOLUTION 63/189:

In favour: Algeria, Angola, Antigua and Barbuda, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Benin, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, Central African Republic, Chad, China, Colombia, Comoros, Congo, Costa Rica, Côte d’Ivoire, Cuba, Democratic People’s Republic of Korea, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Ethiopia, Fiji, Gabon, Gambia, Ghana, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, India, Indonesia, Iran, Iraq, Jamaica, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People’s Democratic Republic, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritania, Mauritius, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Philippines, Qatar, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Sao Tome and Principe, Saudi Arabia, Senegal, Sierra Leone, Singapore, Solomon Islands, Somalia, South Africa, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Tajikistan, Thailand, Togo, Tonga, Trinidad and Tobago, Tunisia, Turkmenistan, Tuvalu, Uganda, United Arab Emirates, United Republic of Tanzania, Uruguay, Uzbekistan, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.

Against: Albania, Andorra, Australia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy,
Japanese, Liechtenstein, Lithuania, Luxembourg, Malta, Marshall Islands, Micronesia, Moldova, Monaco, Montenegro, Netherlands, New Zealand, Norway, Palau, Poland, Portugal, Republic of Korea, Romania, Samoa, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland. The former Yugoslav Republic of Macedonia, Turkey, Ukraine, United Kingdom, United States.

Abstaining: Argentina, Armenia, Chile, Mexico, Peru, Timor-Leste, Vanuatu.

Globalization

Report of Secretary-General. In response to General Assembly resolution 62/151 [YUN 2007, p. 767], the Secretary-General, in an August report [A/63/259], summarized the replies received from 10 Governments and the UN Department of Economic and Social Affairs containing their views on the issue of globalization and its impact on the full enjoyment of all human rights.

The General Assembly took note of the report on 18 December (decision 63/534).

GENERAL ASSEMBLY ACTION

On 18 December [meeting 70], the General Assembly, on the recommendation of the Third Committee [A/63/430/Add.2], adopted resolution 63/176 by recorded vote (129-54-4) [agenda item 64 (b)].

Globalization and its impact on the full enjoyment of all human rights

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations, and expressing, in particular, the need to achieve international cooperation in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction,

Recalling the Universal Declaration of Human Rights, as well as the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993,

Recalling also the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights,

Recalling further the Declaration on the Right to Development adopted by the General Assembly in its resolution 41/128 of 4 December 1986,

Recalling the United Nations Millennium Declaration and the outcome documents of the twenty-third and twenty-fourth special sessions of the General Assembly, held in New York from 5 to 10 June 2000 and in Geneva from 26 June to 1 July 2000, respectively,

Recalling also its resolution 62/151 of 18 December 2007,

Recalling further Commission on Human Rights resolution 2005/17 of 14 April 2005 on globalization and its impact on the full enjoyment of all human rights,

Recognizing that all human rights are universal, indivisible, interdependent and interrelated and that the international community must treat human rights globally in a fair and equal manner, on the same footing and with the same emphasis,

Realizing that globalization affects all countries differently and makes them more exposed to external developments, positive as well as negative, inter alia, in the field of human rights,

Realizing also that globalization is not merely an economic process, but that it also has social, political, environmental, cultural and legal dimensions, which have an impact on the full enjoyment of all human rights,

Emphasizing the need to fully implement the global partnership for development and enhance the momentum generated by the 2005 World Summit in order to operationalize and implement the commitments made in the outcomes of the major United Nations conferences and summits, including the 2005 World Summit, in the economic, social and related fields, and reaffirming in particular the commitment contained in paragraphs 19 and 47 of the 2005 World Summit Outcome to promote fair globalization and the development of the productive sectors in developing countries to enable them to participate more effectively in and benefit from the process of globalization,

Expressing concern at the negative impact of international financial turbulence on social and economic development and on the full enjoyment of all human rights, particularly at a time in which migration flows have increased in the globalized economy,

Expressing deep concern at the negative impact of international financial turbulence on social and economic development and on the full enjoyment of all human rights, particularly in the light of the current international financial challenges,

Recognizing also that multilateral mechanisms have a unique role to play in meeting the challenges and opportunities presented by globalization,

Recognizing that the existence of widespread extreme poverty inhibits the full and effective enjoyment of human rights, and that its immediate alleviation and eventual elimination must remain a high priority for the international community,

Strongly reiterating the determination to ensure the timely and full realization of the development goals and
objectives agreed at the major United Nations conferences and summits, including those agreed at the Millennium Summit that are described as the Millennium Development Goals, which have helped to galvanize efforts towards poverty eradication.

Deeply concerned at the inadequacy of measures to narrow the widening gap between the developed and the developing countries, and within countries, which has contributed, inter alia, to deepening poverty and has adversely affected the full enjoyment of all human rights, in particular in developing countries,

Noting that human beings strives for a world that is respectful of human rights and cultural diversity and that, in this regard, they work to ensure that all activities, including those affected by globalization, are consistent with those aims,

1. Recognizes that, while globalization, by its impact on, inter alia, the role of the State, may affect human rights, the promotion and protection of all human rights is first and foremost the responsibility of the State;

2. Emphasizes that development should be at the centre of the international economic agenda and that coherence between national development strategies and international obligations and commitments is imperative for an enabling environment for development and an inclusive and equitable globalization;

3. Reaffirms that narrowing the gap between rich and poor, both within and between countries, is an explicit goal at the national and international levels, as part of the effort to create an enabling environment for the full enjoyment of all human rights;

4. Also reaffirms the commitment to create an environment at both the national and the global levels that is conducive to development and to the elimination of poverty through, inter alia, good governance within each country and at the international level, transparency in the financial, monetary and trading systems and commitment to an open, equitable, rule-based, predictable and non-discriminatory multilateral trading and financial system;

5. Recognizes that, while globalization offers great opportunities, the fact that its benefits are very unevenly shared and its costs unevenly distributed represents an aspect of the process that affects the full enjoyment of all human rights, in particular in developing countries;

6. Welcomes the report of the United Nations High Commissioner for Human Rights on globalization and its impact on the full enjoyment of human rights, which focuses on the liberalization of agricultural trade and its impact on the realization of the right to development, including the right to food, and takes note of the conclusions and recommendations contained therein;

7. Calls upon Member States, relevant agencies of the United Nations system, intergovernmental organizations and civil society to promote equitable and environmentally sustainable economic growth for managing globalization so that poverty is systematically reduced and the international development targets are achieved;

8. Recognizes that only through broad and sustained efforts, including policies and measures at the global level to create a shared future based upon our common humanity in all its diversity, can globalization be made fully inclusive and equitable and have a human face, thus contributing to the full enjoyment of all human rights;

9. Underlines the urgent need to establish an equitable, transparent and democratic international system to strengthen and broaden the participation of developing countries in international economic decision-making and norm-setting;

10. Affirms that globalization is a complex process of structural transformation, with numerous interdisciplinary aspects, which has an impact on the enjoyment of civil, political, economic, social and cultural rights, including the right to development;

11. Also affirms that the international community should strive to respond to the challenges and opportunities posed by globalization in a manner that ensures respect for the cultural diversity of all;

12. Underlines, therefore, the need to continue to analyse the consequences of globalization for the full enjoyment of all human rights;

13. Takes note of the report of the Secretary-General, and requests him to seek further the views of Member States and relevant agencies of the United Nations system and to submit a substantive report on the subject to the General Assembly at its sixty-fourth session.

RECORDED VOTE ON RESOLUTION 63/176:

In favour: Afghanistan, Algeria, Angola, Antigua and Barbuda, Argentina, Armenia, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Benin, Bhutan, Bolivia, Botswana, Brunei Darussalam, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, Central African Republic, Chad, China, Colombia, Comoros, Congo, Costa Rica, Côte d’Ivoire, Cuba, Democratic People’s Republic of Korea, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Ethiopia, Fiji, Gabon, Gambia, Ghana, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, India, Indonesia, Iran, Iraq, Jamaica, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People’s Democratic Republic, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Namibia, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Qatar, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Sao Tome and Principe, Saudi Arabia, Senegal, Sierra Leone, Solomon Islands, Somalia, South Africa, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Tajikistan, Thailand, Togo, Tonga, Trinidad and Tobago, Tunisia, Turkmenistan, Tuvalu, Uganda, United Arab Emirates, United Republic of Tanzania, Uruguay, Uzbekistan, Vanuatu, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.

Against: Albania, Andorra, Australia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Marshall Islands, Micronesia, Moldova, Monaco, Montenegro, Netherlands, New Zealand, Norway, Palau, Poland, Portugal, Republic of Korea, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Turkey, Ukraine, United Kingdom, United States.

Abstaining: Brazil, Chile, Singapore, Timor-Leste.
Economic reform policies

Reports of independent expert. In a report [A/HRC/7/9] issued in February, the independent expert on the effects of economic reform policies and foreign debt on the full enjoyment of all human rights, particularly economic, social and cultural rights, Bernard Madhu (Kenya), focused on the draft general guidelines on and execution of debt payments and economic reform policies requested by the Commission on Human Rights in 2004 [YUN 2004, p. 755] and in 2005 [YUN 2005, p. 832], to be eventually implemented by States and private and financial institutions. The guidelines would guarantee that compliance with the commitments arising from foreign debt did not undermine the capacity of States to fulfil their human rights obligations, particularly those relating to economic, social and cultural rights. Among the key principles of the draft guidelines were that they should be designed to encourage countries to elaborate flexible context-specific standards, benchmarks and indicators based on the core content or minimum human rights standards. The concept and definition of debt sustainability played a major role in the discussions on the effects of foreign debt on human rights. A main challenge was to define the responsibility and obligations of national and international stakeholders in the design of analytical tools, which should combine financial parameters, measurable human rights needs and poverty reduction objectives. In his conclusions and recommendation, the independent expert noted that economic reform and foreign debt measures had gradually become components of poverty reduction strategies, raising a need for a new approach to economic management. He recommended re-focusing the mandate on the impact of public finance management on the achievement of human rights. The central issue would be how to secure a sufficient fiscal space to respect human rights standards while receiving financial assistance with non-disabling repayment obligations. The new mandate-holder should collaborate with the Working Group on the Right to Development and its high-level task force to ensure synergy of their action.

An annex to the report [A/HRC/7/9/Add.1] covered the independent expert’s mission to Burkina Faso (23–27 April 2007), where debt relief initiatives had substantially reduced the foreign debt burden. Debt sustainability indicators were well below the thresholds defined by international financial institutions, and foreign debt did not appear to threaten the country’s capacity to comply with its human rights obligations. Burkina Faso allocated debt service savings obtained through debt relief to a special anti-poverty account. Although the expenditure priorities of that account were not explicitly human rights-based, resources had generally been used in areas such as education and health. The expert encouraged the Government to continue its prudent debt policy and called on the donor community to help by ensuring that the national development strategy was financed to the largest possible extent with grants. The accountability and participation elements within the debt planning and decision process should be strengthened, particularly through a more systematic recourse to parliamentary and civil society advice. The poverty reduction strategy paper preparation process should be strengthened through a human rights-based approach, stipulating more clearly State obligations under international human rights law and elaborating the means to implement them.

Human Rights Council action. On 27 March [A/63/53 (res. 7/4)], the Human Rights Council, by a recorded vote of 34 to 13, extended the mandate for a three-year period, and redefined the mandate, renaming it the “independent expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights”. The expert was requested to seek the views of States, international organizations, UN agencies, funds and programmes, regional economic commissions, international and regional financial institutions and NGOs on the draft general guidelines [A/HRC/7/CRP.2], with a view to improving them and presenting an updated text to the Council in 2010. He should also explore further the interlinkages with trade and other issues, including HIV/AIDS, when examining the effects of foreign debt and other related international obligations of States.

On 26 March, the Council appointed Cephas Lumina (Zambia) as independent expert.

Report of independent expert. Pursuant to Human Rights Council resolution 7/4 (see above), the Secretary-General, in August, transmitted to the General Assembly the report [A/63/289] of the new independent expert, who outlined his vision and plan of implementation for the mandate. His work would be guided by the principles of the primacy of human rights, international cooperation, participation, and the responsibilities of all actors. The mandate’s broad objectives were to: raise awareness of the need to consider foreign debt as a human rights issue; broaden support for the mandate through regular dialogue with all stakeholders, including States that had not traditionally supported the mandate; clarify some conceptual issues, including the linkages between foreign debt and human rights; and review, revise and develop the draft general guidelines.

The General Assembly took note of the independent expert’s report on 18 December (decision 63/534).
Social Forum

Social Forum session. In accordance with a Human Rights Council request [YUN 2007, p. 769], the 2008 Social Forum (Geneva, 1–3 September) [A/HRC/10/65] brought together representatives of Member States and civil society, including grass-roots and intergovernmental organizations, to address the rising awareness and international concern regarding the problem of poverty and extreme poverty; implementable practical initiatives; technical support and capacity-building for countries and agencies in need; and the need for a more structured UN role in developing and coordinating international efforts to tackle poverty. The Forum had before it a background report of the High Commissioner [A/HRC/SF/2008/2], requested by the Human Rights Council [YUN 2007, p. 769], which addressed poverty and human rights and the work of international human rights mechanisms in the field of economic, social and cultural rights and the right to development in relation to poverty, and the social dimension of globalization.

The Forum heard expert presentations and held interactive debates on the normative framework of human rights and extreme poverty; foreign debt; international trade policies; the role and responsibility of the State, civil society and transnational corporations in poverty eradication; international assistance and cooperation in poverty reduction and eradication; decent and favourable work conditions; good governance; corruption; access to affordable essential drugs and health care; climate change; and food security, the food crisis and the right to food.

Participants recommended that the Council should ensure greater participation of grass-roots organizations, as well as of people living in poverty, particularly women, in future Forum sessions, and set up a voluntary UN fund for that purpose. The Forum should function as an instrument for dialogue and as a think-tank on a human rights-based approach to poverty reduction, and promote better interaction between developed and developing countries, particularly through concerted efforts to achieve poverty reduction. Its themes should be better defined, narrower in scope and focus on discrimination as cause and consequence of poverty. The universal periodic review mechanism should monitor national poverty reduction policies. The Council should urge States to increase their official development assistance and establish mechanisms to ensure that assistance reached the poorest. Governance indicators should be developed for the next Social Forum to serve as a point of reference for dialogue. The Council should also advance a human rights-based approach to the global fight against corruption, which was one of the main causes of poverty and human rights violations.

Transnational corporations

Reports of Special Representative. In a 7 April report [A/HRC/8/5], the Special Representative of the Secretary-General on the issue of human rights and transnational corporations (TNCS) and other business enterprises, John Ruggie (United States), presented a conceptual and policy framework to anchor the business and human rights debate and to help guide all relevant actors. The framework comprised three core principles: the State duty to protect against human rights abuses by third parties, including business; the corporate responsibility to respect human rights; and the need for more effective access to remedies. The three principles formed a complementary whole in that each supported the others in achieving sustainable progress.

The Special Representative noted that rapid market expansion had created governance gaps in numerous policy domains, including business and human rights. Those gaps were between the scope of economic activities and actors, and the capacity of political institutions to manage their adverse consequences. Progress had been made, at least in some industries and by growing numbers of firms. There had been novel initiatives, public-private hybrids combining mandatory and voluntary measures, and industry and company self-regulation. Likewise, there was an expanding web of potential corporate liability for international crimes, reflecting international standards but imposed through national courts. Governments had adopted a variety of measures to promote a corporate culture respectful of human rights. Fragments of international institutional provisions existed with similar aims. The fundamental problem was that there were too few such steps. None had reached a scale commensurate with the challenges at hand, there was little cross-learning, and they did not cohere into a systemic response. The framework of “protect, respect and remedy” was intended to address the problem. The United Nations should lead intellectually and by setting expectations and aspirations. The Human Rights Council could help close the governance gaps in business and human rights by supporting the framework, inviting its elaboration, and fostering its uptake by relevant social actors.

In an addendum to the report [A/HRC/8/5/Add.1], the Special Representative summarized the outcome of five international multi-stakeholder consultations held in 2007 concerning the conceptual and policy framework: the role of States vis-à-vis business and human rights (Copenhagen, Denmark, 8–9 November); business and human rights in conflict zones (Berlin, Germany, 5 November 2007); multi-stakeholder initiatives (The Hague, 6–7 November); accountability mechanisms for resolving complaints and disputes (Cambridge, Massachusetts, United States, 19–20
November); and corporate responsibility to respect human rights (Geneva, 4–5 December).

