

responsible for grave breaches of international humanitarian law; gave its support to the work of Special Representative of the Secretary-General; declared its intention to pay serious attention to the situation of children affected by armed conflicts and, to this end, to maintain contact, as appropriate, with the Special Representative and with the relevant programmes, funds and agencies of the UN system; expressed its readiness, while dealing with situations of armed conflict, to (a) consider, when appropriate, means to assist with the effective provision and protection of humanitarian aid and assistance to civilian populations in distress, in particular women and children, (b) consider appropriate responses whenever buildings or sites that usually have a significant presence of children — such as schools, playgrounds, hospitals — are specifically targeted, (c) support efforts aimed at obtaining commitments to put to an end the recruitment and use of children in armed conflicts in violation of international law, (d) give special consideration to the disarmament and demobilization of child soldiers, and to the reintegration into society of children maimed or otherwise traumatized as a result of an armed conflict, and (e) support or promote child-focussed mine clearance and mine-awareness programmes, as well as child-centred physical and social rehabilitation programmes; recognized the importance of special training of personnel involved in peacemaking, peacekeeping and peace-building activities on the needs, interests and rights of children, as well as on their treatment and protection; and recognized that, whenever sanctions are adopted, consideration should be given to their impact on the civilian population, bearing in mind the needs of children, in order to consider appropriate humanitarian exemptions.



## DETENTION

### Working Group on Arbitrary Detention (E/CN.4/1998/44; E/CN.4/1998/44/Add.1)

The Working Group (WG) on Arbitrary Detention was established in 1991 and is made up of five independent experts. The Group's mandate is subject to renewal every three years. As defined by resolution 1991/42 of the Commission on Human Rights, the WG's mandate is to investigate cases of detentions that are imposed arbitrarily or are inconsistent with the standards set out in the Universal Declaration of Human Rights and other relevant international human rights instruments. Cases considered by the WG are those that fall into one or more of three categories in which the deprivation of liberty or freedom is arbitrary:

1. as it manifestly cannot be linked to any legal basis (such as continued detention beyond the execution of the sentence or despite an amnesty act);

2. based on facts giving rise to prosecution or conviction related to the exercise of certain fundamental freedoms which are protected by the Universal Declaration and the International Covenant on Civil and Political Rights (the latter for states parties) and, in particular, the rights to freedom of thought, conscience and religion, freedom of opinion and expression, and the right of peaceful assembly and association; and/or
3. based on non-observance of all or part of the international provisions related to the right to fair trial to the extent that it confers on the deprivation of freedom, of whatever kind, an arbitrary character.

The Group's report to the 1998 Commission covers the period from January to December 1997, during which 26 communications (concerning 119 new cases of alleged arbitrary detention — 5 women and 114 men) and 55 urgent appeals (on behalf of 563 individuals, at least 11 women) were transmitted to 46 governments as well as the Palestinian Authority.

In the resolution adopted at the 1997 session of the Commission (1997/50), the WG was requested to devote all necessary attention to reports concerning the situation of immigrants and asylum seekers who are allegedly being held in prolonged administrative custody without the possibility of administrative or judicial remedy, and to include observations on this issue in the report to the 1998 session. On that basis, the 1998 report established a definition of this mandate, stating that, for the WG's purposes, the word "asylum" signifies a place of refuge and the term "political asylum" refers to refuge that is sought in another jurisdiction, when the persons concerned are in immediate peril of persecution either in their country of origin, country of nationality or country of regular residence. The WG noted that an asylum seeker is also an immigrant, while there are immigrants who are not asylum seekers but who might also be detained for prolonged periods without the possibility of an effective administrative or judicial remedy. Such immigrants may have made or may have attempted to make illegal entry into a country that, under its laws, is entitled to detain them, though not necessarily as persons having committed a criminal offence, but pending the determination of their status under the applicable laws. The WG stated that, in the process of such determination, certain appropriate procedures may have to be followed to ensure that the detention is not arbitrary.

The report includes a compilation of international and regional instruments that are applicable, including but not limited to: the Universal Declaration, the ICCPR, the Convention against Torture, the Convention relating to the Status of Refugees, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the OAU Convention governing the Specific Aspects of Refugee Problems in Africa, and the three Latin American Conventions related to political, diplomatic and territorial asylum.