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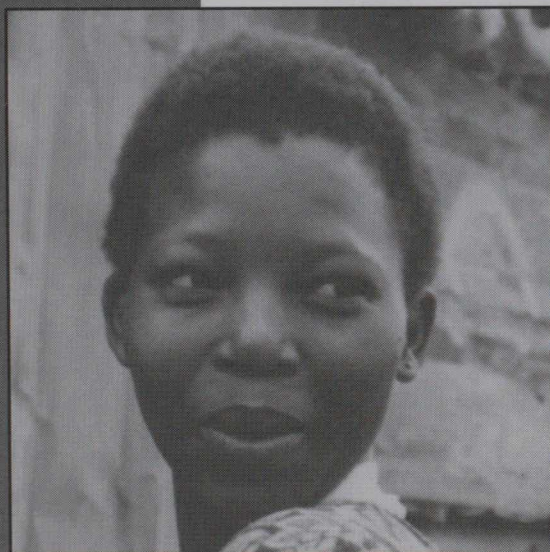
Volume 2:

AFRICA

FOR THE RECORD 1998:

*The
United Nations
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Volumes 1-6 ISBN 1-894253-16-7
Volume 2 ISBN 1-894253-18-3

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GLOSSARY OF ACRONYMS

CAT	Committee Against Torture
CCPR	Committee on Civil and Political Rights, also known as the Human Rights Committee (HRC)
CEDAW	Committee on the Elimination of Discrimination Against Women
CERD	Committee on the Elimination of Racial Discrimination
CESCR	Committee on Economic, Social and Cultural Rights
CHR	Commission on Human Rights
CRC	Committee on the Rights of the Child
DAW	Division for the Advancement of Women
CSW	Commission on the Status of Women
ECOSOC	Economic and Social Council
GA	General Assembly
HRC	Human Rights Committee, also known as the Committee on Civil and Political Rights (CCPR)
ICC	International Criminal Court
ICJ	International Court of Justice
OHCHR	Office of the High Commissioner for Human Rights
SC	Security Council
S-G	Secretary-General
SR	Special Rapporteur
SRep	Special Representative
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNHCHR	United Nations High Commissioner for Human Rights
UNHCR	United Nations High Commissioner for Refugees
WG	Working Group

ALGERIA

Date of admission to UN: 8 October 1962.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Algeria has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Signed: 10 December 1968; ratified: 12 September 1989. Algeria's second periodic report was due 20 June 1996. *Reservations and Declarations:* Article 1; paragraph 3 of article 1; article 8; paragraphs 3 and 4 of article 13.

Civil and Political Rights

Signed: 10 December 1968; ratified: 12 September 1989. Algeria's second periodic report (CCPR/C/101/Add.1) was considered by the Committee at its July 1998 session. Algeria's third periodic report is due 1 June, 2000. *Reservations and Declarations:* Articles 1; article 22; paragraph 4 of article 23; declaration under article 41.

Optional Protocol: Acceded: 12 September 1989.

Racial Discrimination

Signed: 9 December 1966; ratified: 14 February 1972. Algeria's 13th periodic report was due 15 March 1997. *Reservations and Declarations:* Declaration under article 14.

Discrimination against Women

Acceded: 22 May 1996. Algeria's initial report was due 21 June 1997. *Reservations and Declarations:* Article 2; paragraph 2 of article 9; paragraph 4 of article 15; article 16; paragraph 1 of article 29.

Torture

Signed: 26 November 1985; ratified: 12 September 1989. Algeria's third periodic report was due 11 October 1998. *Reservations and Declarations:* Declaration under articles 21 and 22.

Rights of the Child

Signed: 26 January 1990; ratified: 16 April 1993. Algeria's second periodic report is due 15 May 2000. *Reservations and Declarations:* Paragraphs 1 and 2 of article 14; articles 13, 16 and 17.

REPORTS TO TREATY BODIES

Human Rights Committee

Algeria's 2nd periodic report (CCPR/C/101/Add.1, March 1998) was considered by the Committee at its July 1998 session. The report prepared by the government contains information on, *inter alia*: conditions leading to the 1992 declaration of a state of emergency; the anti-ter-

rorism campaign; political and legal machinery; the mandate and functions of the National Human Rights Observatory; the mandate and functions of the Ombudsman of the Republic; the actions of the Islamic Salvation Front (FIS); constitutional provisions related to derogation from Covenant rights; freedom of the press, expression, opinion and information; the rights of detainees, due process, conditions of detention; the functioning of the Constitutional Council; rights and guarantees in the revised Constitution; relevant provisions in the Code of Criminal Procedure and the Penal Code; the death penalty; freedom of thought, conscience and religion; measures to promote and preserve Berber culture and language; the equal rights of women and men; the law on terrorism and subversion and the functioning of special courts; the Ordinance on clemency measures; the enabling Act on political parties and the enabling Act on the electoral regime; the elections of 1995 and 1997, including statistical data on representation based on the election results; the right to elect and be elected; and the rights of minorities.

The Committee's concluding observations and comments (CCPR/C/79/Add.95) noted: the government addressed some of the issues raised following consideration of Algeria's initial report in 1992; the second periodic report was submitted with a delay of more than two years; the report and subsequent submissions provided information as to the laws and regulations adopted by the government to implement the provisions of the Covenant but does not provide sufficient specific data on the prevailing human rights crisis; and the government's undertaking to submit additional written information in response to questions raised by Committee members. The Committee acknowledged that widespread and indiscriminate attacks against the civilian population, involving the loss of innumerable lives, and a general climate of violence hindered implementation of the Covenant. The Committee noted, however, that these conditions heighten the government's responsibilities to re-establish and maintain the conditions necessary for the realization and protection of fundamental rights and freedoms in Algeria.

The Committee welcomed the establishment of the National Observatory for Human Rights, the *Médiateur de la République* (Ombudsman of the Republic) — with competence to receive complaints from individuals about human rights violations, the establishment of the National Committee for the Preservation and the Promotion of Women, and the increased participation of women in public life.

The principal subjects of concern identified by the Committee included, *inter alia*: the widespread massacre of women, children, and men in a great number of villages and towns; that women have been the victims of not only killings but also of abduction, rape and severe violence; the lack of timely or preventive measures of protection to the victims from police or military officials in the vicinity, and the persistent allegations of collusion of members of the security forces in terrorist attacks; innumerable

reports of arbitrary or extrajudicial executions of individuals, some while in custody, others under suspicion of being associated in one way or another with terrorist groups; the organization of "legitimate defence groups", the serious questions related to the legitimacy of the transfer of such power by the state to private groups, and the very real risk to human life and security entailed by the exercise of that power, coupled with the risks of unsanctioned abuse; persistent allegations of systematic torture and the apparent routine acceptance by trial court judges of confessions extracted under duress, even when there is medical evidence of torture; and the number of disappearances and the failure of the state to respond adequately, or at all, to such serious violations.

Concern was also expressed over: incorporation of some of the provisions of the Emergency Decree of 1992 relating to "subversion of terrorism" in normal penal laws which, *inter alia*, prescribe an increased number of offences for which the death penalty may be imposed, lower the age to 16 for which a person may be liable to such a penalty, extend from 2 to 12 days the period for which a suspect may be administratively detained incommunicado, and define "terrorist" or "subversive" activities in such a way as to permit abuse; the concession by the National Observatory for Human Rights, in its annual report for 1996, that places of detention exist which are outside the control legally stipulated by law; noting the progress by women in public life and civil society, the fact that the Family Code still contains important areas of inequality, for example, that a woman's consent to her first marriage is generally mediated by a male guardian and that this guardian can deny the woman her choice of a husband, the stipulation that the husband is the head of the family, the possibility of polygamous marriage, and the interdiction on a woman from marrying a non-Muslim while the same restriction does not apply to a man; the application of certain executive decrees of 1992 regulating nomination, promotion and dismissal of judges, compromising its independence, and the provision that judges enjoy immovability only after 10 years of work; and the underlying intent of the Arabic Language Decree, 5 July 1998, to reinforce the status which that national language should possess, noting that the compulsory, immediate and exclusive use of that language in all areas of public activity would impede large sections of the population who use Berber or French in the realization of the rights guaranteed under the Covenant.

The Committee welcomed the abolition of the state-controlled "reading committees" stationed at publishing establishments, as well as the abolition of the formal directives prohibiting the publication of unauthorized information relating to "security issues". The Committee noted, however, that in practice numerous restrictions still persist with regard to freedom of expression — for example on coverage of allegations and discussion of corruption, criticism of government officials, and material regarded as an expression of sympathy for encouragement of subversion. Concern was also expressed over: threats against and assassinations of journalists, human rights defenders and lawyers; and under Law 97-09,

restriction on the right to form political parties, noting that since taking effect the law was invoked to ban or prevent the legalization of more than 30 parties.

The Committee recommended that the government, *inter alia*:

- ♦ adopt effective measures to: prevent attacks on villages and towns and, if they nevertheless occur, come promptly to the defence of the population; ensure that proper investigations are conducted by an independent body to determine who the offenders are and to bring them to justice; and, in all cases of massacres, conduct an independent enquiry into the conduct of the security forces, from the lowest to the highest levels, and where appropriate subject them to penal and disciplinary sanctions;
- ♦ ensure that: independent mechanisms are set up to investigate all violations of the right to life and security of the person; the offenders are brought to justice; access is given, as soon as possible, to the International Committee of the Red Cross and other independent observers;
- ♦ take measures to maintain, within its police and defence forces, the responsibility of maintaining law and order and the protection of the life and security of the population and, in the meantime, ensure that "legitimate defence groups" are brought under the strict and effective control of responsible state organs and that they are promptly brought to justice in the case of abuse;
- ♦ ensure that: a credible system for monitoring treatment of all detainees exists so as to ensure that they are not subject to torture or ill treatment; all specific allegations are investigated by an impartial body and the results of such investigations published; officials involved in torture are prosecuted and, if convicted, severely punished;
- ♦ adopt measures to establish a central register to record all reported cases of disappearances and day-to-day action taken to trace the disappeared, and to assist the families concerned to trace the disappeared; include in its next report an account of the number of cases reported, the investigations conducted, and the results achieved;
- ♦ bring the amendments to the Penal Law into strict compliance with articles 6 and 9 of the Covenant;
- ♦ ensure that: nobody may be arrested or detained "outside the law"; complaints about such arrest or detention are given immediate attention and that relatives, friends or lawyers of persons detained are able to receive an effective remedy, which includes reviewing the legality of the detention; all persons arrested are kept at officially designated places of detention, their families immediately informed, they have immediate access to a lawyer and are promptly charged and brought to trial; their detention does not exceed the limit provided by law and that they have a

- right to medical examination on arrest and at the end of their detention;
- ♦ bring legislation into conformity with all the rights to which women are entitled under articles 3, 16, 23 and 26 of the Covenant;
 - ♦ provide in the next report more information on the procedure for designating, electing and dismissing judges and take appropriate measures to ensure the full independence of the judiciary;
 - ♦ review, on an urgent basis, the Arabic Language Decree so as to remove the negative consequences that it produces;
 - ♦ review current legislation so as to protect fully the right to freedom of thought and opinion and freedom of expression;
 - ♦ meet the conditions required by the Covenant with respect to restrictions on the right to freedom of association and amend current legislation so as to bring it into conformity with the requirements of the Covenant and the obligations entered into by Algeria upon its accession to it; and
 - ♦ take urgent steps to make known to the public, universities, the legal community and, particularly, to non-governmental human rights organizations, the rights protected under the Covenant and the fact that individuals whose rights have been violated may submit communications to the Committee under the Optional Protocol to which Algeria has acceded.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on: (E/CN.4/1998/44, paras. 4, 5, 19, 21)

The report notes that two cases were transmitted by the Working Group to the government, one as an urgent appeal, and that the government provided replies to both. No details of the cases were provided.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 3, 13, 80–87)

The report notes that 49 newly reported cases of disappearance were transmitted to the government, seven of which reportedly occurred in 1997. One case was sent under the urgent action procedure and subsequently clarified when the source reported that the person concerned had been released. The Working Group (WG) stated that the majority of the 153 cases of disappearance in Algeria that were transmitted by the WG to the government occurred between 1993 and 1995. The security forces were allegedly responsible for all the arrests and subsequent disappearances which reportedly occurred throughout the country, although mainly in Algiers. A number of the disappeared persons are reported to

have been members or sympathizers of the Islamic Salvation Front (FIS). The victims were from a variety of professions and included medical doctors, journalists, university professors, students, civil servants and farmers.

Forty-eight of the newly reported cases occurred between 1994 and 1997 in various towns and villages throughout the country, although mainly in the capital and in Constantine. The security forces, as well as the police and gendarmerie, were alleged to be responsible. The persons concerned were mainly educated and from various professional backgrounds including civil servants, i.e., a director at the Ministry of Youth and Sports, nurses, secretaries, medical doctors, journalists, architects and students. One case concerned the mother of a person who had previously disappeared and who had reportedly publicly criticized human rights violations in Algeria.

Information received from non-governmental organizations concerning non-compliance by the government with provisions of the Declaration on the Protection of All Persons from Enforced Disappearance indicated that: disappearances continue to occur following arrest by members of the security forces; individuals are often abducted from their home, their place of work or from the street; when family members seek information on detained relatives from the police or the gendarmerie, all knowledge of the detained person is denied; as a consequence, families are unable to obtain any information about their relatives unless they are brought before the courts, which is said often to take weeks or months after the arrest; and, those responsible for disappearances reportedly act with impunity.

The government provided information on 27 individual cases, stating that 23 of them had never been summoned by the authorities for interrogation. In two cases the persons concerned were being sought by the authorities, and in one case, the government reported that the person was wanted by the security forces on charges of an alleged connection with an armed terrorist group, and that he had been found dead.

The Working Group expressed its deep concern at the increase of violence and reported cases of disappearances in Algeria and reminded the government that the Declaration does not admit any circumstances – including internal political instability or any other public emergency – as a justification for enforced disappearances. The report states that resorting to such practices often results in a further spiral of violence.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 14, 16, 21, 32, 50, 59, 62, 73; E/CN.4/1998/68/Add.1, paras. 5–14)

The report refers to ongoing discussions with the government relating to a visit by the Special Rapporteur (SR), possibly as a joint mission with the SR on the question of torture.

The SR expressed grave concern about the situation in Algeria, which has resulted in the deaths of hundreds of innocent civilians. Concern was expressed at what seems to be the deliberate targeting of women and children by groups of killers in Algeria, as well as the fact that children continue to be killed in the context of armed conflict and internal strife.

The report states that the human rights situation in Algeria is characterized by numerous massacres of civilians, including women, children and old people, which have reached an unprecedented level since the legislative elections of 5 June 1997. The SR referred to information received indicating that the majority of these massacres are attributable to armed Islamic groups. Some of the massacres, however, were reportedly committed in the immediate vicinity of military barracks or security force positions with no action taken by the authorities. The report also refers to the fact that fears have been expressed as to the possibility that the state may bear some responsibility, based on information indicating that members of armed groups are acting with the full knowledge of the security forces, and even with the complicity of some of their members. The report notes that there are deficiencies in the system for early warning and prevention of massacres.

Stating that violent acts committed by terrorist groups do not fall within the SR's mandate, the report nevertheless acknowledges that violent acts committed by such groups have led to the killing of many civilians.

Violations of the right to life have occurred through: the security forces' use of bogus roadblocks; summary executions of prisoners, who are sometimes said to have been held in secret detention, and of suspects at the time of their arrest; the legalization of self defence groups through a Decree of 4 January 1997 which has encouraged the proliferation of militias and complicated the issue of identifying those responsible for the massacres and their accomplices. An individual case transmitted to the government involved a death in custody in which the death certificate referred to violent death resulting from bullet wounds. The government replied, stating that the individual had been arrested during the dismantling of a terrorist network and was shot three times during his arrest. Death occurred following a sudden deterioration in the man's condition. The government stated that the man's family had been informed of the arrest and had been issued a burial permit. Despite the fact that no party had requested an autopsy, the Algiers Procurator's Office requested the examining magistrate to "look into the causes of death". The case remained under investigation.

The SR sought clarification from the government on another case, involving the discovery of 15 bodies in Dhalaâ forest, commune of Ain Taghrout, in July 1994. The government was specifically requested to clarify why the families of the victims had been prevented from helping to identify the bodies on the basis of photographs taken by the Gendarmerie in Tixane when the bodies were discovered. The SR also asked whether the judicial inquiry opened by the local procurator had yielded

results and whether it had been possible to identify and prosecute those responsible for the massacre. The government informed the SR that an inquiry was under way.

The SR expressed regret over the lack of precise information concerning the allegations of violations of the right to life despite the fact that they continue to occur on an alarming scale and stated that such violations, which vary in nature and extent, are allegedly being committed both by the security forces and by armed Islamic groups and self defence groups. The report noted that a state has an overriding duty to ensure the protection of civilians and put an end to massacres by all appropriate means, while maintaining the rule of law. The distressing number of victims running into tens of thousands – who include women, children and defenceless infants and old people – points to a crucial need for effective mechanisms for preventing such massacres and systematically investigating their circumstances. The SR further stated that the system for compensating the survivors and the victims' families needs to be reinforced.

Freedom of opinion and expression, Special Rapporteur on: (E/CN.4/1998/40, paras. 61–66)

The report refers to two cases sent to the government: one concerned a journalist with the Arabic language daily *Al-Alam Al-Siyassi*; the other was the director of the French language daily *El Watan*. In the case of the journalist, the information received indicated that: he had disappeared in April 1997, after he had been abducted by three individuals who allegedly identified themselves as members of the security forces; he had been held in a detention centre in Algiers and had been tortured during the first month of his detention; and that there was a possible link between his disappearance and his coverage of the activities of Islamist groups in Algeria. The government, basing its reply on information which resulted from an investigation by the Ministry of Justice, denied that the journalist had been questioned or arrested by the security forces. In the case of the director of *El Watan*, information indicated that he had been sentenced in November 1997 to one year in prison for a November 1995 interview that he gave to the French television station Canal+. In the interview, he had speculated on the possible responsibility of the government in the assassinations of journalists since May 1993. Additional information indicated that the director had been summoned to the central police station of Algiers shortly after the verdict. There he was questioned for four hours in connection with an article which appeared in October 1997 in his newspaper, written by a journalist who had criticized President Liamine Zeroual and other government officials. The Special Rapporteur (SR) noted that the government has not replied to this case.

The SR expressed concern at the overall situation in the country, at the continuing violence and at the massacres of civilians. He stated that, in the present situation in Algeria, accurate information about the crimes being committed, as well as transparency and the free flow of information, become all the more important. The SR encouraged the government to take all necessary mea-

asures to provide for the conditions in which all media are able to play their role in providing accurate, reliable and pluralistic information.