In a further addendum, [A/HRC/8/5/Add.2], the Special Representative summarized the scope and patterns of alleged corporate-related human rights abuse found in a sample of 320 cases posted on the Business and Human Rights Resource Centre web page from February 2005 to December 2007. An initial coding of cases showed that all industry sectors in all regions were alleged to impact human rights. Allegations of abuse were reviewed for the rights impacted. Environmental harms were also noted, as they were often connected to claims of negative impacts on human rights, and allegations of corruption recorded. Persons affected by the alleged abuses included workers, communities and end-users, such as consumers of goods or users of services.

The Special Representative, in a 15 May report [A/HRC/8/16], clarified the concepts of “sphere of influence” and “complicity” and explained how both concepts fit into the corporate responsibility to respect human rights—one of the three principles composing the strategic policy framework. As the concept of sphere of influence was considered too broad and ambiguous to define the scope of due diligence required to fulfill the responsibility to respect, the Representative set out an alternative approach to defining that scope that would depend on the potential and actual human rights impacts resulting from a company’s business activities and the relationships connected to those activities. In contrast, avoiding complicity was viewed as an essential ingredient in the due diligence carried out to respect rights because it described a subset of the indirect ways in which companies could have an adverse effect on rights through their relationships.

**Human Rights Council action.** On 18 June [A/63/53 (res. 8/7)], the Human Rights Council welcomed the framework contained in the Special Representative’s report (above) and recognized the need to operationalize it with a view to providing more effective protection against human rights abuses by or involving TNCs and other business enterprises, and to contribute to the consolidation of norms and standards and any future initiatives, such as a comprehensive international framework. It extended the Special Representative’s mandate for a three-year period to include promoting the framework and reporting annually to the Council and to the General Assembly. It requested OHCHR to organize a two-day consultation to discuss ways to operationalize the framework, and to submit a report on the meeting to the Council.

**Report of Special Representative.** Pursuant to that resolution, the Secretary-General, by a 12 August note [A/63/270], transmitted the Special Representative’s report to the Assembly, which outlined the main components of the policy framework, the anticipated work streams to be undertaken in implementing the Special Representative’s extended mandate and summarized some of his main activities. In his conclusion, the Special Representative stated that the business and human rights agenda was enormously complex, and much hung in the balance, including the rights of individuals to enjoy lives of dignity, the role of business in achieving economic development and the social sustainability of globalization itself. The Representative believed that progress would be achieved only if actions were based on careful analysis and broad social and political support. Accordingly, in planning the next phase of his work, he intended to continue employing the methodology that had served the mandate so well: objective research, inclusive consultations and the engagement of a wide range of actors whose expertise and influence could turn principles into practice.

The General Assembly took note of that report on 18 December (decision 63/534).

**Coercive economic measures**

**Reports of Secretary-General.** Pursuant to a 2007 Human Rights Council request [YUN 2007, p. 771], the Secretary-General, in a July report [A/HRC/9/2], summarized information received from seven States (Albania, Algeria, Belarus, Cuba, Ecuador, Iraq and Venezuela) on the implications and negative effects of unilateral coercive measures on their populations.

In an August report [A/63/272] submitted in accordance with General Assembly resolution 62/162 [YUN 2007, p. 772], which also requested him to collect the same information, the Secretary-General summarized responses from Belarus and the Syrian Arab Republic.

**Human Rights Council action.** On 24 September [A/63/53/Add.1 (res. 9/4)], the Human Rights Council, by a recorded vote of 33 to 11, with 2 abstentions, urged all States to stop adopting or implementing unilateral coercive measures not in accordance with international law and international humanitarian law, in particular those with extraterritorial effects, which hampered trade relations among States, thus impeding the full realization of human rights, in particular the right of individuals and peoples to development. The Secretary-General was requested to seek from Member States their views and information on the implications of those measures on their populations, and to report to the Council’s twelfth (2009) session.

**Communication.** On 8 August [A/62/929], Cuba transmitted to the General Assembly the outcome document of the fifteenth Ministerial Conference of the Non-Aligned Movement (Tehran, Iran, 27–30 July), in which Ministers urged States to refrain from recog-
nizing, adopting or implementing extraterritorial or unilateral coercive measures or laws, including unilateral economic sanctions, other intimidating measures, and arbitrary travel restrictions, that sought to exert pressure on Non-Aligned Countries, threatening their sovereignty and independence, and their freedom of trade and investment, and preventing them from exercising their right to decide their own political, economic and social systems. They agreed to oppose and condemn those measures or laws, and urged other States to do likewise, as called for by the Assembly and other UN organs. They called on States applying those measures or laws to revoke them.

GENERAL ASSEMBLY ACTION

On 18 December [meeting 70], the General Assembly, on the recommendation of the Third Committee [A/63/430/Add.2], adopted resolution 63/179 by recorded vote (132-54) [agenda item 64 (b)].

**Human rights and unilateral coercive measures**

_The General Assembly,_

_Recalling_ all its previous resolutions on this subject, the most recent of which was resolution 62/162 of 18 December 2007, Human Rights Council resolution 9/4 of 24 September 2008, and previous resolutions of the Council and the Commission on Human Rights,

_Reaffirming_ the pertinent principles and provisions contained in the Charter of Economic Rights and Duties of States proclaimed by the General Assembly in its resolution 3281(XXIX) of 12 December 1974, in particular article 32 thereof, in which it declared that no State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights,

_Taking note_ of the report of the Secretary-General submitted pursuant to Commission on Human Rights resolution 1999/21 of 23 April 1999, and the reports of the Secretary-General on the implementation of General Assembly resolutions 52/120 of 12 December 1997 and 55/110 of 4 December 2000,

_Expressing its grave concern_ that, in some countries, the situation of children is adversely affected by unilateral coercive measures not in accordance with international law and the Charter that create obstacles to trade relations among States, impede the full realization of social and economic development and hinder the well-being of the population in the affected countries, with particular consequences for women and children, including adolescents,

_Deeply concerned_ that, despite the recommendations adopted on this question by the General Assembly, the Human Rights Council, the Commission on Human Rights and recent major United Nations conferences, and contrary to general international law and the Charter, unilateral coercive measures continue to be promulgated and implemented with all their negative implications for the social humanitarian activities and economic and social development of developing countries, including their extraterritorial effects, thereby creating additional obstacles to the full enjoyment of all human rights by peoples and individuals under the jurisdiction of other States,

_Bearing in mind_ all the extraterritorial effects of any unilateral legislative, administrative and economic measures, policies and practices of a coercive nature against the development process and the enhancement of human rights in developing countries, which create obstacles to the full realization of all human rights,

_Reaffirming_ that unilateral coercive measures are a major obstacle to the implementation of the Declaration on the Right to Development,

_Recalling_ article 1, paragraph 2, common to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, which provides, inter alia, that in no case may a people be deprived of its own means of subsistence,

_Noting_ the continuing efforts of the open-ended Working Group on the Right to Development of the Human Rights Council, and reaffirming in particular its criteria, according to which unilateral coercive measures are one of the obstacles to the implementation of the Declaration on the Right to Development,
1. Urges all States to cease adopting or implementing any unilateral measures not in accordance with international law, the Charter of the United Nations and the norms and principles governing peaceful relations among States, in particular those of a coercive nature with all their extraterritorial effects, which create obstacles to trade relations among States, thus impeding the full realization of the rights set forth in the Universal Declaration of Human Rights and other international human rights instruments, in particular the right of individuals and peoples to development;

2. Also urges all States not to adopt any unilateral measures not in accordance with international law and the Charter that impede the full achievement of economic and social development by the population of the affected countries, in particular children and women, that hinder their well-being and that create obstacles to the full enjoyment of their human rights, including the right of everyone to a standard of living adequate for his or her health and well-being and his or her right to food, medical care and the necessary social services, as well as to ensure that food and medicine are not used as tools for political pressure;

3. Strongly objects to the extraterritorial nature of those measures which, in addition, threaten the sovereignty of States, and in this context calls upon all Member States to neither recognize those measures nor to apply them, as well as to take administrative or legislative measures, as appropriate, to counteract the extraterritorial applications or effects of unilateral coercive measures;

4. Condemns the continued unilateral application and enforcement by certain Powers of unilateral coercive measures, and rejects those measures with all their extraterritorial effects as being tools for political or economic pressure against any country, in particular against developing countries, adopted with a view to preventing those countries from exercising their right to decide, of their own free will, their own political, economic and social systems, and because of the negative effects of those measures on the realization of all the human rights of vast sectors of their populations, in particular children, women and the elderly;

5. Reaffirms that essential goods such as food and medicines should not be used as tools for political coercion and that under no circumstances should people be deprived of their own means of subsistence and development;

6. Calls upon Member States that have initiated such measures to abide by the principles of international law, the Charter, the declarations of the United Nations and world conferences and relevant resolutions and to commit themselves to their obligations and responsibilities arising from the international human rights instruments to which they are party by revoking such measures at the earliest possible time;

7. Reaffirms, in this context, the right of all peoples to self-determination, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development;

8. Recalls that, according to the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, contained in the annex to General Assembly resolution 2625 (XXV) of 24 October 1970, and the relevant principles and provisions contained in the Charter of Economic Rights and Duties of States proclaimed by the Assembly in its resolution 3281 (XXIX), in particular article 32 thereof, no State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind;

9. Rejects all attempts to introduce unilateral coercive measures, and urges the Human Rights Council to take fully into account the negative impact of those measures, including through the enactment of national laws and their extraterritorial application which are not in conformity with international law, in its task concerning the implementation of the right to development;

10. Requests the United Nations High Commissioner for Human Rights, in discharging her functions relating to the promotion, realization and protection of the right to development and bearing in mind the continuing impact of unilateral coercive measures on the population of developing countries, to give priority to the present resolution in her annual report to the General Assembly;

11. Underlines that unilateral coercive measures are one of the major obstacles to the implementation of the Declaration on the Right to Development, and in this regard calls upon all States to avoid the unilateral imposition of economic coercive measures and the extraterritorial application of domestic laws which run counter to the principles of free trade and hamper the development of developing countries, as recognized by the Intergovernmental Group of Experts on the Right to Development;

12. Recognizes that in the Declaration of Principles adopted at the first phase of the World Summit on the Information Society, held in Geneva from 10 to 12 December 2003, States were strongly urged to avoid and refrain from any unilateral measure in building the information society;

13. Supports the invitation of the Human Rights Council to all special rapporteurs and existing thematic mechanisms of the Council in the field of economic, social and cultural rights to pay due attention, within the scope of their respective mandates, to the negative impact and consequences of unilateral coercive measures;

14. Requests the Secretary-General to bring the present resolution to the attention of all Member States, to continue to collect their views and information on the implications and negative effects of unilateral coercive measures on their populations and to submit an analytical report thereon to the General Assembly at its sixty-fourth session, while reiterating once again the need to highlight the practical and preventive measures in this respect;

15. Decides to examine the question on a priority basis at its sixty-fourth session under the sub-item entitled “Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms”.

RECORDED VOTE ON RESOLUTION 63/179:

_In favour_: Afghanistan, Algeria, Angola, Antigua and Barbuda, Argentina, Armenia, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Benin, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, Central African Republic,
Chapter II: Protection of human rights

Chad, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d’Ivoire, Cuba, Democratic People’s Republic of Korea, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Ethiopia, Fiji, Gabon, Gambia, Ghana, Greenland, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, India, Indonesia, Iran, Iraq, Jamaica, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao PDR, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Qatar, Russian Federation, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Sao Tome and Principe, Saudi Arabia, Senegal, Sierra Leone, Singapore, Solomon Islands, Somalia, South Africa, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Tajikistan, Thailand, Timor-Leste, Togo, Tonga, Trinidad and Tobago, Tunisia, Turkmenistan, Tuvalu, Uganda, United Arab Emirates, United Republic of Tanzania, Uruguay, Uzbekistan, Vanuatu, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.

Against: Albania, Andorra, Austria, Australia, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Marshall Islands, Micronesia, Moldova, Monaco, Montenegro, Netherlands, New Zealand, Norway, Palau, Poland, Portugal, Republic of Korea, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland. The former Yugoslav Republic of Macedonia, Turkey, Ukraine, United Kingdom, United States.

Extreme poverty

Report of High Commissioner. As requested by the Human Rights Council in 2006 [YUN 2006, p. 900], the High Commissioner in February submitted a report [A/HRC/7/32] summarizing replies and contributions received from 18 Governments, as well as UN agencies, intergovernmental organizations, national human rights institutions and civil society organizations concerning the draft guiding principles on extreme poverty and human rights: the rights of the poor [YUN 2006, p. 900].

Human Rights Council action. On 28 March [A/63/35 (res. 7/27)], the Human Rights Council noted the High Commissioner’s report on the draft guiding principles on the rights of persons living in extreme poverty. It invited ονόμαστο to consult with relevant stakeholders, including by organizing a seminar on the draft guiding principles; and to submit a report to the Council, no later than its last session of 2009, that would allow it to decide how to move forward, with a view to possibly adopting the guiding principles.

Report of independent expert. The independent expert on the question of human rights and extreme poverty, Arjun Sengupta (India), in February [A/HRC/7/15], submitted a report that took stock of the key issues raised during his tenure. He reiterated that extreme poverty should be regarded as the combination of income poverty, human development poverty and social exclusion. Attention should be focused on the intersection of those three components when formulating poverty reduction strategies. Equally important was the importance of international cooperation, which was enshrined in international human rights law. In examining the effectiveness of such cooperation, the independent expert made observations on past experiences with poverty reduction strategy papers in Africa. He emphasized the need to recognize extreme poverty as a denial of human rights, and suggested that the guiding principles on extreme poverty should become legally binding.

Human Rights Council action. On 26 March, the Human Rights Council appointed Magdalena Sepúlveda Carmona (Chile) as independent expert.

On 18 June [A/63/53 (res. 8/11)], the Council noted the independent expert proposal to define extreme poverty as a combination of income poverty, human development poverty and social exclusion. It extended the independent expert’s mandate for three years and requested that the expert report to the General Assembly and to the Council annually.

Reports of independent expert. As requested by that resolution, the Secretary-General submitted to the Assembly in August [A/63/274] the interim report of the new independent expert outlining the main concerns that would guide her activities. Those included the impact of discrimination and social exclusion, the challenges faced by women, children and persons with disabilities, the lack of meaningful participation of people living in poverty, the impact of public policies on people living in extreme poverty, and the lack of awareness of poverty as a human rights issue. Eliminating extreme poverty was not a question of charity but a pressing human rights issue. States had legal obligations towards people living in extreme poverty that were linked to a whole range of civil, economic, political, cultural and social rights. Through the exercise of her mandate, the independent expert would formulate pragmatic, action-orientated guidance and recommendations on how the human rights framework could strengthen efforts to eradicate extreme poverty.

The General Assembly took note of that report on 18 December (decision 63/534).

The independent expert visited Ecuador (10–15 November) [A/HRC/11/9/Add.1], where major advances had been made in terms of a rights-based approach to public policy planning and increases in social spending. However, political and institutional instability, the global economic crisis and economic and social inequities, further deepened by the persistence of inequities between different geographical areas and ethnic groups and between men and women, were cause for concern. The State should make certain that protection and social integration programmes were
accessible to groups living in extreme poverty, take steps to increase opportunities for social participation, and strengthen mechanisms for distributing information and ensuring accountability. The Bono de Desarrollo Humano ("human development voucher") cash transfer programme had had an impact on the status of communities living in extreme poverty, but should take into account the need for full observance of human rights standards. In that connection, social protection policies should aim at the universal enjoyment of the right to social security.

GENERAL ASSEMBLY ACTION

On 18 December (meeting 70), the General Assembly, on the recommendation of the Third Committee [A/63/430/Add.2], adopted resolution 63/175 without vote [agenda item 64 (6)].

