

affirmed the need to make further efforts to improve the situation and ensure the human rights and dignity of migrants; acknowledged that the principles and standards of the Universal Declaration apply to everyone, including migrants; requested states, in accordance with their obligations under relevant international human rights instruments, to promote and protect the human rights of all migrants; and, reconvened the Working Group of intergovernmental experts for two five-day sessions prior to the 1999 Commission.



## MINIMUM HUMANITARIAN STANDARDS

### Report of the Secretary-General

The issue of minimum humanitarian standards has been taken up because of the vastness of the scale of abuses perpetrated in situations of internal violence, and the apparent lack of clear rules concerning fundamental standards of humanity. This situation was highlighted in 1990, in Turku/Åbo, Finland, where a group of non-governmental experts met and drafted a Declaration on Minimum Humanitarian Standards. The preamble to that document states: "International law relating to human rights and humanitarian norms applicable in armed conflicts do not adequately protect human beings in situations of internal violence, disturbances, tensions and public emergency." In 1994, the Sub-Commission transmitted the Declaration to the 1995 session of the Commission with a view to its further elaboration and eventual adoption (Sub-Commission resolution 1994/26). The Commission on Human Rights took note of the Sub-Commission's resolution and recognized the need to address principles applicable to situations of internal and related violence, disturbance, tension and public emergency in a manner consistent with international law and the UN Charter. As well, the Commission requested that the Declaration on Minimum Humanitarian Standards be sent for comment to governments, intergovernmental organizations and non-governmental organizations. At its 1996 session the CHR made no specific reference to the Declaration, but again recognized the need to address principles applicable to situations of internal violence. It also welcomed the offer by the Nordic countries, in cooperation with the ICRC, to organize a workshop to consider the issue. This workshop was held in South Africa, in September 1996, and a report of the workshop (E/CN.4/1997/77/Add.1) was made available to the 1997 session of the CHR. At that session, the Commission adopted resolution 1997/21 in which it requested the Secretary-General to prepare an analytical report on the issue of fundamental standards of humanity, identifying, *inter alia*, common rules of human rights and humanitarian law that are applicable in all circumstances.

The purpose of the Secretary-General's report to the 1998 Commission (E/CN.4/1998/87) was not to reach firm conclusions but to set the framework for future discussions on the issue of fundamental standards of humanity. To that end, a number of issues were considered including, *inter alia*: common characteristics and patterns of human rights abuses in situations of internal violence; provisions covering derogation in international human rights law; non-state armed groups and human rights law; the lack of specificity of existing human rights rules; the scope of application of international humanitarian law to situations of internal violence and conflict; customary international humanitarian law; the advantages and disadvantages of identifying fundamental standards of humanity; and the nature of the fundamental standards of humanity.

The report notes that: the need for identifying fundamental standards of humanity arises from the fact that it is often situations of internal violence that pose the greatest threat to human dignity and freedom; the reports prepared by or for UN human rights bodies repeatedly draw attention to the link between human rights abuses and ongoing violence and confrontation; although such situations frequently lead to the most gross human rights abuses, there are disagreements and doubts regarding the applicable norms of both human rights and humanitarian law; the rules of international humanitarian law are different depending on the nature and intensity of the conflict; there are disagreements concerning the point at which internal violence reaches a level where the rules of humanitarian law regulating internal armed conflicts become operable; and, even when these rules manifestly do apply, it is generally acknowledged that they provide only the bare minimum of protection.

The report further notes that, until now, the rules of international human rights law have generally been interpreted as only creating legal obligations for governments whereas, in situations of internal violence, it is important also to address the behaviour of non-state armed groups. It further notes that some human rights norms lack the specificity required to be effective in situations of violent conflict. Finally, it draws attention to concerns expressed that, in such situations, it is possible that governments will derogate from obligations under human rights law.

Against this background, the report states that measures aimed at reducing human rights abuses in situations of internal violence: must not detract from efforts to prevent or end such violence; must not lend weight to the argument that such efforts are doomed to failure; and must include a special emphasis on ensuring the protection of minorities, strengthening democracy and democratic institutions, overcoming obstacles to the realization of the right to development, and securing respect for human rights generally.

Consideration is then given to three issues of terminology. The first examines the relative advantages of the