

information, exercising or seeking to exercise the right to freedom of opinion and expression and the rights to freedom of thought, conscience and religion, peaceful assembly and association and the right to take part in the conduct of public affairs; expressed concern at state practices such as abuse of states of emergency and vague definitions of offences against state security; welcomed the release of persons formerly detained for exercising these rights and freedoms; appealed to states to ensure that persons exercising or seeking to exercise these rights do not suffer discrimination in areas such as employment, housing and social services; invited UN bodies, mechanisms and procedures to examine violations of the rights to expression and opinion from a gender perspective; invited the SR, in cooperation with the SR on violence against women, to pay particular attention to the relationship between the effective promotion and protection of the right to freedom of opinion and expression and incidents of discrimination based on sex, and consider how these obstacles impede the ability of women to make informed choices in areas of particular importance to them as well as in areas related to the general decision-making processes in the societies in which they live; invited the SR to develop further the commentary on the right to seek and receive information; invited the SR, in his report to the 1998 Commission, to consider all aspects of the impact of new information technology on equal opportunity of access to information and exercise of the right to expression as set out in the ICCPR; requested the SR to submit a report to the 1998 session

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HIV/AIDS AND HUMAN RIGHTS

At its 53rd session, the Commission on Human Rights (CHR) considered a report from the Secretary-General (E/CN.4/1997/37) on the Second International Consultation on HIV/AIDS and Human Rights which took place in Geneva, from 23 to 25 September 1996. A major outcome of the consultation was a set of Guidelines recommended by the expert participants for states on the promotion and protection of fundamental rights and freedoms in the context of HIV/AIDS, as well as strategies for their dissemination and implementation. The CHR adopted a resolution (1997/33) in which it: invited all states to consider these Guidelines; called upon the UN High Commissioner for Human Rights, the Joint UN Programme on HIV/AIDS (UNAIDS), its co-sponsors and other partners, to provide technical cooperation to states, upon request of governments when required, from within existing resources, for the promotion and protection of human rights in the context of HIV/AIDS; and requested the Secretary-General to solicit the opinion of governments, specialized agencies and international and non-governmental organizations and to prepare for consideration by the Commission at its 55th session (1999) a progress report on the follow-up to the present resolution.

The Sub-Commission, at its 1997 session, adopted a similar resolution (1997/40) welcoming the guidelines; calling on special rapporteurs, representatives and working groups, as well as other UN human rights bodies, to continue to incorporate HIV/AIDS-related issues, as appropriate, in all their

activities; and urging the CHR to keep the issue of HIV/AIDS-related human rights violations and discrimination under review.

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INDEPENDENCE OF JUDGES AND LAWYERS

Special Rapporteur on the Independence of judges and lawyers (E/CN.4/1997/32)

The mandate of the Special Rapporteur (SR) on the independence of judges and lawyers was established in 1994 and renewed for a further three years by the Commission at its 1997 session. In 1997, the SR was Mr. Param Cumaraswamy (Malaysia). The elements in the mandate include: investigation into allegations of interference in the judicial process; establishing a record of attacks against judges, lawyers and court officers; cataloguing the positive measures taken by governments to protect judges and lawyers and their independence; and making proposals on how to enhance the independence of judges of lawyers.

The 1997 report contains brief commentary on issues and cases related to, *inter alia*: removal of immunity from high court officials; threats and intimidation against and detention, abduction and killing of lawyers; a proposal to set up a separate regulatory body to licence lawyers to practice; disregard of court decisions by governments; dismissal of judges and magistrates from cases; proposed legislation that would infringe on the separation of powers; actions by military personnel in contravention of judicial orders; and, executive intimidation of judges — such as statements in favour of resignation and impeachment — whose rulings have offended or run counter to the wishes of the executive branch.

Other issues covered briefly in the report include: development of a mechanism to resolve disputes between the legal profession and the judiciary; establishment of an international criminal court-including provision for judges to be full-time members of the court with fixed remuneration to ensure the individual independence of members and the right for the prosecutor to initiate investigations rather than, as currently envisaged in the draft statute, limiting the right to launch investigations to cases initiated by states parties; the relationship between media and the judiciary, particularly in such areas as pre-trial publicity and its effects on the right to fair trial; and trial observation either by the Special Rapporteur (SR) or a person so designated.

The renewal of the mandate on the independence of judges and lawyers will be considered by the Commission at its session in the year 2000.

At its 1997 session, the Commission adopted a resolution by consensus (1997/23) referring to the work undertaken by the SR. The Commission, *inter alia*: affirmed that an independent and impartial judiciary and legal profession are essential prerequisites for protection of human rights and ensuring that there is no discrimination in the administration of justice; referred to the UN Basic Principles on the Independence of the Judiciary, the Basic Principles on the Role of Lawyers and the Guidelines on the Role of Prosecutors; noted with concern increasingly frequent attacks on the