Human rights and extreme poverty

The General Assembly,

Reaffirming the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of Persons with Disabilities and other human rights instruments adopted by the United Nations,

Recalling its resolution 47/196 of 22 December 1992, by which it declared 17 October the International Day for the Eradication of Poverty, and its resolution 62/205 of 19 December 2007, by which it proclaimed the Second United Nations Decade for the Eradication of Poverty (2008–2017), as well as its resolution 61/157 of 19 December 2006 and its previous resolutions on human rights and extreme poverty, in which it reaffirmed that extreme poverty and exclusion from society constitute a violation of human dignity and that urgent national and international action is therefore required to eliminate them,

Recalling also its resolution 52/134 of 12 December 1997, in which it recognized that the enhancement of international cooperation in the field of human rights was essential for the effective understanding, promotion and protection of all human rights,

Reaffirming the internationally agreed development goals, including the Millennium Development Goals,

Deeply concerned that extreme poverty persists in all countries of the world, regardless of their economic, social and cultural situation, and that its extent and manifestations, such as hunger, trafficking in human beings, disease, lack of adequate shelter, illiteracy and hopelessness, are particularly severe in developing countries, while acknowledging the significant progress made in several parts of the world in combating extreme poverty,

Deeply concerned also that gender inequality, violence and discrimination exacerbate extreme poverty, disproportionately impacting women and girls,

Stressing that special attention should be given to children, persons with disabilities and indigenous peoples who are living in extreme poverty,

Concerned by the challenges faced today, including those derived from the food crisis, the energy crisis and the financial crisis, and by their impact on the increase in the number of people living in extreme poverty and their negative effect on the capacity of all States, especially developing countries, to fight extreme poverty,


Welcoming the Summit of World Leaders for Action against Hunger and Poverty of 20 September 2004, convened in New York by the Presidents of Brazil, Chile and France and the Prime Minister of Spain with the support of the Secretary-General,

Recognizing that the eradication of extreme poverty is a major challenge within the process of globalization and requires coordinated and continued policies through decisive national action and international cooperation,

Stressing the necessity of better understanding the causes and consequences of extreme poverty,

Reaffirming that, since the existence of widespread extreme poverty inhibits the full and effective enjoyment of human rights and might, in some situations, constitute a threat to the right to life, its immediate alleviation and eventual eradication must remain a high priority for the international community,

Stressing that respect for all human rights, which are universal, indivisible, interdependent and interrelated, is of crucial importance for all policies and programmes to fight extreme poverty,

Reaffirming that democracy, development and the full and effective enjoyment of human rights and fundamental freedoms are interdependent and mutually reinforcing and contribute to the eradication of extreme poverty,

1. Reaffirms that extreme poverty and exclusion from society constitute a violation of human dignity and that urgent national and international action is therefore required to eliminate them;

2. Reaffirms also that it is essential for States to foster participation by the poorest people in the decision-making process in the societies in which they live, in the promotion of human rights and in efforts to combat extreme poverty, and that it is essential for people living in poverty and vulnerable groups to be empowered to organize themselves and to participate in all aspects of political, economic and social life, in particular the planning and implementation of policies that affect them, thus enabling them to become genuine partners in development;

3. Emphasizes that extreme poverty is a major issue to be addressed by Governments, civil society and the United Nations system, including international financial institutions, and in this context reaffirms that political commitment is a prerequisite for the eradication of poverty;

4. Reaffirms that the existence of widespread absolute poverty inhibits the full and effective enjoyment of human
rights and renders democracy and popular participation fragile;

5. Recognizes the need to promote respect for human rights and fundamental freedoms in order to address the most pressing social needs of people living in poverty, including through the design and development of appropriate mechanisms to strengthen and consolidate democratic institutions and governance;

6. Reaffirms the commitments contained in the United Nations Millennium Declaration, in particular the commitments to spare no effort to fight against extreme poverty and to achieve development and poverty eradication, including the commitment to halve, by 2015, the proportion of the world’s people whose income is less than one United States dollar a day and the proportion of people who suffer from hunger;

7. Reaffirms also the commitment made at the 2005 World Summit to eradicate poverty and promote sustained economic growth, sustainable development and global prosperity for all, including women and girls;

8. Encourages the international community to strengthen its efforts to address challenges that are contributing to extreme poverty, including those posed by the current food, energy and financial crises in all parts of the world, especially in developing countries, by enhancing its cooperation to help build national capacities;

9. Reaffirms the critical role of both formal and informal education in the achievement of poverty eradication and other development goals as envisaged in the Millennium Declaration, in particular basic education and training for eradicating illiteracy, and efforts towards expanded secondary and higher education as well as vocational education and technical training, especially for girls and women, the creation of human resources and infrastructure capabilities and the empowerment of those living in poverty, and in this context reaffirms the Dakar Framework for Action adopted at the World Education Forum in 2000, and recognizes the importance of the United Nations Educational, Scientific and Cultural Organization strategy for the eradication of poverty, especially extreme poverty, in supporting the Education for All programme as a tool to achieve the millennium development goal of universal primary education by 2015;

10. Invites the United Nations High Commissioner for Human Rights to continue to give high priority to the question of the relationship between extreme poverty and human rights, and also invites her to further pursue the work in this area;

11. Calls upon States, United Nations bodies, in particular the Office of the United Nations High Commissioner for Human Rights and the United Nations Development Programme, intergovernmental organizations and non-governmental organizations to continue to give appropriate attention to the links between human rights and extreme poverty, and encourages the private sector and the international financial institutions to proceed likewise;

12. Invites States, as well as relevant United Nations agencies, the specialized agencies, programmes and funds, intergovernmental organizations, United Nations treaty bodies, special procedures, including the independent expert on the question of human rights and extreme poverty, national human rights institutions, within their respective mandates, and also non-governmental organizations, especially those in which people in situations of extreme poverty express their views, to contribute further to the consultations led by the High Commissioner on the draft guiding principles on extreme poverty and human rights: the rights of the poor;

13. Welcomes the efforts of entities throughout the United Nations system to incorporate the Millennium Declaration and the internationally agreed development goals set out therein into their work;

14. Also welcomes the appointment of the new independent expert on the question of human rights and extreme poverty and the renewed mandate that she has received, and takes note with appreciation of her report to the General Assembly;

15. Decides to consider the question further at its sixty-fifth session under the sub-item entitled “Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms”.

Right to food

Human Rights Council special session

At the request of Cuba [A/HRC/S-7/1], on behalf of 30 other States and groups of States, the Human Rights Council held its seventh special session (Geneva, 22 May) [A/HRC/S-7/2] to consider and take action on the negative impact on the realization of the right to food of the worsening of the world food crisis, caused, inter alia, by soaring food prices. During its consideration of the issue, the Council heard statements from its members, observer States, the Special Rapporteur on the right to food, UN entities, intergovernmental organizations and NGOs.

On the same day, the Council adopted a resolution [A/63/53 (res. S-7/1)], by which it expressed concern at the worsening of the world food crisis, which undermined the realization of the right to food for all. The Council called on States, multilateral institutions and other parties to ensure the realization of that right as an essential human rights objective, and to review any policy or measure which could have a negative impact on its realization. The Council stressed that States had a primary obligation to meet the food needs of their own populations, while the international community should provide assistance for increasing food production. It called upon UN members and other stakeholders to participate in the High-level Conference on World Food Security: the Challenges of Climate Change and Bioenergy (see p. 1343). The Special Rapporteur on the right to food was requested to make a presentation to the Council’s eighth (2008) session on his participation in the Conference and on his initial recommendations regarding action to promote, respect and protect the right to food and freedom from hunger. The Rapporteur should also report to the
Council’s ninth (2009) session, inviting comments from States and other relevant actors on the crisis and remedies from a human rights perspective.

In response to the Council’s request, Special Rapporteur on the right to food Olivier de Schutter gave a presentation to the Council on 6 June, during its eighth session [A/HRC/8/52], on the High-level Conference on World Food Security.

Also in response to that resolution, the Special Rapporteur submitted in September [A/HRC/9/23] a report putting forward a human rights framework for world food and nutrition security. According to the Rapporteur, the marked increase in the price of food commodities on international markets had a severe negative impact on the right to food of the poorest households. The increase would not benefit many small producers facing steep rises in costs and lacking the infrastructure and support to increase food supply. What mattered in human rights terms was who would produce food, and for the benefit of whom. If a new global partnership for agriculture and food was to emerge from the crisis, such a partnership should not simply seek to boost supply by promoting technology-driven recipes, but also empower those who were hungry and malnourished and whose livelihoods might be threatened by a renewed interest in agricultural production. A human rights framework would contribute to keeping the search for solutions on track, because it would improve accountability and ensure that the most vulnerable would be given priority. However, such a framework was absent from current discussions.

The Special Rapporteur encouraged States to build national strategies for realizing the right to adequate food, taking into account the need to strengthen the protection of the human rights of the most vulnerable groups; to develop an international consensus on agrofuels, based on the need to ensure that agrofuel production respected human rights and did not result in distorted development in producer countries; to clarify how the private sector could contribute to a more just food production and distribution system; to request further studies on the role of international cooperation; and to examine the contribution the establishment of a global reinsurance fund could make to the realization of the right to food.

In a follow-up resolution of 24 September [A/63/53/Add.1 (res. 9/6)], the Council took note of the Special Rapporteur’s recommendations. It encouraged States to incorporate the human rights perspective in their national strategies for the realization of the right to adequate food for all, which could include mapping the food insecure, adopting legislation and policies with a right to food framework, and establishing mechanisms for ensuring the participation of rights-holders in the design and monitoring of such legislation. States should promote investment in agriculture and rural infrastructure and take all necessary measures to ensure the realization of that right. The Special Rapporteur on the right to food was requested to report on the implementation of the resolution at the Council’s twelfth (2009) session.

Other activities

Reports of Special Rapporteur. In a January report [A/HRC/7/5], the Special Rapporteur on the right to food, Jean Ziegler (Switzerland), said that, despite advances in various countries such as China, India, South Africa and several Latin American and Caribbean countries, there had been little progress overall in reducing the number of victims of hunger and malnutrition. The number of people suffering from hunger had increased every year since 1996, despite Government commitments to halve hunger. Yet hunger and famine were not inevitable. One of the key problems was the lack of coherence within the UN system between the positive developments in some sectors of the system, as evidenced by the right to food guidelines [YUN 2004, p. 1226] of the Food and Agriculture Organization of the United Nations, and the way in which the policies and practices of other agencies, such as the International Monetary Fund and the World Bank, as well as the World Trade Organization, undermined protection of the right to food. State policies showed similar patterns of inconsistency. While States had recognized the right to food in the World Food Summit Declaration [YUN 1996, p. 1129] and more than 150 States were parties to the International Covenant on Economic, Social and Cultural Rights, at the same time they engaged in trade policies that were detrimental to the enjoyment of human rights in other countries. Also affecting the right were transnational corporations, which were not subject to mechanisms to guard against the right-to-food violations that some of them were sometimes committing. An issue to be addressed was the exclusion and discrimination of the most vulnerable; attention should be given to the protection of the right to food for disadvantaged groups, especially women and indigenous people. Other issues requiring work in the future were desertification, biofuels and refugees from hunger.

The Rapporteur recommended that States take action to realize the right to food of all their people; ensure that their international trade agreements did not have any negative impact on the right to food in other countries; improve the international supervisory mechanisms for transnational corporations, especially those controlling the food and water system; give priority to investments in long-term development projects that reduced vulnerability to drought and desertification; establish a moratorium on initiatives
to develop biofuels that aimed to convert food into fuel; and strengthen protection mechanisms for people forced to leave their homes and lands because of hunger and violations of their right to food.

In a later addendum [A/HRC/7/5/Add.1], the Special Rapporteur summarized 61 communications sent to 31 Governments and eight other actors between 2 December 2006 and 4 December 2007. Thirty-three Governments and six actors had replied.

**Human Rights Council action.** On 26 March, the Human Rights Council appointed Olivier de Schutter (Belgium) as Special Rapporteur.

On 27 March [A/63/53 (res. 7/14)], the Council took note of the Special Rapporteur’s report on the right to food. It requested the Advisory Committee to consider recommendations for approval by the Council on further measures to enhance realization of the right to food, bearing in mind the importance of promoting the implementation of existing standards. The Council decided to convene a panel discussion on the realization of the right to food during its main session in 2009.

**Reports of Special Rapporteur.** In his interim report [A/63/278], transmitted by the Secretary-General to the General Assembly in accordance with resolution 62/164 [YUN 2007, p. 776], the new Special Rapporteur highlighted some of the challenges facing the realization of the right to adequate food and presented his priorities. He undertook to work with all interested parties towards developing sustainable solutions for eradicating hunger and implementing the right to food, and to devote equal attention to establishing an international environment enabling States to develop strategies for the fulfilment of that right and to developing such strategies at the domestic level. During the first year of the mandate, the focus would be on the future of food aid; the impact of trade in agricultural commodities on the right to food; the impact of the protection of intellectual property rights on agriculture; and the impact of the activities of the agribusiness sector on the right to food. As regards national strategies for fulfilling the right to food, the Rapporteur would explore the institutional tools that could best contribute to that objective, focusing on human rights relating to the use of land and on women’s rights.

**Communication.** In February, Cuba transmitted its observations [A/HRC/7/G/5] on the Special Rapporteur’s report on his 2007 visit to the country [YUN 2007, p. 775].

**GENERAL ASSEMBLY ACTION**

On 18 December [meeting 70], the General Assembly, on the recommendation of the Third Committee [A/63/430/Add.2], adopted resolution 63/187 by recorded vote (184-1) [agenda item 64 (6)].

**The right to food**

*The General Assembly,*

*Reaffirming all previous resolutions and decisions on the right to food adopted within the framework of the United Nations,*

*Recalling the Universal Declaration of Human Rights,* which provides that everyone has the right to a standard of living adequate for her or his health and well-being, including food, the Universal Declaration on the Eradication of Hunger and Malnutrition and the United Nations Millennium Declaration, in particular millennium development goal 1 on eradicating extreme poverty and hunger by 2015,

*Recalling also the provisions of the International Covenant on Economic, Social and Cultural Rights,* in which the fundamental right of every person to be free from hunger is recognized,

*Bear in mind the Rome Declaration on World Food Security and the World Food Summit Plan of Action and the Declaration of the World Food Summit: five years later,* adopted in Rome on 13 June 2002,

*Reaffirming the concrete recommendations contained in the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security,* adopted by the Council of the Food and Agriculture Organization of the United Nations in November 2004,

*Bear in mind paragraph 6 of its resolution 60/251 of 15 March 2006,*

*Reaffirming that all human rights are universal, indivisible, interdependent and interrelated, and that they must be treated globally, in a fair and equal manner, on the same footing and with the same emphasis,*

*Reaffirming also that a peaceful, stable and enabling political, social and economic environment, at both the national and the international levels, is the essential foundation that will enable States to give adequate priority to food security and poverty eradication,*

*Reiterating, as in the Rome Declaration on World Food Security and the Declaration of the World Food Summit: five years later,* that food should not be used as an instrument of political or economic pressure, and reaffirming in this regard the importance of international cooperation and solidarity, as well as the necessity of refraining from unilateral measures that are not in accordance with international law and the Charter of the United Nations and that endanger food security,

*Convinced that each State must adopt a strategy consistent with its resources and capacities to achieve its individual goals in implementing the recommendations contained in the Rome Declaration on World Food Security and the World Food Summit Plan of Action and, at the same time, cooperate regionally and internationally in order to organize collective solutions to global issues of food security in a world of increasingly interlinked institutions, societies and economies where coordinated efforts and shared responsibilities are essential,*

*Recognizing the complex character of the worsening of the current global food crisis, in which the right to adequate food is threatened to be violated on a massive scale, as a combination of several major factors, including macroeco-
nomic factors, exacerbated by environmental degradation, desertification and global climate change, natural disasters and the lack of the technology necessary to confront its impact, particularly in developing countries, least developed countries and small island developing States,

Resolved to act to ensure that the human rights perspective is taken into account at the national, regional and international levels in measures to address the current global food crisis,

Expressing its deep concern at the number and scale of natural disasters, diseases and pests and their increasing impact in recent years, which have resulted in massive loss of life and livelihood and threatened agricultural production and food security, in particular in developing countries,

Stressing the importance of reversing the continuing decline of official development assistance devoted to agriculture, both in real terms and as a share of total official development assistance,

Recognizing the role of the Food and Agriculture Organization of the United Nations as the key United Nations agency for rural and agricultural development and its work in supporting the efforts of Member States to achieve the full realization of the right to food, including through its provision of technical assistance to developing countries in support of the implementation of national priority frameworks,

Taking note of the final Declaration adopted at the International Conference on Agrarian Reform and Rural Development of the Food and Agriculture Organization of the United Nations in Porto Alegre, Brazil, on 10 March 2006,

Acknowledging the High-level Task Force on the Global Food Security Crisis established by the Secretary-General, and supporting the Secretary-General in his continuing efforts in this regard, including continued engagement with Member States and the Special Rapporteur of the Human Rights Council on the right to food,