Religious intolerance, Special Rapporteur on: (E/CN.4/1998/6, paras. 17, 19, 94)

The report notes that the government responded to the Special Rapporteur's request for information on laws related to religious freedoms by providing a copy of the Constitution and the Act establishing public holidays, including religious holidays. The report notes, however, that the government had not responded to cases that were previously transmitted. No details of those cases were provided.

Torture, Special Rapporteur on: (E/CN.4/1998/38, paras. 12–18; E/CN.4/1998/38/ Add.1, paras. 4–8)

The report refers to information received indicating that torture and ill-treatment occurred frequently during periods of incommunicado detention in police and gendarmerie stations, military security centres and secret detention centres; since the issuance of decree No. 92-03 in September 1992, incommunicado or garde à vue detention could reportedly be extended to 12 days; the main purpose of torture and ill-treatment was said to be the extraction of information and the signing of confessions in the form of written statements (procès verbaux) during interrogation; torture and ill treatment were also used as a form of punishment; persons suspected of having links with armed opposition groups were particularly vulnerable to torture; torture methods most commonly used by the security forces were said to include: "chiffon" — tying a detainee to a bench, stuffing a cloth in the mouth and pouring large quantities of dirty water and chemicals into the mouth; "chalumeau" — the use of a torch to inflict burns on the body; electric shocks to sensitive parts of the body; tying a rope around the penis and/or testicles or placing the genitals between drawers; beatings; burnings by cigarettes; insertion of objects or glue into the anus; and suspension. Other methods include rape; the pumping of salt water into the stomach — sometimes reportedly leading to death; and boring holes in limbs or breaking them. Detainees were reportedly often blindfolded during prison transfers and sometimes also during interrogation and the initial period of detention. Information also indicated that independent medical supervision during incommunicado detention, and thereafter, had frequently been denied and, if a medical examination took place, it was often carried out after a delay and by a government-appointed doctor. Since 1992, the authorities had reportedly not carried out any official judicial investigations into allegations of torture and ill-treatment and preventive measures had allegedly not been taken. Confessions obtained under duress were said to have been used as evidence in court. No independent human rights or humanitarian organization was reportedly able to carry out private interviews with detainees in prison.

The Special Rapporteur expressed the hope that the government would extend him an invitation for a visit.

The four individual cases transmitted to the government related to: the abduction and detention of a human rights lawyer and the fact that no investigation seems to have been carried out into allegations of ill treatment; arrest of two individuals on suspicion of having links with an armed opposition group, followed by torture, including use of electric shocks and the "chiffon" and the failure of the authorities to respond to a request for a medical examination by their lawyer; arrest and detention followed by torture which is said to have resulted in near total deafness and the near-loss of an eye; and arrest of a journalist by members of the security forces who was denied any contacts with his family or lawyer. On the last case, the government replied that the journalist had never been arrested.

Violence against women, Special Rapporteur on: (E/CN.4/1998/54, Section I.A)

The report notes that women are often the victims of violence perpetrated by non-state actors during armed conflict. It also refers to forced marriages by non-state actors in Algeria. The report recalls that, in March 1994, a faction called the Armed Islamic Group issued a statement classifying all unveiled women who appear in public as potential military targets. To punctuate this threat, gunmen on a motorbike shot and killed two unveiled high school female students who were standing at a bus station. The Special Rapporteur (SR) stated that the Algerian civil war is perhaps the most violent conflict in the world today and noted that, although both men and women are targets, and both sides are guilty of human rights violations, the armed Islamic opposition reserve particularly harsh treatment for women who do not conform to their strict dictates, including unveiled women, professional women, and independent, single women living alone. They also engage in forced marriages and other forms of abduction of women living in areas under their control. The report asserts that as non-state actors during armed conflict, they are nonetheless governed by humanitarian law.

Mechanisms and Reports of the Sub-Commission

Systematic rape, sexual slavery and slavery-like practices during armed conflict, Special Rapporteur on: (E/CN.4/Sub.2/1998/13, para. 67)

The report refers to information received related to the sexual violence in the ongoing hostilities in Algeria and reports suggesting that armed groups have abducted women and girls for forced, temporary "marriages". In these marriages the captive women and girls are raped, sexually abused, and often mutilated and killed.

GENERAL ASSEMBLY

Initiative of the Secretary-General

In June 1998, at the invitation of the government, the Secretary-General (SG) established a panel of eminent persons to visit Algeria, gather information on the

country situation, and prepare a report for the SG. The agreement with the government included the provision that the report of the Panel would be made public. The members of the Panel were Mario Soares (Chairman), former President of Portugal; I.K. Gujral, former Prime Minister of India; Abdel Karim Kabariti, former Prime Minister of Jordan; Donald McHenry, former U.S. Permanent Representative to the UN; Simone Veil, former Secretary of State of France; and Amos Wako, Attorney-General of Kenya.

The Panel visited Algeria from 22 July to 5 August 1998. The report of the mission (Report of the Panel appointed by the Secretary-General, 10 September 1998) notes that the Panel was not mandated to conduct independent investigations. The mission was to be seen as complementary to, but separate from, the special procedures of the UN human rights programme. The report contains information on, *inter alia*: a brief history of developments between 1954 and 1992; the political, economic, social and security situations; democratization and the overall government structure; economic and social problems; human rights and fundamental freedoms — disappearances, torture; the media; diversity, women and children. The Panel met with government representatives and representative of political parties, civil society, human rights and women's organizations, the media, religious institutions, and families of victims of terrorism and of disappeared persons. Visits were made to different regions of the country, one prison, and two sites where massacres had been committed (Benmessous and Ain Khalil). Annex I of the report contains a list of the persons with whom the Panel met and the places visited. Annex II of the report contains a list of materials provided to the Panel by the government and official sources, political parties and actors, NGOs, UN institutions, individuals and others.

The report notes that government policies and strategies were being undertaken simultaneously on three fronts: developing a political consensus, continuing the consolidation of political institutions and establishing the framework for a state of legality; addressing the economic crisis, including reduction of the high debt burden; and maintaining security and, more specifically, combatting terrorism. The Panel identified other aspects to which attention needed to be paid, namely: the need to redress 30 years of one-party dictatorship and the legacy of a collectivized economy; clarification of the relationship between the civilian elected government and the military; and the balance between the adherence of the majority of Algerians to Islam and laws applicable in the public sphere (e.g., family law).

Concerning terrorism, the report notes that terrorism had passed through four stages aimed at: security forces and government; intellectuals, journalists, lawyers, artists and foreigners; the general infrastructure of the country; and the entire population. The Panel stated that Algerian terrorism was unique in that it was not pursuing a specific objective. The government's response to terrorism was noted as having included: introduction and

extension of a state of emergency; the use of "special courts" to try cases of terrorism between 1992 and 1994; and a subsequent decision to refer such cases to ordinary courts, noting information indicating that some features of the "special courts" had been transferred to the ordinary courts. Reference is made to legislation that was adopted, in response to the violence confronting the civilian population especially in remote rural and mountainous areas, to provide for the establishment of self-defence groups in villages and communes. The groups operated under the control of the army or gendarmerie, whichever was nearer. The government stated that the such groups had played a decisive role in the fight against extremist violence but also indicated that the self-defence groups were alleged to have been involved in excesses committed against the civilian population.

The commentary on democratization and the overall government structure refers to the presidential elections (November 1995), legislative elections (June 1997) and provincial and local elections (October 1997). A summary of points covered in discussions with representatives of Parliament is provided. With regard to economic and social problems, the Panel noted, *inter alia*: high unemployment, particularly among youth; demographic pressure from a growing population; the shortage of housing; declining social services; the fall in real income and austerity measures; the slow pace of economic development; the detention of a large group of persons who were arrested for economic crimes such as mismanagement or misuse of government funds — as part of the government's anti-corruption campaign — and the fact that they have been held for as long as two and a half years without trial. The Panel stated that the prospect for achieving internal stability and tranquillity is directly related to whether the country is able to manage major social issues.

The section of the report concerned with human rights and fundamental freedoms notes the establishment, after 1992, of the National Human Rights Observatory and the Office of the Ombudsman. The Observatory is mandated to promote and monitor respect for human rights but not to conduct investigations; the Ombudsman may receive and consider individual complaints arising from the "malfunctioning of a public institution".

On disappearances, the report notes that estimates of the number of disappeared persons range from 2,000 to 20,000. The Observatory had received approximately 3,100 communications concerning disappeared persons since 1994. Information received by the Panel indicated that some of the missing persons had been arrested, were taken by, or had last been seen with, security or law enforcement personnel. Others were reputed to have joined the ranks of terrorists.

With regard to the question of torture, the report notes: persons arrested by police are often kept in custody for long periods before being brought to the investigating magistrate; during this period torture and ill treatment are allegedly frequent; and persons suspected of terrorism are subjected to torture and harsh treatment as a

matter of course. The government denied these allegations. The report notes that the Algerian Bar Association has recommended that lawyers should be present at all stages in the judicial process, including the arrest stage and during interrogation by the police. The Association had also proposed that bail be provided to persons arrested on suspicion of having committed economic crimes. The report refers to information received indicating there were numerous cases of arbitrary detention, torture, extrajudicial executions and lack of protection by the judiciary. In the latter instance, information was provided related to judges ignoring credible evidence of torture of individuals in police custody.

The media and journalists with whom the Panel met indicated that the situation had improved significantly in comparison to conditions under the one-party state. Continuing problems were noted as including: a government monopoly on printing which was sometimes used to bring pressure to bear upon independent newspapers; selective placement of government advertising and the associated loss of revenue to media with which the government has political differences; difficulties for foreign journalists in obtaining visas and gaining access to various parts of, or places in, the country.

The Panel noted that Algeria is a country of linguistic and cultural diversity and referred to concerns related to the entry into force of a new law on Arabization in July 1998. The law requires that all declarations, statements, conferences or broadcasts must be in Arabic or translated into Arabic if originally in a foreign language. Fines may be imposed on anyone who, in the discharge of duties, signs a document drafted in any other language. All exchanges of correspondence between any offices and associations of any nature must be in Arabic. The Panel met with local officials and villagers who did not oppose Arabic being the official language of the country but who also expressed resentment that, in local assemblies where the Berber language had been used, the law required that proceedings be conducted in Arabic.

Commentary on the situation of women referred to, *inter alia*: women's legal status and the family code; efforts by women to oppose the vision of society that religious extremists were trying to impose; the need to differentiate between crimes committed by fanatical terrorists and excesses committed by government agents; information related to the abduction, killing and rape of women; the stigmatization associated with rape; the failure of the High Islamic Council to permit abortions for women who became pregnant as a result of rape, except in cases where the pregnancy placed the woman's health at risk; the fact that girls in isolated rural or mountainous areas were afraid to go to school for fear of being abducted by terrorists; the limited employment opportunities for women; and the difficulties faced by women who became heads of households as a result of husbands being killed or having disappeared. The Panel also received information about women who occupied posts at the highest level in the administration, education and health professions.

In its concluding observations, the Panel:

- ♦ categorically rejected terrorism in all its forms and manifestations and stated that the government deserves the support of the international community in its efforts to combat this phenomenon;
- ♦ condemned any form of extremism or fanaticism that might be offered as a pretext for the acts of terrorists and stated that Algerian society is capable of expressing political views and discussing them within the framework of legality;
- ♦ stated that efforts to combat terrorism must take place within the framework of legality, proportionality, and respect for the fundamental human rights of the population;
- ♦ stated that law enforcement, security and self-defence forces should be held to the highest standards of accountability;
- ♦ stated that the international community should support Algeria to consolidate democratic institutions, address economic challenges, defeat terrorism, establish security and ensure scrupulous respect for the rule of law and human rights in daily practice;
- ♦ noted the need to entrench in society and all public institutions a state of legality and respect for the rule of law, to encourage more political openness, and to work towards a change in mentality in, *inter alia*, the judiciary, the police and the army;
- ♦ referred to the desirability of accelerating the pace of privatization of the economy while, at the same time, undertaking programmes of social reform;
- ♦ recommended a strengthening of national institutions responsible for the promotion and protection of human rights and that complaints of arbitrary detention, extrajudicial execution and disappearances be handled expeditiously; and
- ♦ suggested that the government consider measures to improve the transparency of its decisions and decision-making processes as well as the dialogue with, and flow of information to, citizens.



ANGOLA

Date of admission to UN: 1 December 1976.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Angola has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Acceded: 10 January 1992.

Angola's initial report was due 30 June 1994.

Civil and Political Rights

Acceded: 10 January 1992.

Angola's initial and second periodic reports were due 9 April 1993 and 1998 respectively.

Optional Protocol: Acceded: 10 January 1992.

Discrimination against Women

Acceded: 17 September 1986.

Angola's initial, second and third periodic reports were due 17 October 1987, 1991 and 1995 respectively.

Rights of the Child

Signed: 14 February 1990; ratified: 5 December 1990.

Angola's initial and second periodic reports were due 3 January 1993 and 1998 respectively.

THEMATIC REPORTS**Mechanisms of the Commission on Human Rights****Disappearances, Working Group on enforced or involuntary:** (E/CN.4/1998/43, paras. 88–91)

No new cases of disappearance were transmitted to the government. The cases which remain unresolved concern four men who were allegedly arrested in 1977 by the Angolan security forces, in particular by DISA (Angolan information and security forces), two of them reportedly because they were suspected of supporting the National Union for the Total Independence of Angola (UNITA). The report notes that the government has in the past informed the Working Group that it had done everything in its power to locate all information concerning the people who disappeared, but to no avail. The government stated that the resources available to the authorities for meeting the thousands of requests to trace those who disappeared as a result of the war were extremely limited. In addition, many bodies had been spontaneously buried during the fighting, which made it impossible to identify the places of burial and to locate the remains. Consideration also had to be given to the fact that many Angolans had no identity papers and had died a violent death. Given the lack of new information into the four cases, they remain pending.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 13, 16, 17, 44; E/CN.4/1998/68/Add.1, paras. 15–18)

The reports note that an urgent appeal was sent to the government on behalf of Rwandese Hutu refugees who were said to have entered Angola in late April 1997 while fleeing from the approaching Alliance of Democratic Forces for the Liberation of the Congo Zaire. The information received indicated that at least 500 of them entered the area controlled by the National Union for the

Total Independence of Angola (UNITA) and that the government, which had not yet re-established its authority over the territory where the refugees were located, was denying the UNHCR access to them. The Special Rapporteur (SR) reminded the government of its obligation to provide protection for all refugees in its territory.

The report notes responses received from the government to previously transmitted cases involving deaths by shooting by police officers and members of the security forces, noting that an inquiry had been opened to establish the circumstances in which the two named persons had died. According to the government, there was no evidence of extrajudicial, summary or arbitrary executions.

Racism and racial discrimination, Special Rapporteur on: (E/CN.4/1998/79, paras. 53, 72)

The report refers to the fact that cases have been transmitted to the government, but no reply had been received. Details of the cases were not provided.

Religious intolerance, Special Rapporteur on: (E/CN.4/1998/6, paras. 48, 50, 66)

The report notes that information was transmitted to the government related to violations of religious freedom and belief against Christianity, including arrests and detentions. No details of the cases were provided.

FIELD OPERATIONS

The UN Observer Mission in Angola (MONUA) was established by Security Council resolution 1118 (1997). Its headquarters are in Luanda. Officer-in-Charge: Mr. Nicholas Howen, c/o MONUA, Luanda, Angola; Phone (1-212) 963-1950/3110; Fax: (1-212) 963-1951; e-mail: howen@un.org. In August 1998 there were 15 professionals and four UN Volunteers covering 12 of the 18 provinces in the country. The Human Rights Division of MONUA is funded by Department of Peace-keeping Operations (DPKO). Based on an arrangement between OHCHR and DPKO, OHCHR is in charge of recruitment of human rights observers and providing substantive guidance. Candidates recruited by OHCHR are subject to DPKO approval. The Human Rights Division of MONUA (HRD) reports to the High Commissioner for Human Rights through the Secretary-General's Special Representative. In a 1998 resolution (S/RES/1213), the Security Council maintained the MONUA mandate through 26 February 1999.

The HRD mandate is to contribute to the promotion of human rights and prevention of their abuse in the country. This is within the context of the overall programme aimed at consolidating peace and national reconciliation, enhancing confidence-building and creating an environment conducive to long-term stability, democratic development and rehabilitation of the country. The HRD programme includes: human rights monitoring; human rights promotion and education; and developing the capacity of national institutions and of non-governmental organizations to investigate violations and to initiate appropriate action.

The main activities carried out as of August 1998 included: assisting the government to strengthen the institutions needed for the rule of law, especially the judicial system; helping to develop the capacity of civil society, including non-governmental organizations, to protect and promote human rights; carrying out human rights promotion and education to help build a culture of respect for human rights and the rule of law; investigating allegations of human rights violations in collaboration with the civilian police observers and seeking appropriate remedial and preventive measures by the authorities; and making analyses of the human rights situation available to those involved in rebuilding the rule of law, including the government, UNITA and the Joint Commission, to assist them in establishing programmes to address the problems.

Angola is a member of the Southern Africa Development Community and, therefore, also a beneficiary of and participant in the Regional Human Rights Programme Office for Southern Africa, a joint project of OHCHR and UNDP, which is based in Pretoria (see profile under "South Africa").



BENIN

Date of admission to UN: 20 September 1960.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Benin submitted a core document (HRI/CORE/1/Add.85) for use by the treaty bodies. The report prepared by the government contains demographic and statistical data and information on the political structure and the general legal framework within which human rights are protected. The Constitution is the highest law and the Constitutional Court has responsibility for judging whether the law is constitutional and guaranteeing fundamental rights and public liberties. The Court is also responsible for regulating the operations of institutions and the activities of public authorities. Under the Constitution, the judiciary is independent of the legislature and the executive, and consists of the Supreme Court, courts and tribunals. International human rights treaties and agreements take precedence over national law. All provisions of the human rights instruments may be invoked before the courts or administrative authorities. The Benin Commission on Human Rights, established in May 1989, has responsibility for overseeing the implementation of human rights. The report refers to a number of NGOs which are also seen as part of the national human rights machinery: Defence for Children International, Amnesty International, the Association for the Prevention of Juvenile Delinquency, the Institute for Human Rights and Daily Democracy, The Association of Women Lawyers of Benin, the Benin Human Rights League and others.

Economic, Social and Cultural Rights

Acceded: 12 March 1992.

Benin's initial report was due 30 June 1994.

Civil and Political Rights

Acceded: 12 March 1992.

Benin's initial and second periodic reports were due 11 June 1993 and 1998 respectively.

Optional Protocol: Acceded: 12 March 1992.

Racial Discrimination

Signed: 2 February 1967.