1. Reaffirms that hunger constitutes an outrage and a violation of human dignity and therefore requires the adoption of urgent measures at the national, regional and international levels for its elimination;
2. Also reaffirms the right of everyone to have access to safe, sufficient and nutritious food, consistent with the right to adequate food and the fundamental right of everyone to be free from hunger, so as to be able to fully develop and maintain his or her physical and mental capacities;
3. Considers it intolerable that more than 6 million children still die every year from hunger-related illness before their fifth birthday and that the number of people who are undernourished has grown to about 923 million worldwide, including as a result of the global food crisis, while, according to the Food and Agriculture Organization of the United Nations, the planet could produce enough food to feed 12 billion people, twice the world’s present population;
4. Expresses its concern that women and girls are disproportionately affected by hunger, food insecurity and poverty, in part as a result of gender inequality and discrimination, that in many countries, girls are twice as likely as boys to die from malnutrition and preventable childhood diseases and that it is estimated that almost twice as many women as men suffer from malnutrition;

5. Encourages all States to take action to address gender inequality and discrimination against women, in particular where it contributes to the malnutrition of women and girls, including measures to ensure the full and equal realization of the right to food and ensuring that women have equal access to resources, including income, land and water and their ownership, as well as full and equal access to education, science and technology, to enable them to feed themselves and their families;
6. Encourages the Special Rapporteur of the Human Rights Council on the right to food to continue mainstreaming a gender perspective in the fulfillment of his mandate, and encourages the Food and Agriculture Organization of the United Nations and all other United Nations bodies and mechanisms addressing the right to food and food insecurity to integrate a gender perspective into their relevant policies, programmes and activities;
7. Reaffirms the need to ensure that programmes delivering safe and nutritious food are inclusive of and accessible to persons with disabilities;
8. Encourages all States to take steps with a view to achieving progressively the full realization of the right to food, including steps to promote the conditions for everyone to be free from hunger and, as soon as possible, to enjoy fully the right to food, and to create and adopt national plans to combat hunger;
9. Recognizes the advances reached through South-South cooperation in developing countries and regions in connection with food security and the development of agricultural production for the full realization of the right to food;
10. Stresses that improving access to productive resources and public investment in rural development are essential for eradicating hunger and poverty, in particular in developing countries, including through the promotion of investments in appropriate small-scale irrigation and water management technologies in order to reduce vulnerability to droughts;
11. Recognizes that 80 per cent of hungry people live in rural areas and 50 per cent are small-scale farm-holders, and that these people are especially vulnerable to food insecurity, given the increasing cost of inputs and the fall in farm incomes; that access to land, water, seeds and other natural resources is an increasing challenge for poor producers; that sustainable and gender-sensitive agricultural policies are important tools for promoting land and agrarian reform, rural credit and insurance, technical assistance and other associated measures to achieve food security and rural development; and that support by States for small farmers, fishing communities and local enterprises is a key element for food security and the provision of the right to food;
12. Stresses the importance of fighting hunger in rural areas, including through national efforts supported by international partnerships to stop desertification and land degradation and through investments and public policies that are specifically appropriate to the risk of drylands, and in this regard calls for the full implementation of the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa;
13. Also stresses its commitments to promote and protect, without discrimination, the economic, social and cultural rights of indigenous peoples in accordance with international human rights obligations and, taking into account, as appropriate, the United Nations Declaration on the Rights of Indigenous Peoples, acknowledges that many indigenous organizations and representatives of indigenous communities have expressed in different forums their deep concerns over the obstacles and challenges they face for the full enjoyment of the right to food, and calls upon States to take special actions to combat the root causes of the disproportionately high level of hunger and malnutrition among indigenous peoples and the continuous discrimination against them;

14. Notes the need to further examine various concepts such as, inter alia, “food sovereignty” and their relation with food security and the right to food, bearing in mind the need to avoid any negative impact on the enjoyment of the right to food for all people at all times;

15. Requests all States and private actors, as well as international organizations within their respective mandates, to take fully into account the need to promote the effective realization of the right to food for all, including in the ongoing negotiations in different fields;

16. Recognizes the need to strengthen national commitment as well as international assistance, upon the request of and in cooperation with the affected countries, towards the full realization and protection of the right to food, and in particular to develop national protection mechanisms for people forced to leave their homes and land because of hunger or humanitarian emergencies affecting the enjoyment of the right to food;

17. Stresses the need to make efforts to mobilize and optimize the allocation and utilization of technical and financial resources from all sources, including external debt relief for developing countries, and to reinforce national actions to implement sustainable food security policies;

18. Calls for the early conclusion and a successful, development-oriented outcome of the Doha Round of trade negotiations of the World Trade Organization as a contribution to creating international conditions that permit the full realization of the right to food;

19. Stresses that all States should make all efforts to ensure that their international policies of a political and economic nature, including international trade agreements, do not have a negative impact on the right to food in other countries;

20. Recalls the importance of the New York Declaration on Action against Hunger and Poverty, and recommends the continuation of efforts aimed at identifying additional sources of financing for the fight against hunger and poverty;

21. Recognizes that the promises made at the World Food Summit in 1996 to halve the number of persons who are undernourished are not being fulfilled, and invites once again all international financial and development institutions, as well as the relevant United Nations agencies and funds, to give priority to and provide the necessary funding to realize the aim of halving by 2015 the proportion of people who suffer from hunger, as well as the right to food as set out in the Rome Declaration on World Food Security and the United Nations Millennium Declaration;

22. Reaffirms that integrating food and nutritional support, with the goal that all people at all times will have access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life, is part of a comprehensive response to the spread of HIV/AIDS, tuberculosis, malaria and other communicable diseases;

23. Urges States to give adequate priority in their development strategies and expenditures to the realization of the right to food;

24. Stresses the importance of international development cooperation and assistance, both as an effective contribution to the expansion of agriculture and food production and, in particular in activities related to emergency situations, for the realization of the right to food and the achievement of sustainable food security, while recognizing that each country has the primary responsibility for ensuring the implementation of national programmes and strategies in this regard;

25. Also stresses that States parties to the World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property Rights should consider implementing that agreement in a manner supportive of food security, while mindful of the obligation of Member States to promote and protect the right to food;

26. Calls upon Member States, the United Nations system and other relevant stakeholders to support national efforts aimed at responding rapidly to the food crises currently occurring across Africa, and expresses its deep concern that funding shortfalls are forcing the World Food Programme to cut operations across different regions, including Southern Africa;

27. Invites all relevant international organizations, including the World Bank and the International Monetary Fund, to continue to promote policies and projects that have a positive impact on the right to food, to ensure that partners respect the right to food in the implementation of common projects, to support strategies of Member States aimed at the fulfilment of the right to food and to avoid any actions that could have a negative impact on the realization of the right to food;

28. Takes note with appreciation of the interim report of the Special Rapporteur and the work and commitment of the first mandate holder to achieving the realization of the right to food;

29. Supports the realization of the mandate of the Special Rapporteur, as extended by the Human Rights Council in its resolution 6/2 of 27 September 2007;

30. Requests the Secretary-General and the United Nations High Commissioner for Human Rights to provide all relevant international organizations, including the World Bank and the International Monetary Fund, to continue to promote policies and projects that have a positive impact on the right to food, to ensure that partners respect the right to food in the implementation of common projects, to support strategies of Member States aimed at the fulfilment of the right to food and to avoid any actions that could have a negative impact on the realization of the right to food;

31. Welcomes the work already done by the Committee on Economic, Social and Cultural Rights in promoting the right to adequate food, in particular its General Comment No. 12 (1999) on the right to adequate food (article 11 of the International Covenant on Economic, Social and Cultural Rights), in which the Committee affirmed, inter alia, that the right to adequate food is indivisibly linked to the inherent dignity of the human person and is indispensable for the fulfilment of other human rights enshrined in the International Bill of Human Rights, and is also inseparable
from social justice, requiring the adoption of appropriate economic, environmental and social policies, at both the national and the international levels, oriented to the eradication of poverty and the fulfilment of all human rights for all;

32. **Recalls** General Comment No. 15 (2002) of the Committee on Economic, Social and Cultural Rights on the right to water (articles 11 and 12 of the Covenant), in which the Committee noted, inter alia, the importance of ensuring sustainable water resources for human consumption and agriculture in realization of the right to adequate food;

33. **Reaffirms** that the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security, adopted by the Council of the Food and Agriculture Organization of the United Nations in November 2004, represent a practical tool to promote the realization of the right to food for all, contribute to the achievement of food security and thus provide an additional instrument in the attainment of internationally agreed development goals, including those contained in the Millennium Declaration;

34. **Welcomes** the continued cooperation of the High Commissioner, the Committee and the Special Rapporteur, and encourages them to continue their cooperation in this regard;

35. **Calls upon** all Governments to cooperate with and assist the Special Rapporteur in his task, to supply all necessary information requested by him and to give serious consideration to responding favourably to the requests of the Special Rapporteur to visit their countries to enable him to fulfil his mandate more effectively;

36. **Requests** the Special Rapporteur to submit an interim report to the General Assembly at its sixty-fourth session on the implementation of the present resolution and to continue his work, including by examining the emerging issues with regard to the realization of the right to food within his existing mandate;

37. **Invites** Governments, relevant United Nations agencies, funds and programmes, treaty bodies, civil society actors and non-governmental organizations, as well as the private sector, to cooperate fully with the Special Rapporteur in the fulfillment of his mandate, inter alia, through the submission of comments and suggestions on ways and means of realizing the right to food;

38. **Decides** to continue the consideration of the question at its sixty-fourth session under the item entitled “Promotion and protection of human rights”.

**RECORDED VOTE ON RESOLUTION 63/187:**

*In favour:* Afghanistan, Albania, Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Central African Republic, Chad, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d’Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic People’s Republic of Korea, Denmark, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Ethiopia, Fiji, Finland, France, Gabon, Gambia, Georgia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People’s Democratic Republic, Latvia, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Micronesia, Moldova, Monaco, Mongolia, Montenegro, Morocco, Mozambique, Myanmar, Namibia, Nauru, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Palau, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Sao Tome and Principe, Saudi Arabia, Senegal, Serbia, Sierra Leone, Singapore, Slovakia, Slovenia, Solomon Islands, Somalia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, The former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Tonga, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Tuvalu, Ukraine, United Arab Emirates, United Kingdom, United Republic of Tanzania, Uruguay, Uzbekistan, Vanuatu, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.

*Against:* United States.

**Right to adequate housing**

**Reports of Special Rapporteur.** In a February report [A/HRC/7/16], the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Miloon Kothari (India), reviewed his work and activities since his appointment in 2000. He provided recommendations to the Human Rights Council and the next mandate holder concerning the obstacles to the realization of that right: lack of legislation and implementation, homelessness, forced evictions, discrimination, lack of access to water and basic services, and affordability.

The Special Rapporteur stated that after the seven years of his mandate, there was a severe and growing global housing and land rights crisis that needed to be given priority on the global agenda and accorded greater attention. He asserted that the right to adequate housing should be interpreted on the basis of the indivisibility and universality of human rights, and the struggle against discrimination was of utmost importance in realizing that right. Various tools had been elaborated during his term: the basic principles and guidelines on development-based evictions and displacement, the questionnaires on women and adequate housing and on the right to adequate housing, and the development of indicators to monitor the progressive realization of the right. The Special Rapporteur encouraged relevant actors to employ such tools, and develop and adapt them to national and local situations. A combination of a humanitarian and human rights-based approach should be employed to address the situation of millions of people living in grossly inadequate housing conditions or facing homelessness and landlessness. Stronger support and response from
States were needed to develop the mandate. Issues for further consideration included the recognition of the link between access to land and the human right to adequate housing; rural areas; natural disasters and humanitarian emergencies; climate change; and the role of civil society.

An addendum to the report [A/HRC/7/16/Add.1] summarized 50 communications sent to 25 Governments and the United Nations Interim Administration Mission in Kosovo between 1 December 2006 and 4 December 2007, and replies received thereto. The Special Rapporteur regretted that most Governments had not responded, or had done so in a selective manner.


Human Rights Council action. On 26 March, the Human Rights Council appointed Raquel Rolnik (Brazil) as Special Rapporteur.

Report of Special Rapporteur. In August [A/63/275], the Secretary-General transmitted to the General Assembly the report of the new Special Rapporteur, in accordance with a 2007 Human Rights Council request [YUN 2007, p. 780]. The report reviewed the issues addressed under the mandate, including homelessness, affordability, forced evictions, discrimination in accessing adequate housing and the gender perspective. The Rapporteur urged states to include provisions on the protection, fulfilment and justiciability of that right in their national and constitutional law; to integrate the right in local and national urban planning and housing policies; to adopt and ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; and to address the plight of the homeless and stop their criminalization.

The General Assembly took note of that report on 18 December (decision 63/534).

Cultural rights

Human Rights Council action. On 28 March [A/63/53 (res. 7/34)], the Human Rights Council reaffirmed that the establishment of a thematic procedure in cultural rights should not mean a new monitoring mechanism. It acknowledged that the process of review, rationalization and improvement of mandates represented momentum towards the establishment of an independent expert in the field of cultural rights, and requested the High Commissioner to consult States, intergovernmental organizations and NGOs on the content and scope of such a mandate. The Council underlined the importance of avoiding overlapping with the activities of the United Nations Educational, Scientific and Cultural Organization and other bodies and organizations of the UN system when establishing the mandate of the independent expert.

Right to education

Reports of Special Rapporteur. The Special Rapporteur on the right to education, Vernor Muñoz (Costa Rica), in a May report [A/HRC/8/10] focused on the right to education in emergency situations. Emergencies, whether arising out of armed conflict or natural disaster, were a source of violations of the right to education, affecting a large number of people. He urged States, donors, multilateral agencies and organizations to commit to the implementation of that right in emergencies and recommended that the right be recognized as an integral part of the humanitarian response. Action should be taken to put an end to impunity for persons and armed groups who attacked schools, students and teachers. Measures should be developed to give physical and emotional protection to girls and female adolescents to ensure that they went to school. States should develop plans for education in emergencies to include measures for continuity of education at all levels and during all phases of an emergency. They should draw up a programme of studies that was adaptable, non-discriminatory, gender-sensitive and of high quality that met the needs of children and young people throughout an emergency, and design and implement specific plans to avoid the exploitation of girls and young women in the wake of emergencies.

In an addendum [A/HRC/8/10/Add.1], the Rapporteur summarized 14 communications sent to 12 countries between 12 January 2007 and 29 February 2008, and the replies received thereto.

During his mission to Guatemala (20–28 July) [A/HRC/11/8/Add.3], the Special Rapporteur observed challenges facing the education system, including the low level of investment in education—which, at approximately 2 per cent of gross domestic product, was the lowest in the region. Indigenous peoples’ right to education was confined to the issue of bilingualism, with the teaching of indigenous languages provided solely in the first three years of primary schooling in a very small number of State schools and only in some languages. The trend towards the privatization of education undermined the established principle of free education. With 80 per cent of secondary education in the hands of private schools, it was impossible to ensure education for all at the lower and upper secondary levels. Legislation, including constitutional provisions, revealed a gulf between the law and its application. Constitutional principles on education should cease to be a dead letter and become everyday practice guiding concrete actions.
The Rapporteur recommended that the Government increase investment in education and secure national political consensus on granting an adequate budget to fulfil its obligation in that regard. It should also increase the budget for intercultural bilingual education in proportion to the population served, ensure a stronger participation by the Office of the Deputy Minister for Intercultural Bilingual Education and establish criteria for multiculturalism, interculturalism and multilingualism to address the specificities of indigenous communities.

**Human Rights Council action.** On 18 June [A/63/53 (res. 8/4)], the Human Rights Council urged States to take measures to eliminate obstacles limiting effective access to education, notably by girls; support implementation of plans and programmes of action to ensure quality education and improved enrolment, and the elimination of gender discrimination and stereotypes in educational curricula and materials; and ensure that the right to education was respected in emergency situations. It extended the mandate of the Special Rapporteur for three years and requested him to report yearly to the Council, and to the General Assembly on an interim basis.

**Report of Special Rapporteur.** In accordance with that resolution, the Secretary-General, in August, transmitted the Special Rapporteur’s interim report [A/63/292] to the General Assembly. Expanding on his May report on education in emergency situations, he recommended that the international community intensify its search for best practices in such situations. He called on donors to include education in all their humanitarian assistance plans, and increase their education allocation to at least 4.2 per cent of total humanitarian assistance.

The General Assembly took note of that report on 18 December (decision 63/534).

**Communication.** In a 20 September letter [A/C.3/63/5] to the General Assembly President, Benin, Bosnia and Herzegovina, Costa Rica, Nicaragua, Norway and Qatar conveyed their interest to convene a thematic debate during the Assembly’s sixty-third session on the issue of access to education in emergency, post-crisis and transition situations caused by man-made conflicts or natural disasters.

**Environmental and scientific concerns**

**Human rights and climate change**

**Human Rights Council action.** On 28 March [A/63/53 (res. 7/23)], the Human Rights Council, concerned that climate change posed an immediate and far-reaching threat to people and communities around the world and had implications for the full enjoyment of human rights, requested OHCHR, in consultation with States and other stakeholders, to prepare a study on the relationship between climate change and human rights, to be submitted to the Council prior to its tenth (2009) session. It decided to consider the issue at its tenth session and to make the study available to the Conference of the Parties to the 1992 United Nations Framework Convention on Climate Change [YUN 1992, p. 681].

**Toxic wastes**

**Reports of Special Rapporteur.** In a February report [A/HRC/7/21], the Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights, Okechukwu Ibeanu (Nigeria), highlighted the importance of the right to information and to participation. Those rights were both rights in themselves and essential tools for the exercise of other rights, such as the right to life and to health.

The main obligation in dealing with toxic wastes and dangerous products lay mainly with States, which should not abuse that responsibility by withholding information, given the potential risks and dangers to the health and well-being of the population and the potential impact on the environment. While developing countries were sometimes left with little choice owing to developmental needs and situations of poverty, both developing and developed States needed to find alternative solutions to the trade of toxic wastes and dangerous products. Although the income generated by such trade was attractive, States needed to take into account the future costs and long-term consequences of environmental degradation and health problems, especially those affecting women and young persons. He appealed to States to put in place adequate means for their protection.

An addendum to the report [A/HRC/9/2/Add.1] summarized communications sent by the Special Rapporteur to eight countries and the United Nations Interim Administration Mission in Kosovo between 1 January 2006 and 4 December 2007 and replies thereto.

In August [A/HRC/9/22], the Special Rapporteur summarized his activities since his February report and challenges faced in discharging his mandate. He remained discouraged by the lack of attention to the mandate and arguments by States that issues of toxic wastes management were more appropriately discussed in environmental forums that at the Human Rights Council. Implementation of the mandate was also hampered by the lack of adequate financial resources. He also proposed requesting the Council to consider enhancing the mandate by broadening it to include all types of movement and dumping of toxic and dangerous products and wastes.

During his mission to the United Republic of Tanzania (21–30 January) [A/HRC/9/22/Add.2], the Special Rapporteur noted that there was an adequate legal framework to deal with the transboundary movement of toxic and dangerous products and wastes. However, there was a lack of regulation for both small-scale and large-scale mining activities, while as much as 1 million people where engaged in artisanal and small-scale mining.

He recommended that the Government: step up its efforts in educating the public as to the effects that artisanal and small-scale mining could have on health and livelihood; provide more resources to step up inspection of artisanal and small-scale mining areas; be mindful of the specific concerns of indigenous communities and land rights when allocating land for artisanal and small-scale or large-scale mining; pay extra attention to the situation of vulnerable groups, including women and children, due to the exposure to highly toxic substances while engaging in artisanal and small-scale mining; and set up a database of mining-related illnesses to monitor environmental and human rights impacts of mining activities. The Government should also monitor the operations of large-scale mining corporations, particularly in regard to occupational health, safety standards and compliance with environmental and other legislation.

The Special Rapporteur visited Côte d’Ivoire (4–8 August) and the Netherlands (26–28 November) [A/HRC/12/26/Add.2] to examine the effects of the movement and dumping of toxic and dangerous products and wastes from the vessel Probo Koala, in Abidjan, on and around 19 August 2006 [YUN 2006, p. 1080]. The vessel, chartered by the commodity trading company Trafigura, had docked in Amsterdam before heading to Côte d’Ivoire, where the waste from the ship was dumped in various sites in the district of Abidjan.

The visit to the Netherlands focused on events surrounding the aborted offloading of the waste from the vessel in the port of Amsterdam, the reloading of the waste and the departure of the ship. The Rapporteur assessed the actions taken by the Dutch authorities after the dumping in Côte d’Ivoire, and concluded that improved measures had been taken to avoid the recurrence of similar incidents. He encouraged public authorities to ensure the rigorous inspection and, where necessary, detention of ships. The Netherlands should also continue to support Côte d’Ivoire in monitoring and addressing possible long-term health and environmental effects of the incident.

The scope of the visit to Côte d’Ivoire included a review of procedures followed prior to and during the offloading and dumping of the waste, and an assessment of remedial action taken by the Government. There was a need to tackle outstanding issues, in particular decontamination, health care and compensation. The Ivorian authorities should take further action to protect the right to life, to health and to a healthy environment of all victims and their families.

Regarding the role of Trafigura and its responsibility to respect human rights, the Rapporteur recommended that the company should continue to fund and support outstanding remedial work in Côte d’Ivoire, ensure that timely and reliable information was disclosed regarding its activities and on their potential environment, health and safety impact. It should also balance commercial interests with human rights and environmental requirements.

Human Rights Council action. On 24 September [A/63/53/Add.1 (res. 9/1)], the Human Rights Council extended the mandate of the Special Rapporteur for a three-year period. His next report to the Council should include information on persons killed, maimed or injured in developing countries by the movement and dumping of toxic and dangerous products and wastes; human rights standards applicable to transnational corporations and other business enterprises that dumped such products and wastes; human rights standards applicable to transnational corporations and other business enterprises that dumped such products and wastes; rehabilitation of and assistance to victims; the scope of related national legislation; the question of waste-recycling programmes and the transfer of polluting industries, industrial activities and technologies from developed to developing countries; and the ambiguities in international instruments.

Right to health

Reports of Special Rapporteur. In a January report [A/HRC/7/11 & Corr.1], the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Paul Hunt (New Zealand), said that at the heart of that right lay an effective and integrated health system, responsive to national and local priorities, and accessible to all. Such a system was an essential element of a healthy and equitable society, a core social institution, no less than a fair justice system or democratic political system. However, health systems in many countries were failing and collapsing. The report identified a general approach to strengthening health systems that should be applied consistently and systematically. As the right to a fair trial had helped to strengthen court systems, in a similar way, the right to health could help to strengthen health systems.

In an addendum [A/HRC/7/11/Add.1], the Special Rapporteur summarized cases transmitted to Gov-
ernments and replies received thereto. Between 2 December 2006 and 1 December 2007, he had sent 27 communications to 22 Governments and one to the United Nations Interim Administration Mission in Kosovo (unmik). Replies were received from 17 Governments and from unmik.

In June [A/HRC/11/12/Add.2], the Special Rapporteur visited the headquarters of GlaxoSmithKline, one of the world’s leading research-based pharmaceutical companies, to interview the company’s senior management. Enhancing access to medicines was a shared responsibility, and the Millennium Development Goals [YUN 2000, p. 51] recognized that pharmaceutical companies had a responsibility to improve such access. A company that developed a life-saving medicine had performed a critically important social, medical, public health and right-to-health function. While the company’s “reward” was the grant of a limited monopoly over the medicine, enabling it to enhance shareholder value and invest in further research and development, the company also had a right-to-health responsibility to take all reasonable steps to make the life-saving medicine accessible to all those in need. Companies should grasp their social function and right-to-health responsibilities, and do everything possible, within a viable business model, to fulfil their social function and human rights responsibilities. That would not only enhance companies’ status but also pressure States, generic manufacturers and others to provide the environment that companies needed if they were to enter into arrangements, such as commercial voluntary licences, that enhanced access to medicines for all.

In accordance with a Human Rights Council request [YUN 2007, p. 783], the Secretary-General in August transmitted to the General Assembly the Special Rapporteur’s interim report [A/63/263]. The annex to the report contained the Human Rights Guidelines for Pharmaceutical Companies in relation to Access to Medicines, which set out the human rights responsibilities of pharmaceutical companies. The Guidelines, prepared by the Special Rapporteur on the basis of wide-ranging discussions over five years with stakeholders, considered issues such as transparency, management, accountability, patents, licensing and pricing. They provided detailed guidance for pharmaceutical companies on their right-to-health responsibilities, as well as on society’s legitimate expectations of the pharmaceutical sector. The report also discussed the importance of effective, transparent, accessible and independent accountability mechanisms in relation to the right to health.

The General Assembly took note of the report on 18 December (decision 63/534).

Human Rights Council action. On 18 June, the Human Rights Council appointed Anand Grover (India) as Special Rapporteur.

Human rights and HIV/AIDS

In March [A/HRC/7/59], OHCHR recalled that the Secretary-General’s report on the protection of human rights in the context of human immunodeficiency virus and acquired immunodeficiency syndrome (HIV/AIDS) was submitted on a biennial basis. The latest report was submitted in 2007 [YUN 2007, p. 783], and the next report would be submitted in 2009, unless otherwise decided by the Council.

Access to medication

Report of Secretary-General. In March, in accordance with a 2006 Human Rights Council request [YUN 2006, p. 911], the Secretary-General submitted a report [A/HRC/7/30] summarizing information received from 15 Governments, three UN system bodies and three NGOs on the steps they had taken to improve access to medication in the context of pandemics such as HIV/AIDS, tuberculosis and malaria. The number of people receiving treatment for those diseases had increased due to national and international efforts. In some countries, the spread of those diseases had been significantly reduced, customs duties and taxes had been revised to facilitate access to medicines, and progress towards universal access had been made. However, the large number of people that continued to live with, were affected by, and died from those diseases meant that renewed efforts were required to ensure better access to medicines, especially among vulnerable groups. Moreover, the need to overcome legal and regulatory, trade and other barriers that blocked access to prevention, treatment, care and support was critically important to the enjoyment of the right of access to medicines. The continued lack of affordable drugs, together with the unequal geographical spread of health services, continued to impede access to medicines.

Water and sanitation services

Human Rights Council action. On 28 March [A/63/53 (res. 7/22)], the Human Rights Council, concerned that over one billion people lacked access to safe drinking water and 2.6 billion lacked access to basic sanitation, appointed for a three-year period an independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation. The expert’s mandate would include developing dialogue with concerned stakeholders to identify, promote and exchange views on and prepare a compendium of best practices related to access to
safe drinking water and sanitation. The expert would also undertake a study on the further clarification of the content of human rights obligations, including non-discrimination obligations, in relation to access to safe drinking water and sanitation, and to submit a report to the Council’s tenth (2009) session. On 24 September, the Council appointed Catarina de Albuquerque (Portugal) as independent expert.

Bioethics

**Report of Secretary-General.** Pursuant to Economic and Social Council decision 2007/269 [YUN 2007, p. 784], the Secretary-General, in May, submitted a report [E/2008/51] presenting the views of two Member States and three UN entities on the most appropriate forums for considering the issue of genetic privacy and non-discrimination within the UN system. The Secretary-General recommended that the Council invite the Director-General of the United Nations Educational, Scientific and Cultural Organization (unesco) to consult with other UN entities on the implementation of and follow-up to Economic and Social Council resolutions 2001/39 [YUN 2001, p. 675] and 2004/9 [YUN 2004, p. 771] and related unesco Declarations; and to constitute an inter-agency coordination mechanism, such as an ad hoc inter-agency task force on genetic privacy and non-discrimination, which should report to the Council in 2010 and on a triennial basis thereafter.

By decision 2008/233 of 22 July, the Economic and Social Council took note of the Secretary-General’s report and invited the unesco Director-General to consult with UN entities on the implementation of and follow-up to those resolutions and Declarations and other norms and instruments adopted by the UN system that were relevant to genetic privacy and non-discrimination, and on a possible interagency coordination mechanism. The Director-General was invited to report to the Council on relevant developments at its 2010 substantive session and on a possible interagency mechanism, in consultation with and taking into account the views of Member States.

**Slavery and related issues**

**Human Rights Council action.** Further to its resolution 6/14 [YUN 2007, p. 784], the Human Rights Council, on 26 March, appointed Gulnara Shahinian (Armenia) Special Rapporteur on contemporary forms of slavery, including its causes and consequences.

**Report of Special Rapporteur.** In her first report [A/HRC/9/2007, p. 784], submitted in accordance with a 2007 Human Rights Council request [YUN 2007, p. 784], the new Special Rapporteur said that contemporary forms of slavery affected the lives of millions of people around the world. Based on the 1926 Slavery Convention definition, there were an estimated 27 million enslaved people throughout the world. No country was immune to its proliferation. Of special concern was the situation of children. No other UN special procedures mandate provided an opportunity to apply a holistic approach to issues such as forced labour, which were related to slavery. The Rapporteur would focus on the causes and consequences of forced labour and its impact on men, women and children; on domestic labour and child labour as it pertained to the economic exploitation of children, as well as traditional forms of slavery, such as bonded labour and serfdom; and address the protection, prevention and restoration of human rights and dignity of victims.

**Report of Secretary-General.** In August [A/63/213], the Secretary-General reported to the General Assembly on the programme of educational outreach on the transatlantic slave trade and slavery, as requested by General Assembly resolution 62/122 [YUN 2007, p. 784]. Through that programme, the UN Department of Public Information (dpi) had sought to address the lack of knowledge about the slave trade and encourage study and discussion of the topic. To that end, dpi developed a diverse educational outreach strategy about the causes, consequences, lessons and legacy of the 400-year slave trade and about the dangers of racism and prejudice. The strategy comprised a series of activities that began on the International Day of Remembrance of the Victims of Slavery and the Transatlantic Slave Trade, included follow-up activities throughout the year and had, as its core, an educational programme for intermediate and high school students that built on the unesco Slave Route Project.

**GENERAL ASSEMBLY ACTION**

On 20 October [meeting 29], the General Assembly adopted resolution 63/5 [draft: A/63/L.5 & Add.1] without vote [agenda item 108].

**Permanent memorial to and remembrance of the victims of slavery and the transatlantic slave trade**

The General Assembly,

Recalling its resolution 61/19 of 28 November 2006, entitled “Commemoration of the two-hundredth anniversary of the abolition of the transatlantic slave trade”, and its resolution 62/122 of 17 December 2007, entitled “Permanent memorial to and remembrance of the victims of slavery and the transatlantic slave trade”,

Recalling also the designation of 25 March as the annual International Day of Remembrance of the Victims of Slavery and the Transatlantic Slave Trade, beginning in 2008, as a complement to the existing International Day for the Remembrance of the Slave Trade and its Abolition of the United Nations Educational, Scientific and Cultural Organization,
Noting the initiatives undertaken by States in reaffirming their commitment to implement paragraphs 101 and 102 of the Durban Declaration of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance aimed at countering the legacy of slavery and contributing to the restoration of the dignity of the victims of slavery and the slave trade,

Stressing the importance of educating and informing future generations about the causes, consequences and lessons of slavery and the transatlantic slave trade,

Recognizing how little is known about the four-hundred-year-long transatlantic slave trade and its lasting consequences, felt throughout the world, and welcoming the increased attention that the General Assembly commemoration brought to the issue, including the raising of its profile in many States,

Recalling, in particular, paragraph 101 of the Durban Declaration which, inter alia, invited the international community and its members to honour the memory of the victims,

1. Welcomes the initiative of the States members of the Caribbean Community to erect, at a place of prominence at United Nations Headquarters that is easily accessible to delegates, United Nations staff and visitors, a permanent memorial in acknowledgement of the tragedy and in consideration of the legacy of slavery and the transatlantic slave trade;

2. Also welcomes the establishment of a committee of interested States to oversee the permanent memorial project, drawn from all geographical regions of the world, with Member States from the Caribbean Community and the African Union playing a primary role, in collaboration with the United Nations Educational, Scientific and Cultural Organization, representatives of the Secretariat, the Schomburg Center for Research in Black Culture of the New York Public Library and civil society;

3. Notes that the committee will oversee the voluntary fund established for the erection of the permanent memorial to the victims of slavery and the transatlantic slave trade;

4. Expresses sincere appreciation to those Member States that have already made contributions to the fund, and invites Member States and other interested parties that have not done so to do likewise;

5. Expresses appreciation to the Secretary-General, the Secretariat and members of the committee for their invaluable support, technical advice and assistance towards implementation of the project;

6. Reiterates its request contained in resolution 61/19 for Member States that have not already done so to develop educational programmes, including through school curricula, designed to educate and inculcate in future generations an understanding of the lessons, history and consequences of slavery and the slave trade;

7. Takes note with appreciation of the report of the Secretary-General on the programme of outreach on the transatlantic slave trade and slavery, which highlights developments relating to a diverse educational outreach strategy to increase awareness of and to educate future generations about the causes, consequences, lessons and legacy of the four-hundred-year-long slave trade and to communicate the dangers of racism and prejudice, and encourages continued action in this regard;

8. Requests the Secretary-General to report to the General Assembly at its sixty-fourth session on continued action to implement the programme of educational outreach, including action by Member States;

9. Decides to include in the provisional agenda of its sixty-fourth session the item entitled “Follow-up to the commemoration of the two-hundredth anniversary of the abolition of the transatlantic slave trade”.