Discrimination against Women

Signed: 11 November 1981; ratified: 12 March 1992.

Benin's initial and second periodic reports were due 11 April 1993 and 1997 respectively.

Torture

Acceded: 12 March 1992.

Benin's initial and second periodic reports were due 10 April 1993 and 1997 respectively.

Rights of the Child

Signed: 25 April 1990; ratified: 3 August 1990.

Benin's initial report (CRC/C/3/Add.52) has been submitted and is scheduled for consideration at the Committee's May/June 1999 session; the second periodic report was due 1 September 1997.



BOTSWANA

Date of admission to UN: 17 October 1966.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Botswana has not submitted a core document for use by the treaty bodies.

Racial Discrimination

Acceded: 20 February 1974.

Botswana's 6th through 12th periodic reports (1985-1998) have not been submitted; the 12th periodic report was due 22 March 1997.

Discrimination against Women

Acceded: 13 August 1996.

Botswana's initial report was due 12 September 1997.

Rights of the Child

Acceded: 14 March 1995.

Botswana's initial report was due 12 April 1997.

Reservations and Declarations: Article 1.

FIELD OPERATIONS

Botswana is a member of the Southern Africa Development Community and, therefore, a beneficiary of and participant in the Regional Human Rights Programme Office for Southern Africa, a joint project of OHCHR and UNDP, which is based in Pretoria (see profile under "South Africa").

The Regional Human Rights Programme Office undertook a mission to Botswana to follow-up on the visit of the High Commissioner for Human Rights to Gaborone from 2 to 4 July 1998. The Regional Programme Adviser also participated in the annual meeting of the Southern African Regional Police Chiefs Co-operation Organisation (SARPCCO) in Gaborone, with a view to developing joint training and awareness initiatives with SARPCCO and bilaterally with the national police services represented.



BURKINA FASO

Date of admission to UN: 20 September 1960.

TREATIES:

RATIFICATIONS AND RESERVATIONS

Land and People: Burkina Faso has submitted a core document (HRI/CORE/1/Add.30) for use by the treaty bodies. The report prepared by the government includes demographic and statistical data on, *inter alia*, languages, ethnic groups, religion, employment, income and public finance, as well as information of an historical nature and the framework for the protection of human rights.

The Constitution establishes the judiciary's responsibility for guaranteeing fundamental human rights and citizens' rights. Remedies for violations may be sought through: the court of first instance, competent in civil, commercial and criminal matters; the Labour Tribunal, with competence to hear individual disputes between employers and employees; a specialized division of the Supreme Court, which deals with administrative matters; the Court of Appeal; and the Supreme Court. National legislation is largely based on the international human rights instruments and the provisions of these instruments may be invoked directly before the courts or administrative authorities. Under the heading, "National machinery", the report lists the following national non-governmental bodies as responsible for overseeing the observance of human rights: the Burkina Faso Human and Peoples' Rights Movement (MBDHP), the Burkina Faso Association for the Promotion of the Rule of Law and the Defence of Freedoms (APED Libertés), and the Study and Research Group on Democracy and Economic and Social Development in Burkina Faso (GERDES-Burkina).

Racial Discrimination

Acceded: 18 July 1974.

Burkina Faso's 12th periodic report is due 17 August 1999.

Discrimination against Women

Acceded: 14 October 1987.

Burkina Faso's second and third periodic reports were submitted as one document (CEDAW/C/BFA/2-3) which is not yet scheduled for consideration; the 4th periodic report is due 13 November 2000.

Rights of the Child

Signed: 26 January 1990; ratified: 31 August 1990.

Burkina Faso's second periodic report was due 29 September 1997.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 111–113, 417)

No new cases of disappearance were transmitted to the government. The three outstanding cases of disappearance reported to the Working Group (WG) concerned two soldiers and a university professor, all of whom were reportedly arrested in 1989, together with 27 other persons, on charges of having participated in an alleged conspiracy against the government. The report notes that, despite a number of reminders, the WG has never received any information from the government regarding these cases and is therefore unable to report on the fate and whereabouts of the disappeared persons.



BURUNDI

Date of admission to UN: 18 September 1962.

TREATIES:

RATIFICATIONS AND RESERVATIONS

Land and People: Burundi has submitted a core document (HRI/CORE/1/Add.16) for use by the treaty bodies. The report prepared by the government, dated October 1993, includes demographic and statistical data related to population, ethnic characteristics, and social and economic indicators. The information on the general political structure includes an historical overview of the pre-colonial, the colonial and trusteeship period, the period of the monarchy, and the establishment of a republican form of government following independence.

The report states that the principle of respect for individual freedom and human rights has been affirmed through, *inter alia*: normalization of relations between

church and state; the creation of the National Security Council; the ratification of a number of international human rights instruments; approval by the government of independent associations for the protection of human rights; recognition of a multi-party political system; and the establishment of the Centre for the Promotion of Human Rights. Information on the general legal framework for the protection of human rights is mainly confined to a listing of the competent authorities and various courts and tribunals through which remedies for violations may be sought. Administrative mechanisms related to human rights are noted as including the Economic and Social Council, the National Security Council, the National Children's and Young People's Council and the Refugee Return and Reintegration Commission. The rights set out in the various international human rights instruments to which Burundi is a state party are protected by the Constitution and their provisions may be invoked before the courts or administrative authorities.

Economic, Social and Cultural Rights

Acceded: 9 May 1990.

Burundi's initial report was due 30 June 1992; the second periodic report was due 30 June 1997.

Civil and Political Rights

Acceded: 9 May 1990.

Burundi's second periodic report was due 8 August 1996.

Racial Discrimination

Signed: 1 February 1967; ratified: 27 October 1977.

Burundi's 11th periodic report was due 26 November 1998.

Discrimination against Women

Signed: 17 July 1980; ratified: 8 January 1992.

Burundi's initial report was due 2 February 1993; the second periodic report was due 7 February 1997.

Torture

Acceded: 18 February 1993.

Burundi's initial and second periodic reports were due 19 March 1994 and 1998 respectively.

Rights of the Child

Signed: 8 May 1990; ratified: 19 October 1990.

Burundi's initial report (CRC/C/3/Add.58) has been submitted and is scheduled for consideration at the Committee's January 2001 session; the second periodic report was due 17 November 1997.

COMMISSION ON HUMAN RIGHTS

Report of the Special Rapporteur

The mandate of the Special Rapporteur (SR) was established at the 1995 session of the Commission. The SR's report to the 1997 Commission described Burundi as a "democracy in neutral gear" as a result of the radicalization of the positions held by extremist groups following

the July 1996 coup and the increased militarization of society. The SR for 1998 was Mr. Paulo Sérgio Pinheiro.

The SR's main report for the 1998 Commission (E/CN.4/1998/72) was prepared following a visit to Burundi from 7 to 20 December 1997 and contains information on, *inter alia*: the situation in the field and the emergence of safe areas, the return of affected persons, serious violations of human rights by agents of the state, violence attributed to rebel groups, the absence of conditions conducive to a return to peace, tensions arising from divisive topics, measures to combat impunity, and initiatives aimed at the promotion of human rights.

The description of conditions at the time of the SR's visit notes, *inter alia*: difficult conditions in the camps for displaced persons; difficulties related to treatment in hospitals of war-wounded, victims of antipersonnel land mines, and those suffering from malaria, scabies or acute malnutrition; a general improvement in security, with the main roads cleared of mines; and, the effort made by the civilian and military authorities to involve the population more closely in the rebuilding of decent housing, especially for displaced persons, and in the night-time patrolling of residential areas and regroupment sites. The report notes, however, information related to civilians being substituted for agents of the state for the performance of tasks of a military nature; continued security problems, including harassment by rebels of people living in areas they cross through; and a marked degree of suffering among the rural population arising from malnutrition, epidemics, shortages of medicines, fuel price rises, shortages of fertilizer and seeds, livestock losses, and disruption of distribution channels.

The report refers to information and testimony from various sources, indicating that serious violations of human rights and international humanitarian law were still being committed by members of the army and law enforcement agencies, including massacres, disappearances, arbitrary arrests, and detention. The violations were reported to be particularly frequent in the provinces of Cibitoke, Bubanza, Bujumbura Rural, Bururi, and Makamba, where the situation remained unsettled. Conditions in the prisons are described as including overcrowding, in part because of the increasing number of arrests and the commensurate risk of the arrests being arbitrary, no electricity, inadequate ventilation of cells, inadequate medical care, and an increase in the number of cases of malaria, typhus, bacillary dysentery, and cholera.

The narrative on the violence attributed to rebel groups notes that the provinces of Cibitoke, Bubanza, Bujumbura Rural, Bururi, and Makamba remained pockets of conflict and that rebels often require people in the areas through which they pass to pay taxes to them and/or extort money from populations in other ways; steal livestock and seize crops; take vengeance on the local people when they are insufficiently cooperative; force civilians to follow them about the country, carrying their arms and equipment; kidnap young men and enrol them by force in

the groups; and, attack and murder local administrative officials.

In the section dealing with obstacles to democratization, the report acknowledges the willingness of the authorities to look at the problems and issues contributing to the situation in Burundi, and to remedy the most flagrant shortcomings. The report also states, however, that a number of obstacles remain to the process of democratization, including: inertia in the current regime, impeding the needed institutional reforms; the continuing warfare in a number of provinces, and clashes between rebels and troops around the capital; the absence of a cease fire or of any obvious willingness on the part of the belligerents to conclude one and engage in serious negotiations; the deadlock that resulted from the initial efforts to mediate an end to the conflict inside and outside the country; the fact that controversial topics such as genocide are blocking discussion within the country itself; and the fact that the National Assembly has examined a bill on genocide, but no law has yet been adopted.

On efforts to resolve the conflict, the report acknowledges that a dialogue had been initiated, and was continuing, between Major Buyoya, the President of the National Assembly, and the leaders of the Front pour la démocratie au Burundi (FRODEBU). The dialogue has led to the establishment of a joint commission made up of representatives of the government, the Union pour le progrès national (UPRONA), and FRODEBU, to promote dialogue within the country and abroad. At the same time, the report notes that parliamentarians still ran considerable risks when trying to discharge their mandate, causing some to take refuge abroad and others to go into hiding following death threats. The report further notes that a number of leaders, or members of political parties, were still being harassed in ways that restrict their freedom of movement and action. The SR stated that in some cases the Burundian authorities had acted against political leaders or groups in the hope of curbing extremism, and noted that there cannot be any genuine national debate in Burundi while certain political movements are harassed or prevented from contributing to it.

Problems impeding more consistent action to combat impunity and promote human rights are noted in the report as arising from difficulties related to the administration of justice. The report also notes that judicial guarantees are not systematically granted to all detainees, and failings are reported to have included arrest without warrant, and trial without assistance of counsel.

Addressing initiatives aimed at the promotion of human rights, the report notes a number of developments, including the appointment, in the summer of 1997, of the new Minister for Human Rights, Institutional Reform and Relations with the National Assembly, and the stated intention of the Minister for Human Rights to promote Burundian values based on respect for human life, justice, equity, tolerance, and honour as embodied in the traditional institution of Ubushingantahe.

Summary comments on conditions and the situation in the country generally note, *inter alia*, that: security varies from province to province, and various components of society do not benefit from it to the same extent; in Bujumbura, a more substantial police presence in several districts of the city, day and night, has considerably eased the movement of people and goods; the main routes into the capital are closely controlled by numerous military and police checkpoints, which are sometimes attacked by rebel groups; populations of the urban centres, like Bujumbura and Gitega, are better protected than those of the collines which often lack basic community infrastructures around which people can group; the dispersed settlement of the collines makes it extremely difficult for the provincial civilian or military authorities to protect the peasants in the event of disturbances or attacks; and, the security of the people in the camps is very precarious, given the rudimentary and makeshift nature of their accommodation and the inadequate resources available to the army to protect them from rebel attacks.

The SR also noted that: the most serious human rights violations take place in the course of military operations or rebel attacks, or following clashes between the army and rebels in the provinces of west and south Burundi, although the number of massacres seems to have declined; military operations in the collines have become more frequent and people are still being killed; rebel activities had increased because of dissension within the various rebel groups, particularly the Front pour la défense de la démocratie (FDD), PALIPEHUTU, and the Front de Libération nationale (FROLINA); the government has tried to enrol large numbers of young men and women who are about to complete their higher studies in a mandatory civic service scheme which has reduced the hold of extremist groups over young people; this civic service, however, seems to bear a military stamp more so than a civilian one; authorities were trying to include a more specifically human rights-oriented component in the mandatory civic service to prevent a situation where militarization of society, particularly of young people, becomes the price to be paid for combatting extremism; and, difficulties remain in recruiting for this mandatory civic service, to ensure a more balanced representation of the two major ethnic components of the population.

Additional points noted include that: the measures taken by the civilian and military authorities to involve the population more closely in the night-time patrols in towns and on the earth roads of the collines endanger the population when the military authorities ask civilians to take part in military-type activities; the population increasingly fears direct contact with the rebels and prefers in some cases to cooperate with the army or the civilian administration in order to be better protected. The report also notes that various forms of restitution of the goods pillaged during the 1993 events had been established; the economic sanctions imposed by the countries of the sub-region were having a disastrous effect on the general population of Burundi and increased the country's dependence on international humanitarian assistance; and bearing in mind the fate of the victims of the conflict in

Burundi, diplomatic isolation should cease immediately in order to facilitate the conclusion of a cease fire as soon as possible and the beginning of negotiations.

The recommendations in the report are addressed to the national authorities, the rebels, and the international community.

The report recommends that the national authorities, *inter alia*:

- ♦ defer the 71 death sentences and 40 sentences of life imprisonment handed down by the country's three criminal chambers for 1997, at least until the peace negotiations have been completed and a reformed, independent, and impartial judicial system has been established;
- ♦ improve without delay the conditions of detention for persons sentenced to death, consistent with commitments assumed under the main international human rights instruments;
- ♦ improve and expedite investigation procedures in cases of summary execution, sexual abuse, torture or excessive use of force by the army and by the police, and initiate proceedings against the offenders;
- ♦ respect the standards set out in international humanitarian and human rights law with regard to the prohibition on strikes on civilian targets during military operations, indiscriminate attacks on civilians, and the pillaging and arbitrary destruction of their property;
- ♦ continue to implement rapidly the policy of resettling persons in camps on their home collines or on intermediate sites if security conditions so require.

The report recommends that the rebels, *inter alia*:

- ♦ take into account that all attacks on civilian populations or facilities such as schools, and all behaviour leading to sexual abuse or to torture or the pillage or destruction of civilian property, are strictly prohibited by human rights standards and international humanitarian law;
- ♦ take into account that it is forbidden to make use of forced labour, to abduct children or young people, or to resort to coercion to force civilian populations to remain within the limits of territories temporarily under their control;
- ♦ ensure civilians' freedom of movement and domicile on the land which they occupy; and
- ♦ cease using mines, which mostly injure or kill civilians, and demine the territories they frequent.

With regard to the international community the report recommends that, *inter alia*:

- ♦ the UN play a crucial role in the search for a peaceful solution to the conflict, and identify ways to achieve

greater cooperation between the countries of the Great Lakes region and the Organization of African Unity;

- ♦ the mission of inquiry established by the Secretary-General investigate incidents which took place at the frontier between Burundi and Tanzania and begin its work as rapidly as possible;
- ♦ the Office of the High Commissioner for Refugees take steps, in conjunction with the Tanzanian authorities, to move the refugee camps near the frontier with Burundi further into Tanzania, in light of the fact that the refugees' presence appears to be a permanent source of tension between the two countries;
- ♦ a serious evaluation be undertaken both of the utility of maintaining the economic sanctions against Burundi and of the authorities' concrete efforts to initiate an internal dialogue and a nationwide peace process;
- ♦ donor countries which have suspended their bilateral health assistance projects in Burundi reverse their decision and support the new strategy introduced by the Ministry of Health to combat epidemics such as typhus or AIDS;
- ♦ the international community, and in particular countries that formerly had significant connections with the Great Lakes region, firmly support the human rights Observer Mission so that it can, without further delay, increase the number of observers deployed in Burundi, open at least three regional offices, and provide them with the necessary security and communications personnel and equipment;
- ♦ until a cease fire has been established and a process of transition towards democracy is genuinely initiated, an international embargo be established on the sale of arms, military matériel and services to all parties in the conflict; the International Commission of Inquiry on the sale of arms, established for Rwanda, be reactivated and its mandate extended to Burundi;
- ♦ the question of an international criminal tribunal again be considered by the UN once the conditions for the establishment of such a body have been met in Burundi, namely, the institution of a cease fire, the existence of internal dialogue, the successful conclusion of the negotiations, and the reform of institutions; and
- ♦ a conference be held in the Great Lakes region on the arms traffic, security, and human rights.

Resolution of the Commission on Human Rights

The Commission on Human Rights adopted by consensus a resolution on the situation in Burundi (1998/82). The Commission, *inter alia*: noted with concern that human rights violations had taken place in var-

ious parts of the country; acclaimed the decision of the government to launch a comprehensive peace process with the main objective of initiating nationwide political negotiations open to all parties; considered that effective action to prevent further violations of human rights was indispensable to promoting stabilization and reconstruction and restoration of the rule of law; recognized the important role of women in the reconciliation process; and urged the government to ensure the equal participation of women in society and improve their living conditions. The Commission also: noted the efforts of the government to improve security and public order but expressed concern at actions sometimes leading to human rights violations; encouraged the countries that imposed sanctions to continue to evaluate their effects; noted the process of closing down the regroupement camps and called on the government to close down all remaining such camps; encouraged the dialogue initiated between the government and the National Assembly; urged all parties to the conflict to end the cycle of violence and killing, notably the indiscriminate use of violence against the civilian population; expressed concern at the forcible recruitment and kidnapping of children by non-governmental armed groups; called on the parties to facilitate humanitarian assistance operations and to comply with international humanitarian law; noted the failure of the government to publish the findings of the inquiries conducted into the murder of three ICRC staff members in June 1996 and called on the government to publish those findings. The Commission also: noted the government's efforts to ensure legal safeguards for human rights; noted with concern conditions of detention, in particular for those liable to the death penalty; invited the government to take more measures to combat impunity; expressed deep concern at reports of massacres, disappearances and arbitrary arrests and detentions; expressed concern at the use, by authorities, of civilians for military tasks; commended the human rights observer mission and welcomed the cooperation given by the government; called on all parties to work constructively with international mediators in the search for a lasting peace; expressed concern at the large number of persons killed or injured by the explosion of anti-personnel landmines and called on the government to set up a programme of mine clearance and a public awareness campaign; called on the international community to provide humanitarian assistance to displaced persons and returnees; condemned the illegal sale and distribution of weapons and related materials; requested states not to allow their territories to be used as bases for incursions; and supported the implementation of the OHCHR programme of assistance, in the field of human rights, and legal assistance, aimed at the armed forces and police. The Commission extended the mandate of the SR for a further year.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 3, 114–117, 417)

Two newly reported cases of disappearance, which allegedly occurred in August 1997, were transmitted to the government. The majority of the 49 cases of disappearance reported to the Working Group (WG) are said to have occurred in Bujumbura between November and December 1991, following attacks against the government in the capital and the north-western provinces of Cibitoke and Bubanza, as well as in September 1994 in Kamenge and Cibitoke, suburbs of Bujumbura. Thirty-one of the disappeared persons, who were all of Hutu origin, were reportedly arrested by members of the security forces, mainly composed of the Tutsi minority. Many of them were held at Mura and at paratroopers' barracks in Bujumbura, while others allegedly disappeared while in custody at the headquarters of the gendarmerie's Special Investigations Brigade in Bujumbura. Other cases were said to have involved Hutus, most of whom had reportedly been assembled and held by members of the security forces on the playing field of the Ecole technique supérieure in Bujumbura. These persons, reportedly suspected of possessing arms, were said to have been arrested and taken away to an unknown destination by members of the armed forces. Two cases reportedly occurred in 1995 and concerned persons arrested by gendarmes; one at a checkpoint in Bujumbura, and the other during an identity check on the outskirts of the capital. One case concerned a colonel responsible for military schools and the training centre of the Burundian Army, who was reportedly abducted prior to his departure for a seminar abroad. The new cases were reported to have occurred in Makambo province, near the Tanzanian border, and concerned a parliamentarian and his driver who were apparently arrested on their way to Tanzania by members of the military.