Fund on slavery

Report of Secretary-General. The Secretary-General reported [A/HRC/10/49] on the financial status of the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery. At its thirteenth session (Geneva, 8–12 September), the Fund’s Board of Trustees recommended 71 new project grants amounting to $733,109 to assist 71 NGOs projects in 45 countries in Africa, the Americas, Asia and Europe. It also recommended a contingency list of 15 project grants amounting to $108,000 to assist 15 NGOs in India. The Board estimated that the Fund would need an additional $1,376,000 before its fourteenth session, scheduled for September 2009. The High Commissioner, on behalf of the Secretary-General, approved the Board’s recommendations.

Vulnerable groups

Women

Violence against women


Reports of Special Rapporteur. In January [A/HRC/7/6], the Special Rapporteur on violence against women, its causes and consequences, Yakin Ertürk (Turkey), proposed indicators on violence against women and State response towards ending such violence. She suggested that moving the indicators from proposal to implementation should be undertaken by an expert working group with the aim of creating a technical manual. A concurrent process should build support for the management of national data systems. An addendum to the report [A/HRC/7/6/Add.5] discussed the development of the indicators on violence against women upon which the Special Rapporteur’s report was built.

Another addendum [A/HRC/7/6/Add.1] summarized 59 communications which the Special Rapporteur had sent to 38 Governments in 2007, and responses
Chapter II: Protection of human rights

The Special Rapporteur visited Tajikistan (15–23 May) [A/HRC/11/6/Add.2], where, although the country had achieved political stability and entered a phase of economic growth, the situation remained fragile due to the country’s transition to a market-led economy, the erosion of sources of livelihood and social services and massive poverty. Women had been especially affected by the consequences of the transition. While formal equality was guaranteed in law, socio-economic and political achievements during the Soviet era had faded away, and patriarchal practices perpetuating women’s subordinate position had resurfaced, leading to their increased vulnerability to violence and exploitation. Violence against women and girls was accepted by men and women alike as part of everyday behaviour. Violence by husbands and other family members was widespread. Women and girls were also victims of sexual violence and exploitation on the streets and to trafficking inside and outside Tajikistan. Women’s lack of awareness of their rights, and issues pertaining to residency registration and the rise of early, polygamous and unregistered marriages aggravate their vulnerabilities. While some encouraging steps had been taken, responses by State bodies to protect and support victims of violence and prosecute perpetrators were insufficient. As a result, some women perceived suicide or murder of the abuser as the only way out.

The Rapporteur called on the Government to take measures in the priority areas of women’s empowerment and gender equality; elimination of violence against women and girls; statistics and data collection; marriage practices; and residency registration and housing.

The Special Rapporteur visited Moldova (4–11 July) [A/HRC/11/6/Add.4] together with the Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment, Manfred Nowak. The country’s transformation to a political democracy and market economy, following the break-up of the Soviet Union, resulted in economic and social difficulties that placed a heavy burden on women. Although gender equality was ensured by law, in practice women’s subordination was exacerbated by high levels of unemployment and low-paid jobs. In addition, patriarchal and discriminatory attitudes increased women’s vulnerability to violence and abuse. Domestic violence was widespread, largely condoned by society, and did not receive appropriate recognition among officials, society and women themselves, thus resulting in insufficient protective infrastructure for victims. The need to escape an abusive environment, including domestic violence, prejudice and economic deprivation, motivated women to seek work abroad. As a result, many of them fell victim to slave-like work conditions and to trafficking networks in situations that amounted to torture and ill-treatment. Moldova had come a long way in terms of institution building and human rights protection since independence. The entry into force of the law on preventing and combating family violence was promising. That law, along with the law on ensuring equal opportunities for women and men, would contribute to improved prevention, protection against and prosecution of incidents of violence. However, many gaps remained between the normative framework and practice.

The Rapporteur made recommendations concerning the elimination of violence; empowerment and equality of women; the set-up of gender sensitive database systems; institutional and public sector reforms; and international cooperation. States shared the re-
Integrating women’s rights

Human Rights Council action. On 28 March [A/63/53 (res. 7/24)], the Human Rights Council, welcoming the launch by the Secretary-General in February of the campaign to end violence against women, took note of the Special Rapporteur’s reports, and extended the mandate for three years. The Rapporteur was requested to report to the Council in accordance with its annual programme of work.

Integrating women’s rights

Note by OHCHR. In August [A/HRC/9/6], OHCHR informed the Human Rights Council that the report on integrating the human rights of women throughout the UN system, requested by the Council in 2007 [YUN 2007, p. 787], would not be submitted to the Council’s ninth (2008) session, but to the tenth (2009) session, after the annual discussion on the integration of a gender perspective in the work of the Council. That would allow all interested parties to benefit from the discussion before submitting their views.

Trafficking in women and girls

Report of Secretary-General. In response to General Assembly resolution 61/144 [YUN 2006, p. 1342], the Secretary-General submitted an August report [A/63/215] on measures taken by 40 Member States and activities undertaken within the UN system to combat and eliminate trafficking in women and girls. The report concluded that despite the many actions taken at the national, regional and international levels to prevent and combat trafficking in persons, trafficking persisted. A comprehensive, coordinated, cohesive and gender-sensitive approach was required to address the root causes and risk factors, and to ensure prosecution of the perpetrators and protection of the victims. States should put in place comprehensive and multidisciplinary anti-trafficking action plans and strategies; implement bilateral and multilateral agreements and cooperation programmes; focus on prevention and address the conditions that made women and girls vulnerable to trafficking, including poverty, unemployment, limited education and discrimination; improve data collection and analysis; and strengthen support systems for victims.

Communication. On 29 July [A/62/933], Uzbekistan transmitted to the Secretary-General information on measures it had taken since December 2006 to combat trafficking in women.

Human Rights Council action. On 18 June, the Council appointed Joy Ngozi Ezeilo (Nigeria) as Special Rapporteur on trafficking in persons, especially women and children.

On the same day, [A/63/53 (res. 8/12)], the Human Rights Council extended the mandate of the Special Rapporteur for a three-year period. The Rapporteur was requested to report annually, starting in 2009, to the Council and the General Assembly. OHCHR was requested to submit to the Council’s ninth (2008) session a report on the latest developments in the United Nations relating to combating trafficking in persons, as well as on its activities on that issue, including by presenting the recommended Principles and Guidelines on Human Rights and Human Trafficking developed by OHCHR [YUN 2002, p. 748].

Note by OHCHR. In response to that request, OHCHR in August [A/HRC/9/27] informed the Council that it would submit the requested report at the Council’s tenth (2009) session, to ensure that a comprehensive overview of the developments on trafficking in the UN system was provided and distributed well in advance of that session.

On 18 December, the General Assembly, in resolution 63/156 on trafficking in women and girls, took note of the renewal of the Special Rapporteur’s mandate (see above).

Children

Violence against children

Note by OHCHR. In January [A/HRC/7/54], OHCHR provided information on activities undertaken in 2007 as follow-up to the final report on the study on violence against children conducted by the independent expert for the UN study on violence against children [YUN 2006, p. 918].

Human Rights Council action. On 28 March [A/63/53 (res. 7/29)], the Human Rights Council welcomed that report, as well as the establishment by the General Assembly, by resolution 62/141 [YUN 2007, p. 681], of the mandate of the Special Representative of the Secretary-General on violence against children. The Council requested the Secretary-General to take action to appoint a Special Representative and to report to the Council’s eighth (2008) session.

Note by OHCHR. In response to that request, OHCHR in May [A/HRC/8/51] informed the Council that the Secretary-General had undertaken broad consultations with relevant UN actors, including through the Inter-Agency Working Group on Violence against Children, regarding the establishment of the Office of the Special Representative of the Secretary-General on Violence against Children. The terms of reference of the Special Representative had been approved. The Representative would be appointed at the Assistant Secretary-General level, reporting directly to the
Secretary-General. The Office, to be located in New York, would be supported administratively by the United Nations Children's Fund. The position would be established for a three-year period and would be funded from voluntary contributions.

**Note by Secretariat.** In September [A/63/203], the Secretariat informed the General Assembly that a number of well-qualified candidates had applied for the position and a shortlist had been established. In addition, the chairpersons of the five regional groups had been solicited to recommend further qualified candidates. The Secretary-General had set up an interview panel to provide him with a final shortlist of recommended candidates. The interview panel had commenced its work and welcomed further recommendations of qualified candidates, even as the interview process was under way.

The General Assembly took note of Secretariat’s note on 18 December (decision 63/532).

**Sale of children, child prostitution and child pornography**

**Reports of Special Rapporteur.** In his annual report [A/HRC/7/8], the Special Rapporteur on the sale of children, child prostitution and child pornography, Juan Miguel Petit (Uruguay), in reviewing his mandates, stated that most States had put in place programmes and facilities for children who were victims of commercial sexual exploitation and trafficking. However, they encompassed either adult victims of commercial sexual exploitation and trafficking, or child victims of domestic abuse and violence. The Special Rapporteur was of the view that child victims of commercial sexual exploitation were in need of special, separate programmes and facilities, the absence of which made them more vulnerable to exploitation by organized criminal groups. He put forward guidelines and options to better assist child victims of trafficking and sexual commercial exploitation.

The Special Rapporteur called upon States, NGOs and civil society actors to set up rehabilitation and assistance programmes for children and minors. Such programmes and facilities might take different forms and should be adapted to the local and cultural contexts, be it a closed shelter, rehabilitation activities in the form of outpatient assistance or educational programmes. States should incorporate in their legislation and budget provisions for funding such programmes and activities, and carry out educational programmes and awareness-raising activities.

An addendum to the report [A/HRC/7/8/Add.1] summarized 12 communications which the Special Rapporteur had sent to 11 Governments between 1 January and 30 November 2007, and the replies thereto.

**Human Rights Council action.** On 26 March, the Human Rights Council appointed Najat M’jid Maalla (Morocco) as Special Rapporteur.

On 27 March [A/63/53 (res. 7/13)], the Council extended the mandate of the Special Rapporteur for a three-year period, and requested the Rapporteur to submit a report to the Council in accordance with its annual programme of work.

**Reports of Special Rapporteur.** In response to that resolution, the new Special Rapporteur outlined, in July [A/HRC/9/21], her view of the mandate and the methods by which she would discharge it. She also set out the strategic directions to be undertaken during her mandate. She stressed the many dimensions of the phenomenon, which called for cooperation from all those involved with children’s issues, and the importance of implementing a comprehensive child protection system ensuring the best interest of the child and encompassing prevention and care as well as medical, psychological, social and legal support for child victims. That would require concerted national, regional and international coordination and cooperation.

The Special Rapporteur visited Estonia (20–24 October) [A/HRC/12/23/Add.2], where she noted a significant political commitment to prioritize the rights of the child. While the number of reported cases of child prostitution and child pornography was low, vigilance was required and efforts should be directed towards prevention. Actions to be implemented included adopting legislative amendments; training of the police, particularly in detecting cases of sexual exploitation of children and online child pornography; ensuring that programmes and policies were sustainable and accessible throughout the country; and strengthening of the NGO sector. The Special Rapporteur recalled the importance of a holistic approach to the fundamental rights of children, paving the way for the implementation of social policies that favoured children, youth and the family.

The Rapporteur recommended amending legislation on the rights of the child, training the police in detecting cases of sexual exploitation of children and online child pornography and training judges on the rights of the child. Child victims of offences should not be criminalized or penalized, and all possible measures should be taken to avoid their stigmatization and social marginalization. Internet service providers and telecommunications companies should become involved in initiatives to combat and prevent online child pornography. International and regional cooperation should be strengthened to combat and prevent child sex tourism and online child pornography. Sexual education programmes should also be strengthened.

The Special Rapporteur visited Latvia (25–31 October) [A/HRC/12/23/Add.1], where significant legisla-
tive and policy efforts had been made in protecting the rights of the child. The number of reported cases of child prostitution and trafficking of children for sexual purposes was low. However, child pornography, mainly via the Internet, was on the rise. Because of the proliferation of tourism, easy accessibility of new methods of information technology by children, increasing demand in the sex industry and the establishment of increasingly structured trafficking networks, children were increasingly vulnerable to risk of abuse, violence and exploitation. Vigilance was required, and efforts should be concentrated on prevention, including the provision of training and human and financial resources. The Rapporteur called for the implementation of social policies favouring children, youth and the family. Legislation should clearly stipulate that a child under 18 years of age was unable to consent to any form of sexual exploitation, including child pornography and child prostitution. Training should be provided to the authorities for combating cybercrime, particularly online child pornography. Internet service providers and telecommunications companies should be involved in initiatives to combat and prevent online child pornography. Complaints mechanisms should be strengthened for children placed in alternative care institutions, or who were victims of violence or abuse, while ensuring their protection and privacy.

**Children and armed conflict**

**Security Council consideration (February).** On 12 February [meeting 5834], the Security Council considered the Secretary-General’s 2007 report on children and armed conflict [YUN 2007, p. 790]. Opening the meeting, the Secretary-General’s Special Representative for Children and Armed Conflict, Radhika Coomaraswamy, outlined the main areas of concern, recalling that 58 offending parties in 13 situations of concern had been listed in the annex to the Secretary-General’s report. In spite of impressive progress, the overall situation of children affected by conflict remained grave and unacceptable. The Security Council should move from words toward effective action against the 16 persistent violators who had been on the lists of violators for five consecutive years. Targeted measures could include the imposition of travel restrictions on leaders and their exclusion from any governance structures and amnesty provisions; the imposition of arms embargoes; a ban on military assistance; and restrictions on the flow of financial resources.

**SECURITY COUNCIL ACTION**

On 12 February [meeting 5834], following consultations among Security Council members, the President made statement S/PRST/2008/6 on behalf of the Council:

The Security Council takes note with appreciation of the seventh report of the Secretary-General on children and armed conflict, and the positive developments, as well as outstanding challenges in the implementation of its resolution 1612(2005) reflected therein.

The Council, reiterating its primary responsibility for the maintenance of international peace and security, reaffirms its commitment to address the widespread impact of armed conflict on children, its determination to ensure respect for and the implementation of resolution 1612(2005) and all of its previous resolutions on children and armed conflict, as well as respect for other international norms and standards for the protection of children affected by armed conflict.

The Council stresses in this regard the need to adopt a broad strategy of conflict prevention which addresses the root causes of armed conflict in a comprehensive manner in order to enhance the protection of children on a long-term basis, including by promoting sustainable development, poverty eradication, national reconciliation, good governance, democracy, the rule of law and respect for and protection of human rights.

The Council reiterates the primary responsibility of national Governments in providing effective protection and relief to all children affected by armed conflict, and encourages further cooperation and coordination between Member States, the United Nations system and the international community, in a spirit of partnership.

The Council reiterates the importance of the full, safe and unhindered access of humanitarian personnel and goods and the delivery of humanitarian assistance to all children affected by armed conflict, and stresses the importance for all, within the framework of humanitarian assistance, of upholding and respecting the humanitarian principles of humanity, neutrality, impartiality and independence.

The Council calls for the full implementation of the monitoring and reporting mechanism on children and armed conflict as called for in paragraph 3 of resolution 1612(2005) in all situations of armed conflict listed in the annexes to the report of the Secretary-General.

In this regard the Council reiterates that the mechanism should continue to collect and provide timely, objective, accurate and reliable information on violations and abuses committed against children affected by armed conflict and to operate with the participation of and in cooperation with national Governments and relevant United Nations and civil society actors, including at the country level.

The Council commends the work carried out by the Special Representative of the Secretary-General for Children and Armed Conflict, Ms. Radhika Coomaraswamy, including her field activities in situations of armed conflict.

The Council also commends the work carried out by the United Nations Children’s Fund and the child protection advisers of peacekeeping operations and political missions in cooperation with other relevant United Nations entities.

The Council welcomes the sustained activity of its Working Group on Children and Armed Conflict, as outlined, inter alia, in the latest report of its Chairman, and invites it to continue adopting conclusions and proposing effective recommendations for consideration.
and, where appropriate, implementation by the Council, including through mandates of United Nations peacekeeping operations and political missions. The Council will continue to consider including or enhancing the presence of child protection advisers in the mandates of all relevant United Nations peacekeeping operations and political missions.

The Council strongly emphasizes the need to end impunity for violations and abuses perpetrated against children in armed conflict, and in this regard welcomes the fact that several individuals who are alleged to have committed such crimes have been brought to justice by national, international and ‘mixed’ criminal courts and tribunals.

The Council acknowledges that the implementation of resolution 1612(2005) has already generated progress, resulting in the release and reintegration of children in their families and communities, and in a more systematic dialogue between the United Nations country task forces on monitoring and reporting and parties to armed conflict on the implementation of time-bound action plans.

Nonetheless, the Council strongly condemns the continuing recruitment and use of children in armed conflict in violation of applicable international law, the killing and maiming of children, rape and other sexual violence, abductions, the denial of humanitarian access to children and attacks against schools and hospitals by parties to armed conflict.

The Council is concerned by the widespread and systematic use of rape and other forms of sexual violence against children, in particular girls, in situations of armed conflict, and calls upon all parties to armed conflict to take special measures to protect girls and boys from sexual and gender-based violence, particularly rape, in situations of armed conflict.

The Council expresses its concern that civilians, particularly children, continue to account for the vast majority of victims of acts of violence committed by parties to armed conflict, including killing and maiming as a result of deliberate targeting, and indiscriminate and excessive use of force in violation of applicable international law. The Council condemns these acts and demands that those parties immediately put an end to such practices.

The Council is gravely concerned by the persistent disregard of its resolutions on children and armed conflict by parties to armed conflict identified in the reports of the monitoring and reporting mechanism, including parties to whom precise, immediate and unequivocal requests have been addressed. Recalling the statement made by its President on 28 November 2006, the Council reaffirms its intention to make use of all the tools provided in resolution 1612(2005).

The Council reiterates its call upon the parties to armed conflict listed in the annexes to the report of the Secretary-General that have not already done so to prepare and implement, without further delay, concrete time-bound action plans to halt the recruitment and use of children in violation of applicable international law and to address all violations and abuses against children in close cooperation with the Special Representative of the Secretary-General, as well as with the United Nations Children’s Fund and the United Nations country task forces on monitoring and reporting.

The Council expresses concern over the casualties inflicted on children in armed conflict by the indiscriminate use of landmines and cluster munitions, and in this regard calls upon all parties to armed conflict to desist from such practice.

In order to further strengthen the comprehensive framework of the protection of children in armed conflict, considering the changing nature of armed conflict and the issues raised by the Secretary-General in his report, the Council expresses its readiness to review the relevant provisions of its resolutions on children and armed conflict, building on the provisions of resolution 1612(2005), with a view to further increasing the efficiency of its actions.

The Council recognizes that a stronger focus is required on the reintegration and rehabilitation of children associated with armed forces and armed groups, and in this regard invites all parties concerned, including Member States, regional organizations, the Secretariat and other relevant United Nations entities, including the United Nations Children’s Fund, the United Nations Population Fund, the United Nations Development Fund for Women, the World Health Organization, the United Nations Development Programme, the Office of the United Nations High Commissioner for Refugees, the Office of the United Nations High Commissioner for Human Rights, the International Labour Organization and the United Nations Educational, Scientific and Cultural Organization, international financial institutions, including the World Bank, as well as civil society, to enhance their exchange of information about programmes and best practices, bearing in mind the relevant provisions of international law, Council resolutions on children and armed conflict, as well as the Paris principles to protect children from unlawful recruitment by armed forces or groups, and to ensure that adequate resources and funding are available to support national strategies or action plans in the area of child protection and welfare, and community-based programmes, with a view to ensuring the long-term sustainability and success of their programmatic response to the release, rehabilitation and reintegration of all children associated with armed forces and armed groups.

The Council requests the Secretary-General to submit his next report on the implementation of its resolutions on children and armed conflict by May 2009.

Reports of Special Representative. In June, the Special Representative, in her annual report [A/HRC/9/3], submitted in response to General Assembly resolution 62/141 [YUN 2007, p. 681], noted that new developments in the field of children and armed conflict had given rise to several issues of concern. The changing nature of conflicts, the recruitment of children across borders, forced displacements, an increase in sexual violence and a greater number of children being held in detention had created new dilemmas for the protection of children. Terrorism and
counter-terrorism measures also posed their own special problems. Suicide bombing sometimes resulted in child victims on both ends: children were being used as suicide bombers in certain instances, and many children were killed in those bombings.

Since the Special Representative’s last report [ibid., p. 789], several significant developments had taken place in the fight to end impunity through the application of international norms and standards for the protection of children. Trials had been held and convictions rendered before national courts in the Democratic Republic of the Congo (DRC), and internationally by the International Criminal Court and the Special Court for Sierra Leone for the crime of recruitment and use of child soldiers. The application of international norms to such cases, combined with the political process in the context of Security Council resolution 1612(2005) [YUN 2005, p. 863], had strengthened the work of child protection advocates by opening dialogue on protection with parties to conflict, with significant results in Côte d’Ivoire. There had also been progress on plans of action with armed forces and groups in the Central African Republic, Myanmar, the Sudan, Sri Lanka and Uganda. Country visits by the Special Representative had also provided the opportunity for high-level advocacy; opened doors for follow-up dialogue with military and political authorities by UN country task forces on monitoring and reporting; and elicited commitments by the relevant parties to address the recruitment and use of children and their protection from other grave violations during armed conflict.

The Special Representative called on the Human Rights Council and the human rights community to make systematic use of Security Council resolution 1612(2005) as an advocacy tool, in particular the monitoring and reporting mechanism on grave violations against children in armed conflict. Since the vast majority of parties to conflict using children were non-State actors, Member States should help facilitate dialogue between the UN country task forces on monitoring and reporting and those groups, for the purposes of developing plans of action to halt the recruitment and use of children. Member States should comply with international norms and standards for the protection of children in armed conflict, and take all measures to mitigate the impact of conflict on children.

Annexed to the report was a list of parties that recruited or used children in conflict situations on the agenda of the Security Council.

In August, in response to Assembly resolution 62/141, the Special Representative submitted to the Assembly a report [A/63/227] highlighting progress made on the children and armed conflict agenda, in particular in the fight against impunity for grave child rights violations and in the incorporation of children’s concerns into the mandates, policies and priorities of key UN organs, entities, processes and activities. The report recognized the changing nature and characteristics of armed conflict and the impact on children; identified priority areas for action; and outlined recommendations, including strengthening the international normative structure, strengthening monitoring and reporting, consolidating the role of UN peacekeeping in child protection, and focusing on prevention.

**Working group activities.** In July [S/2008/455], the Chairman of the Working Group of the Security Council on Children and Armed Conflict, established pursuant to Council resolution 1612(2005), reported on the Group’s activities since the submission of its last report [YUN 2007, p. 790]. The report noted that contacts between the Secretariat, the Working Group Chairman and the countries concerned had made it possible to prepare for or establish the monitoring and reporting mechanism provided for in resolution 1612(2005) in all the conflict situations referred to in the annexes to the Secretary-General’s most recent report on children and armed conflict [ibid.] and to include those situations in the Group’s work programme for the May 2008 to April 2009 period. The Group sought to engage in dialogue with the countries concerned, all of which participated in the Group’s consideration of their situation and made comments upon the adoption of conclusions concerning them. Varying degrees of progress had been made in a number of situations, including in the implementation of action plans, the initiation or resumption of discussions on such plans between certain armed groups and UN task forces, the release of children, the decrease in their recruitment, the establishment of focal points in Government administrations and the provision of services to children in disarmament, demobilization and reintegration programmes. The Group agreed on the need to provide it with more logistical support, particularly Secretariat services.

During the year, the Group held eight meetings (5 and 21 February, 8 May, 20 June, 25 July, 5 September, 14 November, 19 December), during which it adopted conclusions on Côte d’Ivoire [S/AC.51/2008/5 & Corr.1], Burundi [S/AC.51/2008/6], the Sudan [S/AC.51/2008/7], Myanmar [S/AC.51/2008/8], the Philippines [S/AC.51/2008/10], Sri Lanka [S/AC.51/2008/11], Nepal [S/AC.51/2008/12], Uganda [S/AC.51/2008/13], Somalia [S/AC.51/2008/14], Chad [S/AC.51/2008/15], Afghanistan [S/AC.51/2009/1] and the DRC [S/AC.51/2009/3].

On 14 January, the Security Council President sent letters to the DRC [S/AC.51/2008/2], Rwanda [S/AC.51/2008/3] and the Security Council Committee...

Security Council consideration (July). On 17 July [meeting 5936], the Security Council considered the report of the Working Group on Children and Armed Conflict (above) and a concept paper prepared by Viet Nam [S/2008/442].

Addressing the meeting, the Secretary-General described the progress made in standard-setting over the past 12 years. He said that the international community was shifting its focus from standard-setting to an era of application. Council resolutions had focused on six grave violations: abduction, sexual violence, child soldiers, killing and maiming, attacks on schools and hospitals, and denial of humanitarian access. A monitoring and reporting mechanism was operational in 15 situations of concern. Action plans had been secured from several parties to conflict, with those parties agreeing to release children from their ranks. Once children were released, they should be fully reintegrated into society, and the international community should strengthen its support for Governments, development partners and others involved in reintegration efforts. He called on the international community to strengthen its support to Governments, development partners and others involved in such efforts. Only concerted international action involving all UN partners would be capable of meeting the needs of children living in situations of armed conflict.

The Special Representative for Children and Armed Conflict requested the Council to expand the scope of the Working Group to cover all situations of concern and all grave violations against children, especially sexual violence. As requested by Member States, her office was initiating a research project on the root causes of children being associated with armed groups, and would convene a meeting of child protection experts to identify messages and gaps to reintegrating children affected by conflict. A seminal study by the Harvard School of Public Health had shown that the impact of conflict continued even after 10 years. The younger the child recruited and the longer the association with the armed group, the more difficult the adjustment. With the United Nations Educational, Scientific and Cultural Organization, her office would compile a manual of best practices in line with the “Paris Principles and Guidelines on Children Associated with Armed Forces or Groups”, an initiative by the Government of France setting out the standards for reintegration programmes.

SECURITY COUNCIL ACTION

On 17 July [meeting 5936], following consultations among Security Council members, the President made statement S/PRST/2008/28 on behalf of the Council:

The Security Council reiterates its commitment to address the widespread impact of armed conflict on children and its determination to ensure respect for and implementation of its resolution 1612(2005) and all its previous resolutions on children and armed conflict, and the statements by its President of 24 July and 28 November 2006 and 12 February 2008, which provide a comprehensive framework for addressing the protection of children affected by armed conflict, as well as the provisions on children contained in other resolutions, including resolutions 1325(2000), 1674(2006) and 1820(2008).

The Council reiterates its strong and equal condemnation of the continuing recruitment and use of children in armed conflict in violation of applicable international law, killing and maiming of children, rape and other sexual violence, abductions, denial of humanitarian access to children and attacks against schools and hospitals by parties to armed conflict, while acknowledging that the implementation of resolution 1612(2005) has already generated progress, resulting in the release and reintegration of children into their families and communities, through, inter alia, a more systematic dialogue between the United Nations country task forces on monitoring and reporting and parties to armed conflict on the implementation of time-bound action plans.

The Council reaffirms the need for States parties to comply with their obligations under the Convention on the Rights of the Child and the Optional Protocols thereto for armed groups distinct from the State to refrain from recruiting or using children in hostilities, and urges States that have not yet done so to consider ratifying or acceding to those instruments.

The Council welcomes the ongoing implementation of the monitoring and reporting mechanism on children and armed conflict, in particular the efforts that have made possible the implementation of the mechanism in all situations listed in the annexes to the latest report of the Secretary-General, and invites the Secretary-General, where applicable, to bring the mechanism to its full efficiency, in accordance with resolution 1612(2005).

The Council welcomes the sustained activity of its Working Group on Children and Armed Conflict, as outlined, inter alia, in the latest report of its Chairman, and as the monitoring and reporting mechanism is being implemented in a growing number of situations of armed conflict, requests the Secretary-General to provide additional administrative support in order for the Working Group to continue to fully carry out its mandate in an effective manner.

The Council invites the Working Group to continue adopting conclusions providing clear guidance to the parties to armed conflict and relevant international actors on the concrete steps that need to be taken in order to respect their obligations under international law, in particular Council resolutions on children and armed conflict, and proposing to the Council effective recom-
mendations based on timely, objective, accurate and
reliable information, with a view to promoting the pro-
tection of children affected by armed conflict, including
through appropriate mandates of United Nations peace-
keeping operations and political missions. The Council
welcomes the efforts of the Working Group to improve
its working methods and encourages it to continue to
do so with a view to further improving its transparency
and efficiency.

The Council commends the work carried out by the
Special Representative of the Secretary-General for
Children and Armed Conflict, Ms. Radhika Coomar-
awamy, and underlines the importance of her country
visits in facilitating better coordination among United
Nations partners at the field level, promoting collabora-
tion between the United Nations and Governments,
enhancing dialogue with parties to conflicts in imple-
menting applicable international law, including their
obligations under resolution 1612(2005), and thereby
securing concrete child protection commitments.

The Council also commends the work carried out by
the United Nations Children's Fund, as well as other re-
levant United Nations agencies, funds and programmes,
within their respective mandates, the child protection
advisers of peacekeeping operations and political mis-
sions in cooperation with national Governments and
relevant civil society actors, in enhancing the activities
of the United Nations country task forces on monitor-
ing and reporting and promoting child protection at the
field level, including through implementation of resolu-
tion 1612(2005) and following up on the relevant
conclusions of the Working Group.

The Council recognizes the important role of edu-
cation in armed conflict areas as a means to achieve
the goal of halting and preventing recruitment and re-
recruitment of children and calls upon all parties con-
cerned to continue to ensure that all children associated
with armed forces and groups, as well as issues related to
children, are systematically included in every disarm-
ament, demobilization and reintegration process, with a
particular emphasis on education.

The Council reiterates the need for stronger focus by
all parties concerned, including Governments and the
donor community, on the long-term effects of armed
conflict on children and the impediments to their full
rehabilitation and reintegration into their families and
communities, by, inter alia, addressing the need for
providing appropriate health care, enhancing their ex-
change of information about programmes and best prac-
tices, and ensuring the availability of adequate resources,
funding and technical assistance to support national
strategies or action plans in the area of child protec-
tion and welfare, and community-based programmes,
bearing in mind the Paris principles to protect children
from unlawful recruitment by armed forces or groups,
and ensuring that they were implemented. He expressed concern at
the difficulties encountered by humanitarian person-
nel in gaining access to displaced persons, and called
on Governments and others concerned to facilitate
speedy, unhindered access. Noting that the way in
which durable solutions to displacement were imple-
mented had a considerable impact on the sustainabil-
ity of peace, the Representative recommended that
Governments should guarantee the safety of return-
ees; create an independent mechanism to monitor re-
turns; set up machinery for the restitution of property;
give returnees back their documents; and guarantee
returnees access to public services, livelihoods and
income-generating activities. The international com-
unity should give further thought to the machinery
for financing early recovery programmes to ensure a
smooth transition between the emergency phase and
the development phase.

In his report to the Assembly [A/63/286], transmitted
in August by the Secretary-General, in accord-
dance with Human Rights Council resolution 6/32 and
General Assembly resolution 62/153 [YUN 2007, p. 793], the Representative described activities under-
taken from August 2007 to July 2008. He welcomed
progress made by Governments and the international
community in strengthening protection and assist-

Internally displaced persons

Reports of Secretary-General’s Representative.
As requested by the Human Rights Council [YUN
2007, p. 793], the Secretary-General’s Representative
on the human rights of internally displaced persons
(irdps), Walter Kälin (Switzerland), submitted an April
report [A/HRC/8/6] reviewing the background to the
mandate, major achievements and an outline of future
work. He acknowledged the greater recognition of the
phenomenon of internal displacement, progress in de-
veloping a normative framework, and the coordinated
response. However, millions of people were still dis-
placed, living in distress and in need of assistance and
protection. Governments had the primary duty and
responsibility for providing that protection and assis-
tance at all stages of displacement. On the occasion
of the tenth anniversary of the 1998 Guiding Princi-
pies on Internal Displacement [YUN 1998, p. 675], the
Representative welcomed the fact that the Principles
were widely accepted. In that context, Governments
and regional organizations should develop national
legislation and policies in keeping with the Principles
and ensure that they were implemented; bring legisla-
tion into line with the Principles; and develop regional
legal instruments based on the Principles and ensure
that they were implemented. He expressed concern at
the difficulties encountered by humanitarian person-
nel in gaining access to displaced persons, and called
on Governments and others concerned to facilitate
speedy, unhindered access. Noting that the way in
which durable solutions to displacement were imple-
mented had a considerable impact on the sustainabil-
ity of peace, the Representative recommended that
Governments should guarantee the safety of return-
ees; create an independent mechanism to monitor re-
turns; set up machinery for the restitution of property;
give returnees back their documents; and guarantee
returnees access to public services, livelihoods and
income-generating activities. The international com-

ance for displaced persons, particularly the drafting of national legislation and policies in countries affected by internal displacement and the entry into force of the Protocol on the Protection and Assistance to Internally Displaced Persons, adopted at the Second

International Conference on the Great Lakes Region [YUN 2006, p. 124]. Non-State actors had an obligation to respect and protect the rights of displaced persons in accordance with international criminal law and international humanitarian law. Returns should be the result of an individual decision taken freely, without coercion and on the basis of adequate information. He noted the high-level international conference (16 October), organized by Norway to mark the tenth anniversary of the Guiding Principles, which would pay particular attention to incorporating those into national law and policy, and their relevance in situations in which displacement was caused by natural disaster and other environmental factors, and the prospects for elaborating legally binding instruments on the protection of and assistance to displaced persons at regional and subregional levels. The Representative would also present the legislators’ handbook, intended to provide guidance on ways of incorporating the human rights of internally displaced persons into internal displacement laws and policies.