The report notes that although a number of reminders have been sent, no information has been received from the government with regard to these cases. Consequently, the WG is unable to report on the whereabouts of the disappeared persons.

Extrajudicial, summary or arbitrary executions, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 13, 14, 29, 30, 39, 80; E/CN.4/1998/68/Add.1, paras. 57–61)

The report notes that urgent appeals were sent to the government on behalf of Burundian refugees in Tanzania. Other cases were transmitted related to death threats from state officials, and allegations involving 170 deaths due to attacks or killings by security forces, paramilitary groups or private forces cooperating with, or tolerated by, the state.

The Special Rapporteur (SR) stated that violations of the right to life are continuing to occur on a large scale in Burundi, marked by: extensive massacres, mainly of Hutus, by the Burundian army; bloody clashes between members of the army and rebel groups in different regions of the country, leaving many civilians dead; reprisals against civilians by the army or rebel groups; and operations in the provinces of Muramvya, Gitega, Kayanza, Bubanza, Kurutzi and rural Bujumbura, involving the roundup of Hutu civilians, forcing them to leave their hills and live in camps.

Reports are cited indicating that the first executions carried out in Burundi since 1982 occurred, involving the hanging of six men in the grounds of the prison in Bujumbura and, further, that the executions took place after a trial which reportedly fell short of international guarantees of due process. At least 150 persons sentenced to death were awaiting execution in Burundi prisons.

With regard to refugees, the report refers to the expulsion by Tanzania of 48 Burundian refugees, who, upon returning to Burundi, were arrested and taken to the military camp in Muyinga, where they were reportedly tortured and killed; in January 1997, 122 Burundian refugees sent back to Burundi by the Tanzanian authorities were allegedly killed by Burundian soldiers upon reentering the country, at the Kobero border post.

The SR stated that no reply has been received from the government regarding the allegations transmitted. The SR expressed concern at the persistent violations of the right to life, of which women, children, and the elderly are the main victims, and regret that death sentences are continuing to be handed down following judicial proceedings that do not meet international guarantees of due process and which therefore constitute another form of the violation of the right to life.

Torture, Special Rapporteur on:

(E/CN.4/1998/38, para. 37; E/CN.4/1998/38/Add.1, paras.40-43)

Urgent appeals were sent to the government related to: a minister of the Union of Baptist Churches of Burundi, who was allegedly arrested on the charge of having provided medical care to members of armed Hutu groups and tortured at the Special Investigations Brigade (BSR) in Bujumbura; a group of persons — including army officers, members of the Party for National Recovery (PARENA) and a former member of the Rwandan Patriotic Front — who were arrested on suspicion of having participated in a series of mine explosions at Bujumbura, as well as a plot to assassinate the President, and initially detained in the National Intelligence Documentation Service at Bujumbura and then transferred to other places of detention outside the capital; and, a group of 11 persons who had allegedly been arrested in various towns in connection with a series of mine explosions at Bujumbura, noting that one person was reported to have died after being tortured and denied medical care.

GENERAL ASSEMBLY

Special Rapporteur of the Commission on Human Rights

The Special Rapporteur's (SR) interim report to the 1998 General Assembly (A/53/490) contains information on, *inter alia*: recent developments in the Burundi crisis; the evolution of the conflict since the establishment of the Partenariat interne pour la paix; the current human rights situation; security incidents, the situation of internally displaced persons, regrouped populations and refugees; pre-trial detention and conditions of detention; and the living conditions of women and children. The Appendices to the report provide a breakdown of affected persons by province and detention statistics as of 27 August 1998. The report covers the period from 1 May to 15 September 1998 and is based, in part, on the SR's visit to Burundi from 21 August to 4 September 1998.

The section of the report concerned with major political developments notes, *inter alia*: approval in June 1998 by the National Assembly of a transitional document merging the 1993 constitution and a series of the decrees that were issued after the coup d'état that brought President Buyoya to power in July 1996; the beginning of new power-sharing arrangements with the appointment of two vice-presidents and a new cabinet with a more balanced representation of the two main communities in the country; and the creation of committees made up of government and political parties to deal with the nature of the conflict, democracy and good governance, peace and security, development and reconstruction, and the implementation of future peace agreements.

The main findings of the SR included, *inter alia*: security incidents involving rebels in the province of Kayanza, allegedly causing the displacement of about 30,000 people, but a general recovery of economic life in the province; return of the majority of displaced persons to Cibitoke and reconstruction efforts, including the rebuilding of homes and land being cultivated again; the arrival of refugees from DR Congo following fighting in the DRC in August 1998; and the strengthening of the offices of the UNHCR in Ngozi and Gitega, to facilitate work that includes carrying out investigations into human rights violations, visits to detention centres and prisons and activities concerning the monitoring and promotion of human rights.

Aspects of the current human rights situation noted in the report include: serious violations during attacks against the civilian population and killings in the course of military operations or rebel attacks or following clashes between the army and rebels in the western provinces; the pillaging and destruction of medical facilities during such attacks; displacement as a result of the violence perpetrated by, *inter alia*, rebels reportedly belonging to the Forces nationales de libération (FNL), the armed wing of the Parti pour la libération du peuple hutu (PALIPEHUTU); and retaliation by elements of the armed forces vis-à-vis families whose relatives are

involved with rebel groups, including beatings and the burning of homes and plantations.

The situation of internally displaced persons, regrouped populations, and refugees is described as including: the fact that more than 500,000 people, roughly 11 per cent of the population, are currently squatting in camps and makeshift sites — the vast majority of them in the western provinces of Cibitoke, Bubanza, Rural Bujumbura, Bururi and Makamba; a general trend toward the gradual dismantlement of larger camps of regrouped and displaced persons and the installation of smaller, decentralized sites grouping people from the neighbouring hills around advanced military posts, with a view to their returning home for good in the medium term and, in the immediate term, enabling them to cultivate their fields during the day; and the fact that the number of unaccompanied children in Burundi could be as high as 3,000.

On pre-trial detention and conditions of detention, the SR stated that there had been a clear degradation of conditions of detention as a result of overcrowding and the lack of financial and human resources allocated to the prison administration. Hygienic and sanitation conditions in most prisons are described as disastrous, combined with overcrowding, to provoke a high level of mortality among detainees. Severe malnutrition and other pathologies affect the majority of the prison inmates. The cachots were also described as overcrowded with dozens of inmates living in dreadful, inhumane and cruel conditions in tiny cells without air, light or toilets. The report notes that the nutrition of the inmates in the cachots was entirely left to the responsibility of their families, most of which are unable to feed their detained relatives, and many inmates become completely dependent on the food received by others. Concerns related to detention included: that most of the inmates have not been tried in a court of law; several cases were decided summarily in violation of several international conventions ratified by the government; allegations were received related to torture of people detained in cachots in Bujumbura or in the provinces, during interrogation and preliminary investigations by the Judiciary Police to extract confessions; and that at least 260 detainees are under sentence of death at Mpimba prison in Bujumbura, all of them kept together in two cells under inhumane conditions without the possibility of leaving their cells at any time.

The section of the report concerned with the living conditions of women and children notes, *inter alia*: women work on average 18 hours a day for their families, half at home and half in the fields; women constitute the majority of those found at the sites of displaced persons and regrouped populations and are the sole heads of their households; at sites of displaced persons and regrouped populations, the difficult access to food and water is the main problem, especially for women and children; the quantity of food is insufficient and its quality mediocre; women are often most vulnerable while engaged in their daily tasks, such as gathering firewood, and may be subjected to brutal sexual assault and rape; victims are often

shot, knifed or beaten; women at the sites are also affected by health problems, including those relating to childbirth, abortions, anaemia and the lack of vaccination coverage and access to health care, as well as exposure to AIDS and other sexually transmitted diseases.

The SR acknowledged the efforts of the authorities to promote the peace process in the framework of the negotiations in Arusha, despite the problems crippling the Great Lakes region and the movement of populations on the north-eastern frontier of the country.

The SR recommended, *inter alia*, that the government:

- ♦ implement urgent reforms regarding the reconstruction of the judicial system, noting the imperative need to formulate adequate strategies for ending impunity and for reorganizing the functions of the army and security forces under distinct structures; ensure that the majority of the population have unhindered access to major state institutions such as education, justice and the armed forces;
- ♦ suspend death sentences and the life sentences pronounced during sessions of the criminal chambers, at least until the peace negotiations have been completed and reforms undertaken to establish an independent and impartial judicial system;
- ♦ takes steps to reform the penal code and make the death penalty optional and not mandatory for offences currently punishable only by death;
- ♦ put an end to arbitrary detentions and exercise strict control over the officials responsible for detentions; limit the periods of preventive detention in cachots; exercise strict control over the tasks carried out by the Judiciary Police and conduct regular inspections of detention centres to ensure that arbitrarily or illegally detained persons will be released; and
- ♦ consider limiting long periods of preventive, ending unlawful detentions and increasing the number of judicial inspections in the detention centres to ensure that cases will be processed in a timely manner; enforce the rule stipulating that preventive detention should not exceed one week, within the framework of a preliminary investigation; take urgent measures to ameliorate conditions of detention.

The SR noted that rebel groups must see to it that their armed forces respect the principles of international humanitarian law and, in particular, article 3 common to the 1949 Geneva Conventions. The SR appealed to these groups to refrain from perpetrating attacks against civilians both within and outside the regroupement camps or camps for displaced persons and to instruct their subordinates to that effect.

At the international level, the report recommended that, *inter alia*, the international community:

- ♦ acknowledge the power-sharing initiatives taken by the Burundian authorities within the framework of

the Partenariat interne pour la paix, despite its limitations;

- ♦ pursue its firm financial commitment in favour of the legal assistance programme and double the number of lawyers, currently six, involved in this programme; support the training of Burundian magistrates and attorneys and their exposure to the practices used by democratic judiciary systems to improve the competence, independence and impartiality of the judiciary;
- ♦ urgently secure and increase financial support for the activities of the UNHCR;
- ♦ consider again the question of an international criminal tribunal when the proper conditions for establishing such a body have been met in Burundi — establishment of a ceasefire, the existence of a genuine internal political dialogue, the successful conclusion of the ongoing negotiations, and the initiation of a process towards democratic governance;
- ♦ continue, through UN agencies, support to local communities through income-generating activities, increased participation of women in the economic and social life of their communities and increased food security, and extend such support by activities that promote a spirit of tolerance conducive to national reconciliation and the emergence of a culture of peace and human rights within Burundian society; and
- ♦ assist with medical and food help to prisoners in Burundi, making such support dependant upon the improvement of conditions of detention, effective initiatives to control arbitrary detention and the introduction of administrative reforms to improve the management of the penitentiary system; support and facilitate the work of local NGOs which are, with enormous difficulties, providing support to prisoners and detainees.

Resolution of the General Assembly

FIELD OPERATIONS

The headquarters of the Field Operations is in Bujumbura. M. Maroufa Diabira, Director; Avenue d'Italie 5599/C, Bujumbura, Burundi; Phone: (257) 21-64-28 (direct), (257) 21-48-82 (central office); Fax: (257) 21-64-30; e-mail: cnuhbdi@binf.com.

Since 1994, technical cooperation activities have been the object of successive agreements signed between the OHCHR and the government of Burundi — in 1995, 1996, and 1997. An exchange of letters in April 1995 between the High Commissioner and the government was followed by an agreement of cooperation signed in November 1995, enabling the deployment of the Mission of Observation in Burundi. An Interim Memorandum of Understanding between OHCHR and the UN Office for Project Services (UNOPS) was signed in May 1998 for the period until 31 December 1998, covering activities related to the Mission of Observation and the Legal

Assistance Programme which were initiated in February 1997 on the basis of an agreement of cooperation between OHCHR and the government.

The main functions of the OHCHR in Burundi are:

- ♦ Technical cooperation — strengthening the judiciary system; training the military, the police and the gendarmerie in the field of human rights; capacity building and support to human rights organizations and civil society, and in particular to national media and NGOs; training and education sessions; promoting human rights culture and providing documentation on human rights.
- ♦ Mission of observation — investigating allegations of severe violations of human rights, including the right to life, and of forced or involuntary disappearances and arbitrary detention; collecting testimonies in the field from local and provincial civil and military authorities regarding violations of human rights; visiting the main detention centres of the country, with a focus on individual and private interviews, and undertaking regular assessments of detention conditions; judicial assistance to the detainees in order to speed up the judicial process; field visits to regroupment camps, visits to injured victims of human rights violations in hospitals, etc.
- ♦ Legal Assistance Programme — providing six international lawyers working side by side with their Burundese colleagues with a view to assisting and defending those accused of criminal responsibility for acts committed in the aftermath of the assassination of former President Ndadaye; restoring the confidence of the Burundese in the judiciary system; and indirectly contributing to the reduction of the number of death sentences or in the speeding up of the judiciary process for those detainees having committed minor offences.

As of August 1998 the main activities of the Office included, for example:

- ♦ at least 24 audio-visual productions and sensitization campaigns in the field of human rights as well as 15 reports on the overall activities of the technical cooperation component of the work (Media Unit);
- ♦ active participation of the Education Unit in a series of activities around the 50th anniversary of the Universal Declaration geared towards primary and secondary schools in Bujumbura;
- ♦ a four-week seminar by the Justice Unit in July 1998 for 38 military magistrates, organized at the request of the Ministry of Defence;
- ♦ in April/May, field investigations in several provinces to visit prisons and cachots, mostly overpopulated, with deplorable detention conditions, noting that in the one of Ngozi, 335 detainees died of hunger and disease during the period October 1997 and March 1998; and

- ♦ developing plans to open four regional sub-offices in Gitega, Ngozi, Bujumbura-Rural and Bururi to establish closer collaboration of the Mission of observation with provincial and local authorities as well as with the concerned populations.

With regard to the Legal Assistance programme, two national lawyers assisted their Burundese colleagues during the sixth session of the Criminal Chambers in April/May 1998 because the six international lawyers who had been chosen were prevented from taking part in the session due to the lack of funds for the programme. The next session of the Criminal Chambers was scheduled to be held in September 1998.



CAMEROON

Date of admission to UN: 20 September 1960.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Cameroon has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Acceded: 27 June 1984.

Cameroon's initial report (E/1990/5/Add.35) has been submitted and is scheduled for consideration at the Committee's November 1999 session; the second periodic report was due 30 June 1995.

Civil and Political Rights

Acceded: 27 June 1984.

Cameroon's third periodic report (CCPR/C/102/Add.2) has been submitted and is scheduled for consideration at the Committee's March 1999 session; the fourth periodic report is due 26 September 2000.

Optional Protocol: Acceded: 27 June 1984.

Racial Discrimination

Signed: 12 December 1966; ratified: 24 June 1971.

Cameroon's 10th through 14th reports were submitted as one document (CERD/C/304/Add.53), which was considered at the Committee's March 1998 session; the 15th periodic report is due 24 July 2000.

Discrimination against Women

Signed: 6 June 1983; ratified: 23 August 1994.

Cameroon's initial report was due 22 September 1995.

Torture

Acceded: 19 December 1986.

Cameroon's second and third periodic reports were due 25 June 1992 and 1996 respectively.

Rights of the Child

Signed: 25 September 1990; ratified: 11 January 1993.
Cameroon's initial report was due 9 February 1995.

REPORTS TO TREATY BODIES

Committee on the Elimination of Racial Discrimination

Cameroon's 14th periodic report, incorporating the 10th through 13th periodic reports, (CERD/C/298/Add.3, October 1997) was considered by the Committee at its March 1998 session. The report prepared by the government covers the period from August 1990 to June 1997 and relates to articles 2 through 7 of the Convention. The report contains information on the legislative, administrative, judicial and other measures taken by the government to implement the provisions of the Convention and includes statistical and demographic data, noting that the population is made up of more than 230 ethnic groups defined on the basis of dialect, and divided into five major groups: Bantu, semi-Bantu, Sudanese, Peulh and the Choa Arabs. The report also notes that the Pygmy population is estimated at about 50,000 persons. The report states that the elimination of all forms of discrimination is pursued through programmes focussed on national integration, balanced regional development, the equitable sharing of the fruits of growth, democratization and liberalization, and protection of minorities and underprivileged groups. Measures to assist nomads in northern Cameroon and the Pygmies are noted, and information is provided on the political structure and general legal framework for the protection of human rights. The establishment in 1990 of the National Committee on Human Rights and Freedoms is cited. One of the National Committee's goals is to educate the public about human rights instruments by any means possible, including through the collection and distribution of international documentation on human rights and freedoms, and the organization of human rights training and education seminars.

The Committee's concluding observations and comments (CERD/C/304/Add.5.4) noted Cameroon's considerable ethnic, religious, linguistic, cultural, geographical, and economic diversity. The Committee welcomed adoption of a new Constitution in January 1996 which guarantees the protection of the rights of minorities and indigenous peoples, as well as the establishment of the National Committee on Human Rights and Freedoms.

The principal subjects of concern identified by the Committee included, *inter alia*: inadequacies in present legislation, especially the Penal Code, with regard to a prohibition on individuals and organizations promoting or committing acts of discrimination; protection of the rights of minorities and indigenous peoples to enable them to live in harmony in their environment, especially as regards the Pygmies and Boro; allegations of infringements of the right to security of person; the government's assertion that no cases involving discrimination are ever

brought before the courts and that there is, therefore, no case law in the matter; and inadequacies in the material provided on the measures taken to ensure equal treatment for ethnic groups regarding teaching, culture and information, and efforts to develop human rights training for law-enforcement agents.

The Committee recommended that the government, *inter alia*:

- ♦ take all appropriate measures to review domestic law, particularly the Penal Code, in order to ensure inclusion of all the provisions required relative to a prohibition on individuals and groups promoting or committing acts of racial discrimination;
- ♦ provide in its next report, information on ethnic groups' representation at the various levels of political life and the civil service, and on their enjoyment of economic, social and cultural rights;
- ♦ take all appropriate measures in order to promote and protect the rights of minorities and indigenous peoples, particularly as it regards deforestation that may harm such population groups;
- ♦ take all appropriate measures provided for by the Convention to prevent and eliminate acts of racial discrimination against aliens;
- ♦ guarantee all persons within its territory – irrespective of race, colour or ethnic origin – enjoyment of the right to security;
- ♦ take all necessary measures to guarantee freedom of expression to all persons, irrespective of race, colour or ethnic origin, and to guarantee freedom of the press;
- ♦ facilitate access to the courts for victims of racial discrimination so that the perpetrators of racist acts can be brought to trial and the victims of such acts can obtain reparation;
- ♦ take all appropriate measures to give full effect to the provisions of article 7 of the Convention concerning education, training and human rights information, with human rights training for agents of the state especially recommended;
- ♦ take all appropriate steps to acquaint the population with the Convention and to publish the government's periodic reports and the Committee's observations; and
- ♦ strengthen its relations with associations and non-governmental bodies seeking to promote the rights recognized in the Convention.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on:

(E/CN.4/1998/44, para. 19)

The report notes that three urgent appeals, on behalf of 42 persons, were sent to the government. No details of the cases were provided.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 118–119)

No new cases of disappearance were transmitted by the Working Group (WG) to the government. The six cases previously reported occurred in 1992 and concerned five youngsters aged 13 to 17, including three brothers, who were reportedly seen being taken into police custody in Bamenda at the time of the arrest of leaders of the Cameroon Anglophone Movement, and over 40 peasants, following a peaceful demonstration. The father of the three brothers also disappeared, following his inquiries to determine the whereabouts of his children. The government informed the WG that the persons concerned never existed and that an individual had been charged with fraud in this connection, arrested and released on bail. The Group asked the government to provide additional details.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 14, 32; E/CN.4/1998/68/Add.1, paras. 66–67)

The report cites information related to violence which broke out in March 1997, a few weeks prior to legislative elections in May, in Nord-Ouest Province, an opposition stronghold. A number of persons arrested by the security forces were said to have died in prison as a result of torture and lack of medical care. Four specific cases were transmitted by the Special Rapporteur to the government.

Torture, Special Rapporteur on: (E/CN.4/1998/38, paras. 38–39; E/CN.4/1998/38/Add.1, "Cameroon")

Cases transmitted to the government referred to: the arrest and ill treatment of two students at the University of Yaoundé who were accused of provoking unrest, noting the government confirmed the arrests but did not respond to allegations of ill treatment; arrest and torture, followed by death in custody, of persons in the North-West Province, noting that the government confirmed the arrests, stated that the individuals had received medical care, confirmed that two of three arrested had died and stated that the third man's condition was improving but that he was too ill to undergo the questioning necessary to charge him; and arrest of some 200 persons, most of whom were said to be members or sympathizers of the Social Democratic Front (SDF) opposition party, in the North-West Province, who were reportedly tortured and denied any contact with their families, lawyers and doctors. The SR noted a separate incident involving the arrest of members and supporters of the SDF in October

1997 in the context of elections; they were reportedly kept in especially harsh detention conditions and subjected to ill treatment.



CAPE VERDE

Date of admission to UN: 16 September 1975.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Cape Verde has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Acceded: 6 August 1993.

Cape Verde's initial report was due 30 June 1995.

Civil and Political Rights

Acceded: 6 August 1993.

Cape Verde's initial report was due 5 November 1994.

Racial Discrimination

Acceded: 3 October 1979.

Cape Verde's third through ninth periodic reports have not been submitted (covering the period 1984-1996); the ninth periodic report was due 2 November 1996.

Discrimination against Women

Acceded: 5 December 1980.

Cape Verde's initial through fifth periodic reports have not been submitted (covering the period 1982-1998); the fifth periodic report was due 3 September 1998.

Torture

Acceded: 4 June 1992.

Cape Verde's initial and second periodic reports were due 3 July 1993 and 1997 respectively.

Rights of the Child

Acceded: 4 June 1992.

Cape Verde's initial report was due 3 July 1994.



CENTRAL AFRICAN REPUBLIC

Date of admission to UN: 20 September 1960.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: The Central African Republic has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Acceded: 8 May 1981.

The Republic's initial and second periodic reports were due 30 June 1990 and 1995 respectively.

Civil and Political Rights

Acceded: 8 May 1981.

The Republic's second periodic report was due 9 April 1989; the third periodic report was due 7 August 1992; the fourth periodic report was due 7 August 1997.

Optional Protocol: Acceded: 8 May 1981.

Racial Discrimination

Signed: 7 March 1966; ratified: 16 March 1971.

The Republic has not submitted a report since 1985; the eighth through 14th reports are overdue; the 14th periodic report was due 15 April 1998.

Discrimination against Women

Acceded: 21 June 1991.

The Republic's initial report was due 21 July 1992; the second periodic report was due 21 July 1996.

Rights of the Child

Signed: 30 July 1990; ratified: 23 April 1992.

The Republic's initial report (CRC/C/11/Add.18) has been submitted and is scheduled for consideration at the Committee's May/June 2001 session; the second periodic report is due 23 May 1999.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, para. 12; E/CN.4/1998/68/Add.1, paras. 68-70)

The report refers to two amnesty laws — the first, dated 30 May 1996, granting amnesty for offences committed by members of the Central African armed forces who were responsible for the mutinies of April and May 1996; the second, dated 15 March 1997, granting amnesty for offences connected with the mutiny of 15 November 1996 to 25 January 1997. The Special Rapporteur expressed concern that these two laws might have the effect of sanctioning impunity and stated that respect for the rights of the victims and their families and the right to truth, justice and compensation will help bring about a genuine national reconciliation.

An urgent appeal was sent to the government on behalf of a family who had reportedly been threatened with death by rebels. The information received also referred to an armed attack against the family and looting of their home by six men in military uniforms. No further details of the case were provided and the government had not responded.

SECURITY COUNCIL

Reports of the Secretary-General

The reports of the Secretary-General (S/1998/61, January 1998; S/1998/148 and S/1998/148/Add.1, February 1998; S/1998/540, June 1998; S/1998/783, August 1998) reflect conditions prior to and after the establishment of a UN presence in the country.

The reports in the first part of the year review the political, military, security, economic and social conditions in the Central African Republic (CAR), as well as progress made in implementing the Bangui Agreements of January 1997. The reports set out the reasoning on the basis of which the Security Council could consider the possibility of establishing a UN mission to stabilize the overall political and security situation in the country. The main goals and tasks of such a UN mission of limited duration were seen as: consolidating the process of national reconciliation for the full implementation of the Bangui Agreements; helping to create the necessary conditions for the holding of free and fair legislative elections scheduled for August/September 1998; providing advice and facilitating technical assistance in the areas of good governance and promotion of human rights; assisting in the maintenance of a secure environment, law and order and the protection of key installations in Bangui; advising on the restructuring of the security forces and monitoring their neutrality before and during the elections; and observing the elections and verifying their results. It was proposed that two human rights experts be attached to the Mission, as requested by the government, to advise the national authorities and organizations on human rights issues and to identify technical assistance needs for capacity-building in this area. By resolution 1159 of 27 March 1998, the Security Council decided to establish the UN Mission in the Central African Republic (MINURCA).

The reports issued after the establishment of MINURCA refer to, *inter alia*: the National Reconciliation Pact which bans the use of force as an instrument of achieving political power; adoption of a Press Code by the National Assembly and the establishment of a commission to oversee freedom of the press (Haut Conseil de la communication); continuing divisions and distrust, including along ethnic and regional lines, in Central African society; adoption of an Electoral Code by the National Assembly, which provided for the creation of an independent and mixed electoral commission (Commission electorale mixte et independante); continuing reports of banditry and other serious criminal acts in the interior of the country; the steps taken to dissolve the security services and downsize and restructure the Presidential Guard; the creation of the Special Force for the Defence of Republican Institutions and the Directorate-General for State Documentation; failure to take steps to create a national, republican and multi-ethnic army, whose size and activities would be in line with national budgetary capacity; plans related to the demobilization of some 1,000 military personnel; training programmes for trainers of the National Police; and the need for transparent and accountable handling of the state's economy and mea-

asures to improve the economic and social conditions in the country generally.

Resolutions of the Security Council

In the resolutions adopted (S/RES/1152, February 1998; S/RES/1155, March 1998; S/RES/1159, March 1998; S/RES/1182, July 1998; S/RES/1201, October 1998) the Council, *inter alia*: expressed appreciation for the work of the Inter-African Mission to Monitor the Implementation of the Bangui Agreements (MISAB); called upon the parties to complete without delay to complete the implementation of the provisions of the Bangui Agreements; welcomed the appointment by the Secretary-General of a Special Representative to the CAR; stressed the need for the authorities to take concrete steps to implement political, economic, social and security reforms, including the establishment of an electoral code and preparations for legislative elections; established a United Nations Mission in the CAR (MINURCA) to begin 15 April 1998, with its mandate extended as required; defined the mandate along the lines proposed by the Secretary-General (see above); welcomed the inauguration of the Electoral Commission with a neutral and independent Chairman; called on the government to adopt, as soon as possible, a plan for the effective restructuring of the armed forces; and, welcomed the adoption of an operational plan for the organization of the legislative elections and the decision to hold those elections on 22 November and 13 December 1998.

In resolution 1201/1998, the Security Council extended the mandate of MINURCA to 28 February 1999.

FIELD OPERATIONS

The headquarters for the UN Assistance Mission to the Central African Republic (MINURCA) is in Bangui. The Human Rights Section is headed by Bertrand Fassu Njanja, Human Rights Adviser, Acting Head, Mission d'Assistance des Nations Unies en République Centrafricaine (Section des Droits de l'Homme), B. P. 2732, Bangui, République Centrafricaine; Phone: (236) 61-20-43, ext. 6212; Fax: (1-212) 963-9715; e-mail: fassu@un.org.

Security Council resolution 11/59 of 27 March 1998 established MINURCA as a follow up to the previous OAU Monitoring Mission. In view of the situation in the Central African Republic, it appeared appropriate to incorporate a human rights dimension in UN efforts and strategies towards reconciliation and peace, as implemented through MINURCA which is administered by Department of Peace-keeping Operations (DPKO). Under an agreement between DPKO and OHCHR, the OHCHR is responsible for identifying the two human rights advisors who will staff the Human Rights Unit and provide substantive guidance to MINURCA and DPKO.

The functions of the Human Rights Unit mainly consist in providing assistance to the Special Representative of the Secretary-General on human rights. This includes monitoring of the human rights situation in the mission

area, providing advice and technical assistance regarding the rule of law and the necessary reforms, and recommending courses of action to address the identified issues. In fulfilling these functions, the Human Rights Unit coordinates and works closely with the Civilian Police Component. The inclusion of two human rights advisers in the Mission reflects the government's wish that OHCHR assess possible areas of joint activities aimed at fostering protection and promotion of human rights. As of June 1998 one of the two human rights advisors had been recruited and had joined MINURCA.



CHAD

Date of admission to UN: 20 September 1960.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Chad has submitted a core document (HRI/CORE/1/Add.88) for use by the treaty bodies. The report prepared by the government contains demographic, statistical and economic data as well as information on the general political structure. Human rights principles and international standards are established in the Constitution and, under article 82, Parliament ensures the defence and promotion of human rights and freedoms. The National Commission on Human Rights was created in 1994. Among the Commission's tasks is that of submitting opinions to the government concerning human rights and freedoms, including the status of women, the rights of children, and the rights of persons with disabilities. Individuals claiming a violation of rights may take their cases to the courts of general jurisdiction; if the courts fail to act, the case may be taken to the National Commission. International treaties take effect in domestic law as soon as they are promulgated and published. In addition to the work of the National Commission, a number of NGOs are active in the field of human rights, including the Chadian League of Human Rights, the Chadian Association for the Promotion and Defence of Human Rights, and the Association of Female Jurists.

Economic, Social and Cultural Rights

Acceded: 9 June 1995.

Chad's initial report was due 30 June 1997.

Civil and Political Rights

Acceded: 9 June 1995.

Chad's initial report was due 8 September 1996.

Optional Protocol: Acceded: 9 June 1995.

Racial Discrimination

Acceded: 17 August 1977.

Chad's 10th report was due 16 September 1996; the 11th periodic report was due 30 October 1998.

Discrimination against Women

Acceded: 9 June 1995.

Chad's initial report was due 9 July 1996.

Torture

Acceded: 9 June 1995.

Chad's initial report was due 9 July 1996.

Rights of the Child

Signed: 30 September 1990; ratified: 2 October 1990.

Chad's initial report (CRC/C/3/Add.50) has been submitted and is scheduled for consideration at the Committee's May/June 1999 session; the second periodic report was due 31 October 1997.

Commission on Human Rights

Every year since 1991, the situation in Chad has been considered by the Commission under the confidential 1503 procedure. At its 1998 session, the Commission decided to continue this consideration.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 121–123)

No new cases of disappearance were transmitted by the Working Group (WG) to the government. Of the 12 cases of disappearance reported in the past, one occurred in 1983, five in 1991 and six in 1996. One case was submitted by a relative of the victim and concerned a member of the Democratic National Union who was reportedly taken prisoner in July 1983 during clashes between government troops and opposition forces. Five cases concerned members of the Hadjerai ethnic group who were reportedly arrested in October 1991 by the security forces; they were said to have been detained following an announcement by the authorities that an attempt by a section of the Chadian armed forces to overthrow President Idriss Deby had been thwarted. Six other cases concerned members of armed opposition groups who are said to have been arrested by the Sudanese security forces in 1996 at El Geneina in the Sudan, near the Chadian border, and handed over to the Chadian security forces; they are alleged to have then been transferred to N'Djamena by members of the Agence nationale de sécurité.

The government has not provided the WG with information on these cases.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 13, 14, 32, 34, 36, 37, 39, 57, 59, 61, 68; E/CN.4/1998/68/Add.1, paras. 71–74)

The Special Rapporteur (SR) expressed concern about the renewed outbreak of violations of the right to life since 1996 and referred to information indicating that some 52 civilians were killed in an attack launched by

government forces in October 1997 against the "Armed Forces for the Federal Republic" (FARF) at Moundou, southern Chad. Reports of isolated incidents, in which members of the security forces arrested, tortured, and executed numerous unarmed civilians were also noted.

An urgent appeal was sent to the government concerning a telegram sent by the Commander of the Specialized Units Group of the Chadian National Gendarmerie ordering the members of the nine gendarmerie services to proceed immediately to physically eliminate anyone caught in the act of stealing, subject to severe penalties, including demotion or dismissal from the army. According to the information received by the SR, several persons suspected of theft were killed within days of the telegram being sent, including one minor who was killed and thrown into the Chari river, and a pregnant woman who was charged with theft at the millet market, arrested by gendarmes and killed.

Other cases transmitted to the government related to, *inter alia*: the shooting of nine persons in public without trial, in the presence of administrative, political and military authorities, two days after they were arrested on several charges including multiple theft, rape, and physical abuse; death in hospital from injuries sustained as a result of torture; death after removal from a prison cell without authorization; the killing of a member of an opposition political party by three unidentified persons suspected of being members of the security forces; execution of a religious teacher by members of the military after being taken from the church where he had sought refuge; death in custody following torture; death following a severe beating by a gendarmerie patrol; death from suffocation as a result of being held in an overcrowded cell; killings by members of the military after administering severe beatings; death in hospital following a beating by members of the security forces; and, death following torture at a police station.

The government did not reply to the communications but the SR received information indicating that the order to kill thieves had been rescinded. Despite this action, the SR expressed continuing concern about summary executions being perpetrated with complete impunity by the gendarmerie, the police and the administrative authorities, and by deaths in custody under inhuman conditions. The SR urged the authorities to put an end to the persistent impunity by conducting thorough and exhaustive inquiries aimed at establishing responsibility for the summary executions of civilians, and for all other violations of the right to life.

Torture, Special Rapporteur on: (E/CN.4/1998/38, paras. 40–45; E/CN.4/1998/38/Add.1, "Chad")

Information received by the Special Rapporteur (SR) indicated that the torture of persons arrested for political reasons was a widespread practice. Methods used include, *inter alia*: the "arbatachar", tying the victims' arms and legs behind their backs, causing extreme pain, open wounds and, in some cases, gangrene; placing two metal rulers or two pieces of iron held together with two elastic bands onto the head of the victim, who is tied in

the "arbatachar" position against a tree or a pole, followed by rhythmic beatings on the metal rulers or pieces of iron several times for at least one hour; and, stuffing prisoners into burlap sacks and throwing them into a river.

The report notes that violence against women, including the rape of young girls, also seemed to be very widespread with the persons responsible not only being members of the security forces but also armed opposition groups. The SR stated that because of the social stigma attached to rape, the victims often do not seek medical attention, speak out, or file a complaint.

Information received indicated further that: persons suspected of belonging to the armed opposition were singled out for ill treatment; in the majority of these cases, the victims were tortured at the time of arrest or inside gendarmerie premises by soldiers and gendarmes trying to obtain information; some prisoners were also said to be tortured in National Security Agency premises; it was unusual for complaints to be filed because the victims were afraid of reprisals or that the persons who were guilty would never be brought to justice; the authorities did not take account of requests by judges in connection with investigations of human rights violations, for example, when orders were given by the public prosecutor for the interrogation of soldiers responsible for human rights violations, the gendarmes refused on the grounds that they could not interrogate their superiors; and, the authorities took steps to ensure that jails and places of detention were beyond the prosecutors' control and set up obstacles to the prosecutors' work in this regard.