The General Assembly took note of the report on 18 December (decision 63/534).

Following his visit to the Democratic Republic of the Congo (12–22 February) [A/HRC/8/6/Add.3], the Representative concluded that the eastern part of the country was experiencing a protection and humanitarian crisis, highlighted by the very large numbers of displaced persons, estimated at over 1 million in the four eastern regions, including about 800,000 in North Kivu and over 300,000 in South Kivu. More than 500,000 persons were reported to have been displaced in 2007, the highest number since the end of the civil war in 2003. In most cases, people had been forced to leave their homes owing to clashes between the Congolese armed forces and armed groups, or between different armed groups, as well as due to the widespread insecurity, violence and human rights abuses committed by armed groups and by members of armed forces. The situation of displaced persons was cause for concern: most were living with host families and in informal camps, in situations of absolute poverty. Many had lost their voters’ cards, which served as identity cards, and that increased their vulnerability. Women suffered from near-systematic sexual violence, while children were forcibly recruited into the ranks of rebel factions. The statements of commitment signed at the Conference for Peace, Security and Development in North and South Kivu (Goma, 6–23 January) offered genuine opportunities for stabilization and for a possible return home (see p. 120). Returns had occurred in some regions. Nevertheless, the situation remained unstable and displacements continued following localized clashes.

The Representative asked all those involved to implement the statements of commitment without delay. He called for political dialogue between the Government, the various armed groups and other groups concerned, as well as the boosting of assistance and protection activities for the displaced population. He also recommended the implementation of early recovery measures where returns were under way or being contemplated. To achieve durable solutions, the Government should pursue reconciliation between ethnic communities; transitional justice and efforts to combat impunity; and settlement of land-related disputes. The armed groups were under an obligation to respect international humanitarian law, in particular the distinction between combatants and civilians, and refrain from any act prohibited by international humanitarian law. The international community should provide assistance to displaced persons programmes, and embark on activities for development, economic reintegration and the relaunching of basic services.

Having visited Georgia (1–4 October) [A/HRC/10/13/Add.2], the Representative said that as a result of the hostilities in northern Georgia in August (see p. 453), some 133,000 persons were displaced within the country. The Representative welcomed the Government’s prompt response to the displacement crisis and its plans to find durable solutions for all IDPs, including those in protracted displacement since the early 1990s. The Representative urged the Government to create the conditions for sustainable return, allowing IDPs to return voluntarily, in safety and with dignity. According to Government estimates, about 37,605 IDPs would not return in the foreseeable future, and the Representative commended the Government for its decision to provide durable solutions for them. However, he was concerned about the almost exclusive emphasis on infrastructure, and recommended that the Government develop a comprehensive integration policy encompassing education, health care and economic opportunities. The biggest challenge was to integrate the approximately 220,000 IDPs living in protracted displacement for more than a decade. He welcomed the adoption of the action plan aimed at integrating IDPs into mainstream society. While welcoming the policy shift away from considering local reintegration and return to be mutually exclusive, the Representative remained concerned about the lack of integration of the “old” IDPs, the rights of whom needed to be ensured in tandem with responding to the new group of IDPs on a non-discriminatory basis. Unimpeded humanitarian access to the Tskhinvali region/South Ossetia and Abkhazia continued to be a concern. He urged the Government to ensure human rights protection for all internally displaced populations.
Persons with disabilities

Report of High Commissioner. In response to a 2005 Commission on Human Rights request [YUN 2005, p. 873], the High Commissioner, in January, submitted a report [A/HRC/7/61] on progress made in implementing the recommendations of the 2002 study on the human rights of persons with disabilities [YUN 2002, p. 771] and on the related OHCHR activities in 2007. The year had seen a continuation of the strengthening of OHCHR work on the issue. The opening for signature of the Convention on the Rights of Persons with Disabilities [YUN 2006, p. 785] and its Optional Protocol had shifted focus from support for standard-setting to promotion of ratification and implementation of standards. OHCHR strengthened technical assistance and promoted partnerships with UN bodies in preparation for the entry into force of both instruments (see p. 749). The formation of a joint secretariat for the Convention with the UN Department of Economic and Social Affairs would help maximize strengths across UN departments. The first session of the Inter-Agency Support Group on the Convention had provided an opportunity to ensure that the United Nations and the World Bank would work jointly on implementation. Partnerships with civil society organizations were enhanced, and work in the area of country engagement had significantly increased. While establishing specific projects on human rights and disability, the Office also aimed to incorporate disability rights in the work of human rights bodies. In addition, OHCHR improved the accessibility of its own premises, facilities and technologies.

Human Rights Council action. On 27 March [A/63/53 (res. 7/9)], the Human Rights Council welcomed the report and invited the High Commissioner to provide support for the integration of the perspective of persons with disabilities in the Council’s work, and to continue the activities of her Office that contributed to raising awareness of the Convention on the Rights of Persons with Disabilities.

Communication. On 11 January [A/62/654], Spain transmitted to the General Assembly the Declaration of Madrid, the outcome of the expert group meeting on “Making it work: civil society participation in the implementation of the Convention on the Rights of Persons with Disabilities” (Madrid, 27–29 November 2007).

Indigenous peoples


On 28 March [A/63/53 (res. 7/33)], the Council, by a recorded vote of 34 votes to none, with 13 abstentions, welcomed the landmark and historic formal apology by the Government of Australia for the past laws and policies that inflicted profound grief, suffering and loss on its indigenous peoples. It urged Governments that had not done so to issue formal apologies to the victims of past and historic injustices and take all necessary measures to achieve the healing and reconciliation of, and the restoration of dignity to, those victims.

Reports of Special Rapporteur. In accordance with a 2007 Human Rights Council request [YUN 2007, p. 798], the new Special Rapporteur submitted his first report [A/HRC/9/9], which analysed the United Nations Declaration on the Rights of Indigenous Peoples, [YUN 2007, p. 691] in the context of other international instruments regarding indigenous peoples and human rights instruments; the different measures required to implement and make operative the rights affirmed in the Declaration; and joint efforts by States, the UN system, indigenous peoples and civil society actors.

According to the Special Rapporteur, the Declaration did not attempt to bestow indigenous peoples with a set of special or new human rights, but elaborated general human rights principles and rights as they related to the specific circumstances of indigenous peoples. The standards affirmed in the Declaration shared a remedial character, seeking to redress the obstacles and discrimination that indigenous peoples faced in their enjoyment of basic human rights. From that perspective, the standards connected to State obligations under other human rights instruments. For the Declaration to be fully operative, States should pursue a range of affirmative, special measures in law-making and public administration, including legal and institutional reform, judicial action, specific policies and special reparations procedures. UN human rights bodies and mechanisms, specialized agencies and mechanisms with indigenous-specific mandates were central in promoting the Declaration’s implementation at the local level, including with regard to development cooperation benefiting indigenous peoples. Implementing the Declaration depended also on the establishment of strong partnerships between States and indigenous peoples. Civil society organizations had a role in supporting the societal changes required to make the Declaration a living reality.

**Report of High Commissioner.** A September report of the High Commissioner [A/HRC/9/11] provided information on OHCHR activities related to indigenous peoples in the previous 18 months. To promote dissemination, understanding and implementation of the Declaration, OHCHR, in cooperation with the International Labour Office, convened a meeting of the Inter-Agency Support Group on Indigenous Peoples’ Issues (26–27 September) to discuss integration of the Declaration in UN programmes and policies. A communications strategy was developed to promote the Declaration. The High Commissioner recommended that the Council consider grouping all reports on indigenous peoples, including that of the Special Rapporteur, the Expert Mechanism and the High Commissioner, at one time of the year to facilitate the work of governmental delegations and permit greater participation by indigenous peoples’ organizations in the Council’s work.

On 24 September [A/63/53/Add.1 (res. 9/7)], the Council welcomed the reports of the High Commissioner and the Special Rapporteur.

**Expert Mechanism on the Rights of Indigenous Peoples**

**Human Rights Council action.** On 24 September [A/63/53/Add.1 (res. 9/7)], the Human Rights Council requested the Expert Mechanism on the Rights of Indigenous Peoples, established in 2007 [YUN 2007, p. 798], to identify proposals for the Council’s consideration in 2009. It should also prepare a study on lessons learned and challenges to achieve the implementation of the right of indigenous peoples to education and conclude it in 2009.

**Meeting of Expert Mechanism.** The five-member Expert Mechanism on the Rights of Indigenous Peoples, at its first session (Geneva, 1–3 October) [A/HRC/10/56], discussed implementation of the Human Rights Council resolution 6/36 [YUN 2007, p. 798], by which it established the mechanism, including thematic expertise. It also addressed issues related to the study on lessons learned and challenges to achieve the implementation of the rights of indigenous peoples to education, as requested by the Council (above). The Mechanism reviewed the Durban Declaration and Programme of Action [YUN 2001, p. 615] for the purpose of submitting recommendations as contributions to the outcome of the Durban Review Conference (see p. 762). The Expert Mechanism adopted five proposals for consideration and approval by the Council that related to the organization of work; the Durban Review Conference; the right of indigenous peoples to education; participation of indigenous peoples in the work of the Mechanism; and coordination with other UN bodies and mandates. In particular, it proposed that the Human Rights Council suggest to the General Assembly the broadening of the mandate of the United Nations Voluntary Fund for Indigenous Populations (below) to help indigenous peoples participate in the sessions of the Council and its treaty bodies. The Mechanism encouraged the Fund’s Board of Trustees to identify beneficiaries of the Fund who could effectively contribute to the thematic agenda of the Expert Mechanism.

**Voluntary Fund for Indigenous Populations**

The Board of Trustees of the Voluntary Fund for Indigenous Populations, at its twenty-first session (Geneva, 4–8 February) [A/63/166], recommended 78 travel grants worth to some $209,066 to enable indigenous representatives to attend the first session of the Expert Mechanism (see above), and another 78 travel grants totalling $357,199 to enable representatives to attend the seventh session of the Permanent Forum on Indigenous Issues (see p. 858). On 15 February, the High Commissioner approved the Board’s recommendations on behalf of the Secretary-General.

The General Assembly took note of that report on 18 December (decision 63/533).

**Voluntary Fund for International Decade**

The Voluntary Fund for the Second International Decade of the World’s Indigenous People, 2005–2014, established in General Assembly resolution 59/174 [YUN 2004, p. 799] to succeed the pre-existing Fund for the First Decade, continued to promote, support and implement the goals of the Second Decade in terms of promoting indigenous peoples’ culture, education, health, human rights, environment and economic development. In April, the Bureau of the United Nations Permanent Forum on Indigenous Issues (see p. 858), serving as the Advisory Group for the Fund, considered project proposals for funding received by the Secretariat, in accordance with resolution 59/174. It proposed to award grants totalling $137,779 to 14 projects being implemented by indigenous organizations and related NGOs in Africa; Asia; Central and South America and the Caribbean; Eastern Europe, the Russian Federation, Central Asia and Transcaucasia; North America; and the Pacific.

**General Assembly Action**

On 18 December [meeting 70], the General Assembly, on the recommendation of the Third Committee [A/63/427], adopted resolution 63/161 without vote [agenda item 61].
Indigenous issues

The General Assembly,

Recalling all relevant resolutions of the General Assembly, the Human Rights Council and the Economic and Social Council relating to indigenous issues,

Recalling also that the Assembly proclaimed, in its resolution 59/174 of 20 December 2004, the Second International Decade of the World’s Indigenous People,

Bearing in mind that the Assembly adopted, by its resolution 61/295 of 13 September 2007, the United Nations Declaration on the Rights of Indigenous Peoples,

Recalling that, at previous sessions of the Assembly, constructive dialogues were held with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people,

1. Requests the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people to report on the implementation of his mandate to the General Assembly at its sixty-fourth session;

2. Requests the Secretary-General, in consultation with Member States, relevant United Nations organizations and mechanisms and other stakeholders, including indigenous organizations, to submit to the Assembly at its sixty-fifth session a midterm assessment report that evaluates progress made in the achievement of the goal and objectives of the Second International Decade of the World’s Indigenous People;

3. Decides to adjust the mandate of the United Nations Voluntary Fund for Indigenous Populations so as to facilitate the participation of representatives of indigenous peoples’ organizations in the expert mechanism established in accordance with Human Rights Council resolution 6/36 of 14 December 2007.

Permanent Forum on Indigenous Issues

Report of Permanent Forum. The 16-member Permanent Forum on Indigenous Issues, established by Economic and Social Council resolution 2000/22 [YUN 2000, p. 731] to address indigenous issues relating to economic and social development, the environment, health, education and culture, and human rights, at its seventh session (New York, 21 April–2 May) [E/2008/43], considered as its theme “Climate change, biocultural diversity and livelihoods: the stewardship role of indigenous peoples and new challenges”. It had before it background reports relating to its work submitted by its secretariat and subsidiary mechanisms, UN system bodies and other intergovernmental organizations, Governments, NGOs and regional organizations [E/C.19/2008/INF/1/Rev.1]. The Forum recommended three draft decisions for adoption by the Economic and Social Council on: an international expert group meeting on the implementation of article 42 of the United Nations Declaration on the Rights of Indigenous Peoples; the venue and dates for the Forum’s eighth session; and the provisional agenda and documentation for that session. Matters brought to the Council’s attention related to the session’s theme; economic and social development; the environment, health, education and human rights; indigenous children and youth; the Second International Decade of the World’s Indigenous People; urban indigenous peoples and migration; future work; implementation of the United Nations Declaration on the Rights of Indigenous Peoples; and dialogue with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people. The Forum held half-day discussions on indigenous languages and the situation of indigenous peoples in the Pacific.

On 25 July, the Economic and Social Council took note of the report of the Permanent Forum on its seventh session (decision 2008/256). On 24 July, it authorized a three-day expert group meeting on the implementation of article 42 of the United Nations Declaration on the Rights of Indigenous Peoples, and requested that the results of the meeting be reported to the Permanent Forum at its eighth session (decision 2008/249), which would be held at UN Headquarters from 18 to 29 May 2009 (decision 2008/250). The Council also approved the provisional agenda and documentation for that session (decision 2008/251).

Expert meetings and conferences

In response to Economic and Social Council decision 2007/244 [YUN 2007, p. 799], an international expert group meeting on indigenous languages (New York, 8–10 January) [E/C.19/2008/3] discussed linguistic diversity, the connection between language rights and other rights, the lack of urgency in the face of the threatened extinction of most indigenous languages, and proposals for revitalizing, promoting and protecting indigenous languages.

A conference (Copenhagen, 21–22 February) [E/C.19/2008/CRP.3] organized by the International Work Group for Indigenous Affairs discussed the impact of climate change on indigenous peoples and how global agreements, political processes and restrictive regulations hindered indigenous peoples in responding and adapting to climate change. The conference looked at how to secure indigenous peoples’ contributions to discussions on those issues.

An international expert group meeting (Darwin, Australia, 2–4 April) [E/C.19/2008/CRP.9] also focused on indigenous people and climate change. It recognized that indigenous peoples—particularly those living in small island developing States, the Arctic region, high-altitude areas, tropical forests and coastal and desert regions—were already dealing with the impacts of climate change in their daily lives. States and other actors should therefore include indigenous peoples in decision-making to address the issue.