Individual cases taken up by the SR related to, *inter alia*: arrest and torture of a person in whose home pamphlets of the Armed Forces for the Federal Republic opposition group were found; death of a chauffeur with the Méridien Biao Bank of Moundou as a result of injuries inflicted by a gendarmerie patrol which allegedly ordered him to stop when he was driving his car, noting that the family had lodged a complaint with the Government Procurator of Moundou but that no legal action was taken; beatings by soldiers and death of a person who refused to provide the two soldiers with water free of charge; torture in a secret place of detention and death the following day; death and torture following detention by gendarmes, noting the gendarmes were not sanctioned in any way; death of a woman accused of stealing bracelets after being removed from her cell during the night, taken home and tortured, noting that the woman's daughter was allegedly tied in the "arbatachar" and that the soldier primarily responsible was arrested but escaped from prison and resumed active service; arrest, torture and death of two persons accused of belonging to the Movement for Democracy and Development; arrest and torture of a student in connection with his father's political activities; arrest and subsequent death of a person suspected of being a member of the opposition, noting the government's assertion that the victim had suffocated because of the heat in a crowded cell and the failure of the authorities to initiate a judicial inquiry; arrest in connection with a civil

case, torture and death, noting reports stating that the police left the body in the morgue of the central hospital without any explanation; an incident involving dozens of soldiers in several vehicles who beat the inhabitants of Karyo-Ba with rifle butts and sticks, causing serious injuries, particularly to two persons; the arrest of a group of students at the University of N'Djamena, noting that several of them were stripped, forced to lie on the ground where they were beaten and subjected to mock executions; and, arrest by members of the security forces who accused the victims of belonging to an armed group, noting reports of subsequent torture and denial of medical care.

The SR noted that government did not respond to any of the information transmitted.

Violence against women, Special Rapporteur on: (E/CN.4/1998/54, Section II.C)

In the section on forms of custodial violence against women, the report refers to the case of a woman who was accused of stealing bracelets, arrested, held at the Béboto gendarmerie headquarters and tortured. The woman's daughter was tied up and raped as she lay dying. The report notes that the main perpetrator of the murder and rape was arrested but escaped from prison and was reported to be working at the Presidential Palace.



COMOROS

Date of admission to UN: 12 November 1975.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Comoros has not submitted a core document for use by the treaty bodies.

Discrimination against Women

Acceded: 31 October 1994.

Comoros's initial report was due 30 November 1995.

Rights of the Child

Signed: 30 September 1990; ratified: 22 June 1993.

Comoros's initial report (CRC/C/28/Add.13) has been submitted and is pending consideration at the Committee's January 2001 session; the second periodic report is due 21 July 2000.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Religious intolerance, Special Rapporteur on: (E/CN.4/1998/6, paras. 48, 50, 58, 63)

The report refers to violations of freedom of religion and

belief against all religions and all religious groups and communities except for the official religion. Reported violations include restrictions on non-Muslims in religious matters, and a prohibition on any proselytizing of Muslims by non-Muslims.



CONGO

Date of admission to UN: 20 September 1960.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Congo has submitted a core document (HRI/CORE/1/Add.79) for use by the treaty bodies. The report prepared by the government contains demographic and statistical data as well as information on the institutional framework and the legal framework for the protection of human rights.

The Charter of National Unity and the Charter of Rights and Freedoms were adopted by the National Sovereign Conference on 29 May 1991. Any individual may apply to the Constitutional Court regarding the constitutionality of legislation either directly or through special unconstitutionality proceedings before a court. Decisions of the Constitutional Court are not open to appeal; they are binding on the government authorities, the judiciary and individuals. The rights proclaimed in the various international human rights instruments are protected and guaranteed by the Constitution and by the Charter of National Unity. Exceptions to the proceeding are allowed in specific cases such as searches, privacy of correspondence, and telecommunications. International law takes precedence over domestic law and relevant international instruments may be invoked before domestic courts. NGOs monitoring observance of human rights include the Comité national des droits de l'homme (CONADHO), the Ligue des droits de l'homme, the Comité des femmes pour la paix, and the Federation des femmes juristes.

Economic, Social and Cultural Rights

Acceded: 5 October 1983.

Congo's initial and second periodic reports were due 30 June 1990 and 1995 respectively.

Reservations and Declarations: Paragraphs 3 and 4 of article 13.

Civil and Political Rights

Acceded: 5 October 1983.

Congo's second periodic report (CCPR/C/63/Add.5) has been submitted but is not yet scheduled for consideration by the Committee; the third periodic report was due 4 January 1995.

Reservations and Declarations: Article 11; declaration under article 41.

Optional Protocol: Acceded: 5 October 1983.

Racial Discrimination

Acceded: 11 July 1988.

Congo's initial and second through fifth periodic reports (covering the period 1989-1997) have not been submitted; the fifth periodic report was due 10 August 1997.

Discrimination against Women

Signed: 29 July 1980; ratified: 26 July 1982.

Congo's initial and second through fourth periodic reports (covering the period 1983-1995) have not been submitted; the fourth periodic report was due 25 August 1995.

Rights of the Child

Acceded: 14 October 1993.

Congo's initial report was due 12 November 1995.

THEMATIC REPORTS**Mechanisms of the Commission on Human Rights**

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 42, 43, 62, 63, 106; E/CN.4/1998/68/Add.1, paras. 126-128)

The Special Rapporteur (SR) expressed concern about the high number of civilians and persons hors de combat killed during internal armed conflicts and referred to conditions in the Congo. Information received indicated that confrontations between militias of President Pascal Lissouba and former President Denis Sassou Nguesso, which started in June 1997, had led to indiscriminate shelling of residential areas of Brazzaville resulting in numerous victims, and summary executions of civilians and combatants taken as prisoners. The SR stated that the end of the civil war situation in the Congo should not mean impunity for the many summary executions and violations of humanitarian law which occurred. The report states that the authorities should investigate allegations of violations of the right to life, identifying the offenders and bringing them to trial, and should offer compensation to victims' families.



CONGO, DEMOCRATIC REPUBLIC OF

Date of admission to UN: 20 September 1960.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: The DR Congo has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Acceded: 1 November 1976.

DR Congo's second periodic report was due 30 June 1992; the third periodic report was due 29 June 1997.

Civil and Political Rights

Acceded: 1 November 1976.

DR Congo's third periodic report was due 31 July 1991; the fourth and fifth periodic reports were due 30 January 1993 and 1997 respectively.

Optional Protocol: Acceded: 1 November 1976.

Racial Discrimination

Acceded: 21 April 1976.

DR Congo's 11th periodic report was due 21 May 1997.

Discrimination against Women

Signed: 17 July 1980; ratified: 17 October 1986.

DR Congo's second and third periodic reports (CEDAW/C/ZAR/2; CEDAW/C/COD/3) have been submitted and are scheduled for consideration by the Committee at its June 1999 session.

Torture

Acceded: 18 March 1996.

DR Congo's initial report was due 16 April 1997.

Rights of the Child

Signed: 20 March 1990; ratified: 27 September 1990.

DR Congo's initial report (CRC/C/3/Add.57) has been submitted and is scheduled for consideration by the Committee at its September/October 2000 session; the second periodic report was due 26 October 1997.

REPORTS TO TREATY BODIES**Committee on the Elimination of Racial Discrimination**

At its August 1997 session, the Committee decided to review the situation in DR Congo at its March 1998 session under its early warning and urgent procedures. The Committee's concluding observations and comments from the 1998 session (CERD/C/52/Misc.32) emphasized the importance of continuing with UN investigations into reports of massacres and other grave human rights violations in DR Congo in order to identify the persons responsible for violations, particularly those associated with ethnic differences, and hold them accountable. The Committee recommended the extension of the mandate of the International Criminal Tribunal in Arusha to include jurisdiction over war crimes and crimes against humanity committed during the war in the DR Congo, and that assistance be given to the government, as a priority, in creating an independent Congolese judiciary. The Committee requested that copies of its comments be transmitted to relevant UN bodies and agencies, and to the Organisation of African Unity.

COMMISSION ON HUMAN RIGHTS

Report of the Special Rapporteur

The mandate of the Special Rapporteur (SR) on DR Congo (then Zaire) was established by the Commission at its 1994 session. The SR for 1998 was Roberto Garretón.

At its 1998 session the Commission had before it two reports. The first was prepared by the commission of inquiry established by Commission resolution 1997/58, comprised of the Special Rapporteurs on the DR Congo and summary/arbitrary execution as well as a member of the Working Group on Enforced Disappearances. The resolution requested that the commission undertake a joint mission to investigate allegations of massacres and other issues affecting human rights arising from the situation prevailing in the eastern part of the country since September 1996. The second report was from the SR focussing on the general situation in the country.

Commission of Inquiry

The report of the Commission of Inquiry (E/CN.4/1998/64) essentially summarized points in the report provided to the 1996 General Assembly (A/51/942) which dealt with information related to, *inter alia*: attacks on Rwandan refugee camps in Zaire, both directly and by the blockading of humanitarian assistance, and allegations of massacres and other human rights violations, classified according to the party reportedly responsible, viz. violations attributed to: Alliance of Democratic Forces for the Liberation of Congo-Zaire (AFDL), the Banyamulenge and their allies, (representing 68.02 per cent of the allegations received); the Zairian armed forces (16.75 per cent); the former Rwandan armed forces (FAR) and the Interahamwe militias (9.64 per cent); the Rwandan Patriotic Front (2.03 per cent); the armed forces of Burundi (2.03 per cent); and mercenaries fighting on the side of the Zairian armed forces (1.52 per cent). The report notes the fact that pending verification, some of these alleged massacres could constitute acts of genocide. The commission stated that violations of international humanitarian law, as set out in common article 3 of the Geneva Conventions, could be attributed not only to the Alliance, but also to the other parties to the conflict, and the concept of crimes against humanity could also be applied to the situation which prevailed in DR Congo.

Information was provided on acts of intimidation, arrests and other human rights violations committed by AFDL leaders and the authorities of the DR Congo against persons who cooperated with the investigative team appointed by the Secretary-General, including *inter alia*: the President of the Regional Council of Non-Governmental Organizations for Development (CRONGD) in Maniema and member of the human rights organization Haki Za Binadamu, who was accused of being an "enemy of the people"; the Executive Secretary of CRONGD, arrested for having communicated information to the UN about the massacres committed by Batutsi members of AFDL; a journalist, accused of being an agent working for the investigative team appointed by the Secretary-

General; and the Secretary-General of the National Human Rights Centre (CENADHO), arrested and held in custody for 48 hours without explanation, while his home and office were searched and all the documentation in his possession was seized.

The report stated that the massacres and human rights violations were the result of indiscriminate attacks on refugee camps, in which not only members of the former Rwandan armed forces and the Interahamwe, authors of threats and persons guilty of genocide were killed and wounded, but also many innocent civilians, particularly children, women and the elderly. The report states that the systematic blockade of humanitarian assistance intended for refugee camps meant that many refugees died of malnutrition and disease; the policy of war without quarter precluded the taking of prisoners; and measures of intimidation were aimed at forcing refugees to flee into the forests and towards hostile areas where access by humanitarian missions was absolutely impossible.

The report recommended that the government, *inter alia*:

- ♦ unequivocally and publicly condemn the atrocities and pledge to do its utmost to put an end to them;
- ♦ put an immediate end to the blockade of humanitarian assistance intended for refugees and displaced persons and take all appropriate steps to end the suffering of the most disadvantaged refugees, particularly dispersed refugees, women, the elderly and children;
- ♦ guarantee the security and the right to life and physical integrity of anyone who is in the territory under its jurisdiction;
- ♦ cooperate unreservedly with the mission charged with investigating allegations of massacres and other human rights violations in the eastern part of the country, ensure that it has unimpeded access to the territory and give it the necessary security guarantees;
- ♦ protect the sites of massacres and guarantee the security of any witnesses, in strict accordance with the decisions of the competent UN organs, particularly Commission on Human Rights resolution 1997/58;
- ♦ in particular, guarantee the mission's freedom of movement and security;
- ♦ with respect to the allegations of massacres and violations of human rights and international humanitarian law, order official, impartial investigations which conform to UN norms and make public the report(s) of these investigations;
- ♦ take all necessary measures to end impunity and the cycle of criminal violence, in order to promote the full and complete attainment of the rule of law, in particular by establishing an effective, independent and impartial judicial system that provides guarantees against impunity;

- ♦ establish a genuine civil service and, in particular, a civilian police force that is separate from the military forces of the Alliance and respects international rules on the use of public force by law enforcement officials;
- ♦ ensure that anyone accused of participating in torture, summary executions or enforced disappearances is not admitted to the police force; and
- ♦ enable UN agencies and other humanitarian organizations to carry out their work in order to solve the problems confronting the country, with particular emphasis on the protection of women, children and the elderly, whether refugees or victims of forcible dispersal or displacement, and of the sick and wounded.

Addressing the UN and the international community, the report further recommended, *inter alia*, that:

- ♦ the Security Council envisage the immediate dispatch of military and/or police observers to areas where there is little or no security;
- ♦ the necessary steps be taken to ensure that the investigation of massacres and other human rights violations can be carried out in cooperation with the government, using all necessary technical and human resources;
- ♦ the possibility be considered of convening a special session of the Commission on Human Rights, given the *ratione temporis* and *ratione loci* limitations placed on the joint mission's mandate and the explosive situation currently prevailing in the DR Congo; and
- ♦ the necessary steps be taken to halt arms trafficking in the Great Lakes region and to publicize the report prepared by the International Commission of Inquiry established under Security Council resolution 1013 (1995).

Special Rapporteur on the situation of human rights in DR Congo

The report of the Special Rapporteur (E/CN.4/1998/65) is based on information received up to 12 January 1998 and covers such areas as: the transition from the former authoritarian regime to a new government; the new power structure; transboundary nationality; the continuing war in Nord-Kivu; the activities of the Conseil de la résistance and de la libération de Kivu; violence against Cabindan leaders in Eastern Province; the situation in the refugee camps; rights under the Mobutu regime and in the liberated areas and under the Kabila government – life, physical and psychological integrity, security of person, personal liberty, privacy, opinion, association, assembly, due process, economic, social and cultural rights, and the situation of children and the situation of women.

The report was prepared without the benefit of a field mission to the DR Congo in the absence of an invitation

from the government and recalls that, upon assuming power, the AFDL authorities stated that the Special Rapporteur (SR) was *persona non grata* and would never again “set foot on Congolese soil.” The report notes that the government did not reply to any of the 24 communications sent by the SR, transmitting 186 complaints of human rights violations involving more than 430 persons, although receipt of two of them was acknowledged.

The description of the legal authority and structure of the current government covers a number of points, including that: article 1 of Decree-Law No. 3 of 28 May 1997 places the organization and exercise of power in the hands of the Head of State; the institutions of state are the President, the Government and the courts; no provision is made for a legislative body, even as a formality; legislative authority is vested in the Head of State, who exercises it through decree-laws; ministers are appointed and dismissed by the Head of State; judges and magistrates and members of the public Prosecutor's Office can be replaced or dismissed by the President on the proposal of the Supreme Council of the Judiciary; the Supreme Council of the Judiciary, however, is not functioning and its responsibilities are being discharged by the Alliance; and the constitutional protection for human rights and freedoms is provided, subject to respect for the law, public order and public morality.

The report notes that: the armed forces appear to have no precise structure and no identifiable ranks or responsibilities; officers in the armed forces are known under the generic name of “afande”, which corresponds to “commander”; all military personnel are “afandes” and at the same time none are “afandes”; transboundary Tutsi nationality allows the police and armed forces to operate in joint units or commands in both the DR Congo and Rwanda; the transfer of detainees from one country to the other gives rise to “prisoners without frontiers” and ensures impunity for human rights abuses; the civilian population suffers most from fighting between military factions and is subjected to extortion, looting and theft, frequently by the kadogos – Tutsi child soldiers recruited without any training and armed with heavy weapons – who live off looting and extortion; the real power in the country rests with the Alliance of Democratic Forces for the Liberation of Congo-Zaire (AFDL), which is the only authorized party; ministers of the civil service, regional governors, mayors and others belonging to the Union for Democracy and Social Progress (UDPS) and other democratic parties act in their personal capacity; and every independent minister has an AFDL adviser. The groups that led the peaceful opposition to Mobutu are being marginalized, according to the report, all political activity has been banned and a ban on political parties, announced in June 1997 was extended indefinitely in August, on the grounds of a state of emergency.

With regard to a transition to democracy, the report notes various statements by authorities in which the intention of holding elections in 1999 was reiterated but also observes that there were no teams preparing either the elections or the necessary groundwork for holding them.

Concerning human rights in the liberated areas and under the Kabila government, the report sets the context by noting, *inter alia*: all power is in the hands of one person; a climate of terror prevails because of the way in which the Alliance won its victory, related to the fate met by the Rwandan refugees in the camps and the settling of old scores going back some 30 years; the regime is a military regime which has absolute control over the country; with the exception of Kinshasa, where newspapers are in circulation, the country is in a state of complete disinformation — there are no newspapers, radio stations are controlled by AFDL, there is no postal service and the telephone service is not working; there is stigmatization — to be accused of genocide or of being, *inter alia*, a Mobutu supporter, an Interahamwe, a Hutu or a Bembe can be sufficient grounds for being killed, looted, stripped of one's property, arbitrarily detained, tortured or exiled; and, there is no mechanism whatever for popular participation.

Violations of human rights are reviewed, including: reinstatement by the AFDL of the death penalty; the handing out and/or execution of death sentences in cases, for example, immediately following conviction by the Military Court in an irregular trial for a crime committed a few minutes earlier or involving soldiers who rioted in protest against the non-payment of wages without a right of appeal of the sentence; the assassination of a founding member of the AFDL; killings carried out in the name of "settling scores"; and disappearances involving, for example, the removal from hospital of Hutu soldiers by AFDL, persons missing after having been detained, and Rwandan refugees, including children, after being accused of genocide. Excessive use of force in repressing crime or dissidence resulting in deaths in some cases was noted, including death resulting from abuse of power shielded by impunity, and various methods of torture.

Also noted were: beatings, looting, attacks on property in the countryside, the killing of livestock, house raids by the AFDL on the pretext of searching for weapons; arrests on political, religious, cultural and trade union grounds; a ban on leaving the country for more or less lengthy periods; the use of secret or clandestine prisons; the failure of the government to respect the independence of the courts; establishment of a military court in which civilians may be tried under military rules of procedures and in which decisions may not be appealed or contested; and errors and arbitrary decisions by the courts.

The report further notes: the expulsion of independent journalists from public media; confiscation of media equipment during public demonstrations; the requirement that secular radio stations must pay 40 per cent and religious stations 20 per cent of revenue to the AFDL; a ban on private radio stations; the requirement that regional radio stations must broadcast news and announcements from the Alliance twice a day; the requirement that news programmes be approved by the Alliance; the prohibition on FM radio stations broadcasting information from abroad that is critical of the government; the prohibition on journalists from state-

run media working as foreign correspondents; lack of access for all segments of civil society, political parties and NGOs to the public media or any outlet to express themselves; and, the prohibition of all demonstrations, including demonstrations held in private venues and the violent suppression of demonstrations that are held.

In the section dealing with economic, social and cultural rights, the report notes that there was no improvement in living conditions in the country, particularly for wage-earners. Other areas addressed include: the ongoing failure of the government to pay salaries to members of the civil service; the military presence in universities in response to student unrest; the announcement by the government that as of the 1998 academic year education would be free; a resurgence of traditional medicine because "modern" medications are too expensive for most people; and the occurrence of epidemics of monkey pox, urinary bilharziasis and cholera.

The commentary on the situation of children refers to the recruitment of children by the AFDL and the fact that children as young as 11 years carry heavy weapons and engage in combat. The report states that because these children are not trained and have a limited ability to handle weapons they have been corrupted and have participated in robberies and killings. The report notes that UNICEF has started a programme for these children, who continue to steal and engage in armed robbery after they have been demobilized.

Concerning the situation of women the report addresses a number of points, including that: the number of women in government is extremely limited; the government has yet to discuss amendments to the Civil and Family Codes that have been suggested by women's organizations; women who dress as they please have been severely punished, for example, instances in which AFDL soldiers beat young women in jeans or trousers; and, cases of violence — including sexual violence and torture against women generally and representatives of women's organizations specifically — have been frequent in the context of detention or as a result of action by soldiers for political reasons or to intimidate local populations.

The report recommends that the government, *inter alia*:

- ♦ begin immediately the process of building democracy, in part by establishing a dialogue with the democratic forces that made it possible to end 32 years of dictatorship and agreeing on electoral timetables;
- ♦ institute an effective separation of powers and a fully functioning multi-party system during the transition process;
- ♦ guarantee the independence of the judiciary and give it jurisdiction over the investigation of the improper acquisition of property by former dignitaries of the Mobutu government;
- ♦ investigate, with proper respect for the needs of due process, crimes committed during the former regime

and during the current one, and ensure that the executive branch cooperates fully with the judicial branch in all necessary respects;

- ♦ adopt other measures to end impunity, especially in respect of war crimes and crimes against humanity, regardless of who is responsible;
- ♦ ensure that the new Congolese armed forces meet criteria of national representation and not be dominated by a particular ethnic group, region or political tendency;
- ♦ establish the army and the police as national institutions, integrate former Zairian Armed Forces (FAZ) members in conditions of dignity, provide mandatory training to develop a culture of respect for human rights and ensure that children under the age of 15 do not take part in hostilities;
- ♦ implement plans to reintegrate into society the Alliance's child soldiers and to put an end to their crimes;
- ♦ take steps to stop and eradicate completely summary executions, enforced disappearances, looting and torture;
- ♦ eliminate all measures that restrict freedom of opinion and expression for journalists, newspaper-owners and all Congolese people who need or wish to be informed and cease persecuting people for their ideas or for disseminating them;
- ♦ permit non-governmental organizations complete freedom in establishing themselves, electing their authorities, receiving contributions, determining their mandates and exercising their functions; and
- ♦ implement a policy to guarantee an end to legal, cultural and educational discrimination against women.

The report recommends that the international community — regional and international organizations, whether governmental or not, and states — help to rehabilitate the environment of the DR Congo, which was damaged by the presence of more than 1 million Rwandan refugees, and provide assistance to internally displaced persons.

Resolution of the Commission on Human Rights

At the 1998 session, the Commission adopted a resolution by roll call vote (1998/61) in which it, *inter alia*: acknowledged that the new government inherited a chaotic situation characterized in part by a deteriorating economy, a high inflation rate and low investment in health, education and housing; acknowledged that the massive presence of Rwandese refugees in the eastern part of the country created major economic, social and political problems; welcomed the expressed commitment of the government to a process of democratization leading to elections and the creation of a state based on the rule of law and respect for human rights, establishment of the Constitutional Commission and the expressed commitment of the government to reform and

restore the efficacy of the judicial system; and, welcomed the government's efforts to subordinate the armed forces to rule of law. The Commission: welcomed the government's willingness to include human rights education in the primary and secondary school curricula; expressed concern at the human rights situation in the country generally, and in the eastern part of the country, particularly as well as such continuing violations as arbitrary arrest, detention without trial, the trial of civilians and the use of the death penalty by military courts, the temporary suspension of the activities of political parties and restrictions on the work of NGOs; and the refusal of the government to allow the SR to conduct an in-country mission. Concern was expressed over the fact that large numbers of refugees and displaced persons who disappeared between 1994 and 1997 that had not yet been accounted for. The commission called on the government to: implement fully its commitment to a process of democratization and continue with its timetable for preparations for holding free and fair elections; ensure full respect for freedom of opinion and expression, including for all mass media, as well as freedom of association and assembly; strengthen its cooperation with the OHCHR in Kinshasa; promote human rights awareness, *inter alia*, by strengthening cooperation with civil society, including human rights NGOs. The commission expressed serious concern at the circumstances obliging the Secretary-General to withdraw the Investigative Team established under his auspices, including the temporary detention of one member of the Team and allegations of intimidation of witnesses. The commission demanded that the government cooperate fully with the Secretary-General, the High Commissioner for Human Rights and the Commission on Human Rights in addressing the allegations of massacres and other violations; extended the mandate of the SR for a further year; and, requested the international community to support the OHCHR in Kinshasa to strengthen its involvement in advisory services and technical cooperation programmes as well as human rights advocacy programmes and its support for and cooperation with human rights NGOs in DR Congo.

The resolution was adopted by a vote of 28 in favour, 7 opposed, 11 abstentions.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Disappearances, Working Group on enforced or involuntary on: (E/CN.4/1998/43, paras. 12, 152–155)

No new cases of disappearance were transmitted by the Working Group to the government. The majority of the 27 reported cases of disappearance occurred between 1975 and 1985 and concerned persons suspected of being members of a guerrilla group known as the Parti de la révolution populaire or of being political activists. Other cases concerned a journalist who was allegedly abducted from his home in 1993 by members of the Division spéciale présidentielle and the civil guard, and interrogated

on the premises of the state radio station Voix du Zaïre, and four men who were allegedly arrested in Likasi in 1994 by soldiers and detained for almost two months before being transferred to Kinshasa. Since then their whereabouts have remained unknown. Two cases concerned villagers from Kitshanga who were reportedly arrested by members of the Zairian Armed Forces in September 1996 as they were on their way to Goma, the capital of North Kivu. Another case concerned a man who is said to have been arrested by members of the Service d'actions et de renseignements militaires, also in September 1996.

The report notes that the government did not provide the Working Group with any information on these cases.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 13, 14, 18, 19, 27, 37, 42, 47, 62, 63, 86, 94, 101, 102, 107–108; E/CN.4/1998/68/Add.1, paras. 136–144)

The report notes that many allegations were received concerning violations of the right to life in the DR Congo. Cases transmitted to the government related to, *inter alia*: a death sentence imposed in January 1997 by a court martial following an accusation of spying for the Alliance of Democratic Liberation Forces (AFDL), noting that only 24 hours were allowed to appeal against the sentence; an incident involving 30 to 40 civilians who were allegedly killed in May 1997 at Uvira, in Southern Kivu, by members of the AFDL, noting that the victims were taking part in a peaceful demonstration to protest against the assassination of five persons who had allegedly been abducted and executed by members of the AFDL; reports that some 300 AFDL soldiers had been sent to the area of Shabunda, in Southern Kivu, for the purpose of monitoring and protecting the repatriation of refugees to Rwanda, noting the need to ensure that the AFDL soldiers fulfilled their task of providing protection with no other intention; and, death sentences handed down against eight soldiers after being convicted of mutiny by a military court, noting that the soldiers had reportedly demonstrated because their salaries had not been paid and there was no opportunity to appeal against the conviction.

The Special Rapporteur expressed concern at the persistent obstacles raised by the authorities to the holding of full, independent, and impartial investigations into grave allegations of massacres and genocide.

Mercenaries, Special Rapporteur on the use of: (E/CN.4/1998/31, paras. 39–42)

The report refers to the use of mercenaries by the Mobutu government, primarily in its effort to prevent Kisangani from falling into the hands of the Alliance of Democratic Forces for the Liberation of Congo-Zaire. The Special Rapporteur (SR) stated that the former government drew on approximately US\$50 million in public funds to pay and arm mercenaries in an attempt to remain in power. Information received indicated that the mercenaries hired to defend Mobutu came principally from Angola, the Federal Republic of Yugoslavia (Serbia

and Montenegro), Bosnia and Herzegovina, South Africa, and France. Smaller numbers of Belgians, Britons, and Mozambicans also fought as mercenaries. The report notes that the private security firm Executive Outcomes, based in South Africa, was mentioned as a provider of mercenaries, a fact that the company immediately denied; the reports were also repudiated by the governments of several countries in connection with their nationals, stating that they had no involvement in the alleged hiring of mercenaries. The SR stated that there is some evidence of the actual presence of mercenaries who attempted to defend the Mobutu government and who, after the fall of Kisangani, generally chose to leave the country. The SR has asked the current government for accurate and verifiable information in order to clarify what actually happened.

Torture, Special Rapporteur on: (E/CN.4/1998/38, para. 86; E/CN.4/1998/38/Add.1, paras. 85–86)

The report notes that an urgent appeal was sent on behalf of members of the non-governmental organization Action Group for the Development of Human Rights, who were arrested at Kamituga in August 1997. An appeal was also sent on behalf of members of the political party Forces du Futur, who were allegedly arrested in November 1997 and taken to the gendarmerie headquarters in Kinshasa, where they were beaten.

GENERAL ASSEMBLY

Special Rapporteur of the Commission on Human Rights

The Special Rapporteur's (SR) interim report to the 1998 General Assembly (A/53/365) contains information on, *inter alia*: the continuing ethnic armed conflicts in Kivu; the August rebellion; violations of international humanitarian law attributable to the government; violations attributable to rebel forces; the power structure and the armed forces; the rights to life, physical and psychological integrity, security and liberty of person; the rights to due process, expression, opinion and association; economic, social and cultural rights; and the situation of children and women. A number of Annexes to the report contain brief information on cases taken up by the SR. The report reflects information received up to 31 August 1998 and notes that 37 communications were sent to the government related to 236 complaints of violations affecting more than 3,500 people.

The SR stated that ethnic wars continued to rage in North Kivu, affecting the entire population, including Hutu refugees as well as Congolese ethnic groups such as the Nyanga and Nande and the Bembe, Fulero and Lega from the southern part of the country. There were serious clashes, attacks and burning of property resulting in numerous deaths, injuries and displaced persons. Town records were burned and massive searches were conducted for Mai-Mai militiamen, remaining Interahamwe militia and former members of the Rwandan armed forces (FAR).

Commentary is provided on the February 1998 mutiny of the Banyamulenge, as well as the August 1998 rebellion in which there was an uprising of Banyamulenge and Rwandan soldiers in Kinshasa. The government's response to the rebellion is noted as having included incitement to hatred of the Tutsis (who were called "viruses, mosquitoes, garbage" that should be eliminated), which prompted the civilian population to become involved in the conflict placing it at serious risk of becoming a military target. The report notes that towards the end of August, and at President Kabila's government's request, Zimbabwe and Angola intervened in support of his regime; thus, with Rwanda and Uganda openly backing the rebels, there were at least five countries involved.

The report states that violations of international humanitarian law by the government were based on a policy of ethnic cleansing and included: summary executions of Tutsis or persons thought to be Tutsi; arbitrary detentions, including of women and children, and journalists accused of supporting the rebels; sexual assault of Tutsi women as a war tactic; and recruitment of children for war activities. Violations by rebel forces included: arbitrary detentions and deportations; torture; the rape of women belonging to indigenous ethnic groups as acts of war; obstruction of humanitarian assistance; and forced recruitment of civilians, including children.

Commentary on the power structure notes, *inter alia*: the President continues to exercise full executive and legislative powers, including the power to dismiss judges; all political parties are still banned; the Legislative Assembly was not installed in August as planned; there is no fixed timetable for the referendum to approve the Constitution; on 1 June 1996 a Ministry of Human Rights was established but, as of the date of the report, had had no visibility; and the election timetable remained uncertain.

With regard to human rights, the report notes, *inter alia*: military courts have continued, after conducting irregular trials, to impose the death penalty frequently, with 56 persons executed in the first three months of the year; reports continued to be received related to enforced disappearances; abuse of power by members of the army; torture — including beatings and rape of women and girls — sometimes causing death; evictions from legally held land; theft and pillaging of homes; kidnappings for ransom; arrest and detention without charge or trial of, for example, journalists, foreign correspondents, political leaders, human rights defenders, anyone suspected of pro-Mobutu sympathies, or of supporting the Mai-Mai or the Interahamwe; house arrest and restrictions on movement for those released; reports of unauthorized prisons, including on the property or in the homes of high government officials; poor conditions in prisons; use of the military court to try all types of cases and not just those involving crimes committed by soldiers and police officers; failure to guarantee and respect international standards of due process; official censorship and other practices violating freedom of information and expression; the banning of political associations; and

actions against non-governmental human rights organizations, including ransacking of offices, threats, bans and attacks against, and imprisonment of, their leaders.

The report notes that the government has established institutions for human rights which it calls "non-governmental", including Solidarité entre Nous, the Congolese Union for the Defense of Human Rights and, following the dissolution of the Federation of Congolese Businesses, the creation of the National Association of Congolese Businesses.

On economic, social and cultural rights, the report refers to, *inter alia*: an absence of measures to ensure the right to health, noting cases of cholera, bacillary dysentery, malnutrition and meningitis; the fact that civil servants and teachers were either not being paid at all or paid only sporadically; and the fact that parents still pay for schooling, preventing many students from taking final exams. With regard to children, the SR referred to estimates that approximately 10,000 children are in military service. The situation of women was noted as including, *inter alia*: cultural discrimination, particularly in the area of education; rapes in prison and in connection with the war; and that during the ethnic conflict in Kivu, single women were considered by Alliance of Democratic Forces for the Liberation of Congo-Zaire (AFDL) troops to be witches and cannibals and were beaten, tortured and killed.

The SR endorsed all of the recommendations of the Secretary-General's Investigative Team and further recommended that the government, *inter alia*: put an end immediately to all persecution of political leaders, human rights advocates, journalists and members of the opposition; allow the full operation of all political parties; restore freedom of association and freedom of expression; stop immediately the operation of the military court and its practice of ordering summary executions; and take a flexible approach to the popular will as expressed in the agreements of the National Sovereign Conference.

Resolution of the General Assembly

The 1998 session of the General Assembly (GA) adopted by consensus a resolution on the situation of human rights in the DR Congo (A/C.3/53/L.47). The GA, *inter alia*: recalled that DR Congo is a party to the International Covenants on Human Rights and other human rights instruments; taking note of the report of the Investigative Team of the Secretary-General; expressed concern at the deterioration of the situation of human rights in DR Congo, aggravated by the ongoing conflict; urged all parties to the conflict to take the necessary measures to prevent all violations of human rights and international humanitarian law by forces under their command and to abstain from inciting ethnic hatred and from persecuting civilians on the grounds of nationality or ethnicity; expressed support for all regional efforts aiming at a peaceful settlement of the conflict; stressed the need for the government to assist and protect the civilian population, including refugees and internally displaced persons; encouraged the government to continue to allow the

International Committee of the Red Cross unhindered access to all persons detained within the country and called upon other parties also to allow access; stressed the need to lift restrictions on the work of NGOs and to ensure respect for the right to freedom of expression and opinion and for the right to freedom of association; and recalled and welcomed the expressed commitment of the government to a process of democratization, leading to the creation of a state based on the rule of law and respect for human rights. The GA: called upon the government to create conditions that would allow for a democratization process that is genuine and inclusive and fully reflects the aspirations of the people of the country; welcomed the establishment of the Constitutional Commission, in November 1997, and its elaboration of a new draft Constitution; encouraged a broad and sustained public debate on the principles of the new Constitution before the holding of a referendum; also welcomed the government's commitment to reform and restore the efficacy of the judicial system, and called for all necessary measures to be taken in this regard; called on the government to investigate, without delay, the allegations contained in the report of the Investigative Team and to bring to justice any persons found to have been involved in massacres, atrocities or other violations of international humanitarian law; expressed regret at the government's lack of cooperation with the SR, and urged the government to allow the SR to visit the country; welcomed the activities of the Human Rights Field Office and encouraged the government to extend full cooperation; and underlined the need to take human rights considerations fully into account in any settlement of the conflict.

SECURITY COUNCIL

Report of the Secretary-General

The letter of the Secretary-General (S/1998/581, 29 June 1998) contains the report of the Investigative Team that was established in July 1997 to help break a deadlock between the government and the Joint Investigative Mission which had been established by the Commission on Human Rights.

The Secretary-General's Team was mandated to investigate serious violations of human rights and international humanitarian law alleged to have been committed in the DRC between 1 March 1993 and 31 December 1997. The report notes that between its first deployment in August 1997 and its withdrawal in April 1998, the Team was not allowed to carry out its mission fully and without hindrance. Despite difficulties, the Team was able to reach a number of conclusions that are supported by strong evidence. Two of these conclusions are highlighted. The first is that all the parties to the violence that racked Zaire, especially its eastern provinces, during the period under consideration committed serious violations of human rights or international humanitarian law. The second is that the killings by the Alliance of Democratic Forces for the Liberation of the Congo (AFDL) and its allies, including elements of the Rwandan Patriotic Army, constitute crimes against humanity, as does the denial of humanitarian assistance to Rwandan Hutu

refugees. The members of the Team stated that some of the killings may constitute genocide, depending on their intent, and called for further investigation of those crimes and of their motivation.

The report contains information on, *inter alia*: background to the appointment of the Investigative Team and to its mandate; the legal obligations of the DR Congo; obstacles encountered by the Team; results of the investigation within the DR Congo; testimonies obtained as a result of missions to neighbouring countries; the failure of the government to ensure conditions necessary for the successful completion of the investigation; destruction of evidence; human rights violations committed by the Zairian Army; massacres committed during inter-ethnic violence; killings of civilians during attacks on camps by the AFDL; other serious violations of humanitarian law committed by the AFDL; killings by militia during the 1996 armed conflict; the commission of crimes against humanity; the nature of the massacres; the duty to investigate and prosecute; and the duty to rehabilitate. The appendix to the report summarizes allegations and information obtained mainly through UN sources and published NGO reports.

The Investigative Team stated that the DR Congo government had had no intention of accepting the mission of the Team and there is a profound gulf between the government and the UN. On the latter point, the Team noted that the government accuses the UN "of having been at the origin of all its problems since independence in 1960, with the result that 'national sovereignty and dignity' are Government leitmotifs." With that in mind, and following a list of conclusions of a general nature, the Team recommended, *inter alia*, that:

- ♦ the cycle of impunity be broken and those responsible for the violence and violations be sought out and punished; further investigation be carried out by appropriate judicial or investigative entities; the statute of the International Criminal Tribunal for Rwanda (ICTR) be extended to include genocide and other such violations committed in neighbouring states between 1 January 1994 and 31 December 1997;
- ♦ the evidence collected by the Team be kept in a secure place until such time as: conditions are right to complete the investigation; competent national authorities unequivocally demonstrate their determination to prosecute those responsible; and the ICTR or another international criminal tribunal acquires competence to investigate the serious violations in the DRC during the specified time period;
- ♦ should it become possible for the investigation to be completed, the effort should focus on individual and state responsibility for violations in North and South Kivu, violations committed by or with the collusion of representatives of the former Rwandan government, the extent of direct and indirect participation by the Rwandan Army (RPA), the extent of participation by foreign troops, and the intent underlying the massacres of Hutus;

- ♦ all states be encouraged to cooperate with any future investigation;
- ♦ the Office of the High Commissioner for Human Rights strengthen its country Field Office and set up provincial branches;
- ♦ the international community help the DRC to establish a judicial institution staffed by competent, independent and properly paid personnel who apply internationally recognized rules of procedure; the institution renounce all referrals to courts of special jurisdiction; and
- ♦ the international community support programmes for the rehabilitation of victims, without discrimination on ethnic, political or other grounds, and support programmes intended to reduce ethnic tensions.

The responses of the governments of the DR Congo and Rwanda to the report of the Investigative Team are contained in documents S/1998/582 and S/1998/583 respectively.

Statements by the President

During 1998 the Security Council agreed texts upon two statements by the President. In the July statement (S/PRST/1998/20, July 1998) the Council, *inter alia*: condemned the massacres, other atrocities and violations of international humanitarian law committed in DR Congo, and especially its eastern provinces, including crimes against humanity and other violations; recognized the work of the Secretary-General's Investigative Team in documenting some of these violations, in spite of the fact that the Team was not allowed to carry out its mission fully and without hindrance; reaffirmed its commitment to the unity, sovereignty and territorial integrity of the states of the Great Lakes region; recognized the necessity of investigating further the massacres, other atrocities and violations of international humanitarian law and of prosecuting those responsible; deplored the delay in the administration of justice; noted the stated willingness of the government to try any of its nationals who are guilty of or were implicated in the alleged massacres; expressed its readiness to consider, as necessary, additional steps to ensure that the perpetrators of the massacres, other atrocities and violations of international humanitarian law are brought to justice; expressed support for UN and other international activities to reduce ethnic tensions and promote national reconciliation in the region; and, welcomed the OAU decision to establish the International Panel of Eminent Personalities to Investigate the Genocide in Rwanda and the Surrounding Events

In the August statement (S/PRST/1998/26, August 1998), the Council expressed deep concern about the conflict in the DRC and alarm at the plight of the civilian population throughout the country; called for a peaceful solution to the conflict, including an immediate ceasefire, the withdrawal of all foreign forces, and the initiation of a peaceful process of political dialogue with a view to national reconciliation; stated that the problems of the DRC must be solved on the basis of a process of all-inclu-

sive national reconciliation which fully respects the equality and harmony of all ethnic groups and leads to the holding of democratic, free and fair elections as soon as possible; urged all parties to respect and protect human rights and respect humanitarian law, in particular the Geneva Conventions of 1949 and the Additional Protocols of 1977; condemned reported summary executions, torture, harassment and detention of civilians based on their ethnic origin, the recruitment and use of child soldiers, the killing or wounding of combatants who had laid down their weapons, hate propaganda, sexual violence and other abuses by any side; called for the protection of the civilian population and recalled the unacceptability of the destruction of objects indispensable to the survival of the civilian population, and of using cuts in the electricity and water supply as a weapon against the population; reaffirmed that all persons who commit or order the commission of grave breaches of international human rights and humanitarian instruments are individually responsible in respect of such breaches; called for safe and unhindered access for humanitarian agencies to all those in need and unrestricted access by the ICRC to all detainees; urged all parties to guarantee the safety and security of UN and humanitarian personnel; and, reaffirmed the importance of holding an international conference on peace, security and development in the Great Lakes region under the auspices of the UN and the OAU.

FIELD OPERATIONS

The headquarters for the Human Rights Field Office in DR Congo (HRFOC) is located in Kinshasa. Mr. Frej Fenniche, Chief of Office, Av. Colonel Mondjiba, 15.740, Kinshasa/Ngaliema, République démocratique du Congo; Phone: (243) 88-00-886; 12-33-438; Fax: (243) 88-01-826; e-mail: fenniche@ic.cd.

Following a series of negotiations and an agreement signed with the former government of Zaire in August 1996, HRFOC was established in December 1996. The main task of the Office is to monitor the situation of human rights and advise the authorities, as well as non-governmental organizations, on international human rights standards. Following the installation of President Kabila's government and the resumption of the work of other agencies, OHCHR-DRC resumed its activities in June 1997. As of the end of July 1998, the Office was staffed by a Chief of Office, one Human Rights Officer, and an Administrative and Financial Assistant who are assisted by national experts and personnel.

The programme of activities was adapted to meet the new political situation in the country and has, as its main objectives: following closely the general human rights situation throughout the country and reporting abuses that may occur; providing information and analysis to the Special Rapporteur of the Commission on Human Rights; assisting the government to reform and strengthen democratic institutions and the rule of law; contributing to the training of law-enforcement officials; and advising, training and assisting human rights NGOs

and certain segments of the civil society on international human rights standards in order to consolidate their role in the transition period and to reinforce their capacity to collect and analyze information and to provide reports on human rights developments to the Special Rapporteur and other bodies.

The main activities carried out as of August 1998 included:

- ♦ a comprehensive needs assessment on how best to rehabilitate and reconstruct public institutions, most notably the justice system, and on capacity-building and reinforcement of human rights NGOs as well as others in civil society;
- ♦ a seminar aimed at bringing together Congolese human rights NGOs, others in civil society and international human rights and humanitarian organizations; participants reflected on their common priorities during 1998, including joint projects between national human rights organizations and the Office;
- ♦ a second seminar in March 1998, with government and civil and military authorities from various regions and provinces of the country, in order to identify and evaluate human rights priorities for 1998, and to prepare and develop a national plan for the protection and promotion of human rights;
- ♦ collection and analysis of information provided by NGOs and the population at large to assist the Special Rapporteur of the Commission on Human Rights; and
- ♦ facilitating and assisting the Secretary-General's Investigative Team, which was mandated to investigate the gross violations of human rights and international humanitarian law committed in the former Zaire/DRC from 1 March 1993.

DR Congo is a member of the Southern Africa Development Community and, therefore, also a beneficiary of and participant in the Regional Human Rights Programme Office for Southern Africa, a joint project of OHCHR and UNDP, which is based in Pretoria (see profile under "South Africa").



CÔTE D'IVOIRE

Date of admission to UN: 20 September 1960.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Côte d'Ivoire has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Acceded: 26 March 1992.

Côte d'Ivoire's initial report was due 30 June 1994.

Civil and Political Rights

Acceded: 26 March 1992.

Côte d'Ivoire's initial and second reports were due 26 June 1993 and 1998 respectively.

Optional Protocol: Acceded: 5 March 1997.

Racial Discrimination

Acceded: 4 January 1973.

Côte d'Ivoire's fifth through 13th periodic reports (1982-1998) have not been submitted; the 13th periodic report was due 3 February 1998.

Discrimination against Women

Signed: 17 July 1980; ratified: 18 December 1995.

Côte d'Ivoire's initial report was due 17 January 1997.

Torture

Acceded: 18 December 1995.

Côte d'Ivoire's initial report was due 16 January 1997.

Rights of the Child

Signed: 26 January 1990; ratified: 4 February 1991.

Côte d'Ivoire's initial and second periodic reports were due 5 March 1993 and 1998 respectively.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, para. 48)

The report refers to deaths due to acts of omission by the state, and notes information indicating that individuals, in particular foreigners, were killed by mobs after having been accused of "stealing a person's sexual organs" through the most simple forms of physical contact (i.e., shaking hands).

Racism and racial discrimination, Special Rapporteur on: (E/CN.4/1998/79, paras. 53, 72)

The report refers to cases having been transmitted, and the government's failure to respond to the information sent. No details of the cases were provided.



DJIBOUTI

Date of admission to UN: 20 September 1977.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Djibouti has not submitted a core document for use by the treaty bodies.

Discrimination against Women

Signed: 2 December 1998.

Rights of the Child

Signed: 30 September 1990; ratified: 6 December 1990. Djibouti's initial report (CRC/C/8/Add.39) has been submitted and is scheduled for consideration at the Committee's September/October 2000 session; the second periodic report was due 4 January 1998.

Reservations and Declarations: General reservation.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Torture, Special Rapporteur on: (E/CN.4/1998/38, para. 87; E/CN.4/1998/38/Add.1, para. 87)

An urgent appeal was sent to the government in October 1997 on behalf of members of the opposition movement Front for the Restoration of Unity and Democracy (FRUD). Information indicated that the persons concerned belong to the Afar ethnic group, and were arrested in Ethiopia in late September 1997. The information stated that they were handed over to the Djibouti authorities the following day and have been held incommunicado at a detention centre in the capital ever since.



EGYPT

Date of admission to UN: 24 October 1945.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Egypt has submitted a core document (HRI/CORE/1/Add.19) for use by the treaty bodies. The report prepared by the government includes demographic data and information on the structure of government, the Constitution, the Penal Code, the Egyptian Emergency Act, judicial authority, juvenile justice and the general legal framework related to human rights.

The Constitution establishes the rights and freedoms of citizens and has provisions on, for example, political freedom and the multi-party system, equality of opportu-

nity, protection of the family, equality between women and men, the right to work, the right to assume public office, the right to free education at all levels, non-discrimination, privacy, freedom of movement, the press, associations and trade unions and political asylum. All crimes related to human rights as set out in international instruments are punishable under Egyptian penal law. The international treaties that Egypt has ratified, including human rights instruments, are part of the law in force in the country.

Economic, Social and Cultural Rights

Signed: 4 August 1967; ratified: 14 January 1982.

Egypt's initial report (E/1990/5/Add.38) has been submitted and is pending consideration at the Committee's April 2000 session; the second periodic report was due 30 June 1995.

Reservations and Declarations: General reservation.

Civil and Political Rights

Signed: 4 August 1967; ratified: 14 January 1982.

Egypt's third periodic report was due 13 April 1994.

Racial Discrimination

Signed: 28 September 1966; ratified: 1 May 1967.

Egypt's 13th, 14th and 15th periodic reports were due 4 January 1994, 1996 and 1998 respectively.

Reservations and Declarations: Article 22.

Discrimination against Women

Signed: 16 July 1980; ratified: 18 September 1981.

Egypt's third periodic report (CEDAW/C/EGY/3) has been submitted and is pending for the Committee's June 1999 session; the fourth and fifth periodic reports were due 18 October 1994 and 1998 respectively.

Reservations and Declarations: Article 2; paragraph 2 of article 9; article 16; article 29.

Torture

Acceded: 25 June 1986.

Egypt's third periodic report was due 25 June 1996.

Rights of the Child

Signed: 5 February 1990; ratified: 6 July 1990.

Egypt's second periodic report (CRC/C/65/Add.9) has been submitted and is pending consideration for the Committee's May/June 2001 session.

Reservations and Declarations: Articles 20 and 21.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on:

(E/CN.4/1998/44, para. 19)

The report notes that two urgent appeals were sent to the government on behalf of two individuals. No details of the cases were provided.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 13, 163–166)

Two new cases of disappearance were transmitted to the government. Five cases were clarified on the basis of information previously submitted by the government; in all five cases the persons concerned had been arrested and were imprisoned. The report notes that the two newly reported cases concern Egyptian citizens who were arrested, respectively, in 1995 and 1996 by members of the State Security Investigation Department. One person was reportedly detained at his home in Abu Qeraas, south of Cairo, and the second taken from his shop in Bani Sueif, south of Cairo.

The majority of the 12 outstanding cases occurred between 1988 and 1994. The victims included alleged sympathizers of Islamic militant groups, students, a trader, a doctor, and three Libyan citizens. The renewal of the state of emergency during this period, which reportedly gave free rein to the security forces without supervision or accountability, is said to have been an aggravating factor in the disappearances.

Information provided by the government on eight of these cases indicated: police were still investigating relevant circumstances in the cases of the Libyan nationals; in two cases, fresh investigations had failed to identify the persons' whereabouts; in two cases, the individuals were suspected of involvement in a crime, and the security forces were pursuing their investigations; and, in one case, the person concerned escaped following arrest.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 17, 27, 73, 85; E/CN.4/1998/68/Add.1, paras. 146–153)

The Special Rapporteur (SR) recalled that violent acts committed by terrorist groups do not fall within the mandate. The violence committed by armed opposition groups resorting to terrorism as a tactic of armed struggle against governments is nonetheless acknowledged and reference is made to the fact that violent acts committed by such groups have led to the killing of civilians in Egypt.

The report refers to information related to death penalties imposed on civilians by military courts after proceedings which reportedly fell short of international fair trial standards and, in particular, of article 14 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Egypt. According to the information received, sentences in criminal cases, including death sentences, are passed to the Mufti, the highest religious authority, for approval, then submitted to the President for ratification, and subsequently reviewed by the Military Appeals Bureau, a non judicial body headed by the President. Furthermore, the impartiality and independence of military tribunals continued to be questioned, as military judges are serving military officers appointed by the Ministry of Defence for a two-year term, renewable for additional terms of two years at the discretion of the Minister. It was also reported that since October 1992, when the President began issuing special decrees refer-

ring civilians to trials before military courts, 81 persons charged with terrorist offences have been sentenced to death and 54 executions have been carried out.

Information was also provided to the SR related to proceedings before criminal courts, which may lead to the imposition of the death penalty and, similarly, do not conform to international fair trial standards, particularly with regard to the fact that final verdicts can only be appealed before the Court of Cassation when it can be proved that there were procedural irregularities in the trial.

The cases transmitted to the government related to death sentences following trials in which the courts disregarded both the claims of defence counsel that their clients had been tortured, and their requests not to admit as evidence the statements given during police interrogation. Information also indicated that no investigations into the allegations of torture were initiated and there had been no right to appeal the verdict of the (Emergency) Supreme State Security Court.

The government's response asserted that these cases could not be considered arbitrary executions since a legal judgement had been handed down by a court which had respected all the guarantees of a fair trial. With regard to previously transmitted cases, the government stated: the person in detention had died after falling into a diabetic coma, and as there was no reason to suspect a criminal act, the case was closed; the five persons said to have died in custody as a result of torture had all died of natural causes and the Department of Public Prosecutions had closed their cases since there were no reasons to suspect criminal acts.

The SR expressed concern at deaths in custody and the imposition of death penalties following trials before criminal and military courts reported to fall short of the international fair trial standards. The SR also expressed concern at the fact that civilians continue to be tried before military courts whose procedures fall short of international fair trial standards, particularly since these courts cannot be considered impartial and independent and the defendants have no right to appeal sentences.

Freedom of opinion and expression, Special Rapporteur on: (E/CN.4/1998/40, paras. 6, 8, 43, 78–79)

In the section dealing with the impact of new information technologies, the report notes that in July 1995 the government banned the import without prior authorization of satellite decoders, in order to "preserve and protect the values, morals and traditions of society". Referring to communications, the Special Rapporteur sent an urgent appeal in June 1997 regarding a journalist, two lawyers, and a veterinarian who were reportedly arrested by members of the State Security Investigation (SSI) for having expressed opposition to, and being in possession of material critical of, Law 96 of 1992 which regulates the relations between landowners and tenants. Those arrested were apparently charged with several offences under the anti-terrorism law. Information indicated that

all four were being held in Tora prison in Cairo and subjected to beatings and lashing. The government did not reply to the appeal.

Independence of judges and lawyers, Special Rapporteur on the: (E/CN.4/1998/39, paras. 15, 19, 65–67)

An urgent appeal was sent by the Special Rapporteur (SR) with regard to the arrest of the same two lawyers in the case addressed by the Special Rapporteur on freedom of opinion and expression. The report also notes the case of a lawyer from the Egyptian Organization of Human Rights (EOHR) who was arrested at Cairo airport allegedly in connection with his peaceful activities in opposition to Law 96. Information indicated that: he was held for two days in three different detention centres without charges being brought against him; he was finally interrogated in the presence of defence lawyers at the State Security Prosecution Office; before being transferred to Mazra'at Tora prison, he was held in al-Mahkoum prison in Tora where he was said to have been ill-treated; and he has been charged with verbally promoting ideas which contradict the fundamental principles of the ruling regime.

The government replied to the cases of the first two lawyers, stating that: they had both conducted premeditated and organized agitation instigating farmers to oppose by force the implementation of Law 96 of 1992 on tenancy agreements in regard to agricultural land; both were arrested by order of the Public Prosecutor following a search of their residence where printed material calling for opposition by force to the Law was found; and while imprisoned in the Tora penitentiary, they attacked some military police working in the prison. With regard to the lawyer from the EOHR, the government stated that he had been arrested at Cairo airport trying to escape an arrest warrant issued by the Public Prosecutor for the same reasons as in the case of the other two lawyers. According to the government, nothing in the facts related to the three cases was connected to their profession as lawyers, and all of their rights during investigation and detention were fully respected.

Religious intolerance, Special Rapporteur on: (E/CN.4/1998/6, paras. 48, 50, 62, 96)

The report refers to violations of freedom of religion and belief against Christianity and, with regard to the freedom to change one's religion, noted the case of a Muslim who had converted to Christianity and was reportedly arrested and interrogated in order to force him to give information about the activities of converts.

Torture, Special Rapporteur on: (E/CN.4/1998/38, paras. 89–93; E/CN.4/1998/38/Add.1, paras. 90–114)

The report notes that information was still being received indicating that: torture of persons detained for political reasons continued to take place on a systematic basis; the use of torture against persons detained in ordinary criminal cases occurred frequently; torture was carried out in the State Security Investigations Department (SSI) head-

quarters in Lazoghly Square, SSI branches throughout the country, police stations and Firaq al-Amn (security brigades), where detainees were said to be held incommunicado; methods of torture included the administration of electric shocks, beatings, suspension by the wrists or ankles, burning the body with cigarettes, threats of rape or sexual abuse to the detainee or to female relatives; conditions of a number of prisons were extremely poor; and generally the prison system was said to be characterized by the use of torture and other ill-treatment as a means of discipline and punishment, the prevalence of contagious diseases such as tuberculosis, lack of adequate medical care for prisoners, and bans on visits from relatives and lawyers.

The Special Rapporteur (SR) referred to particular allegations in respect of the High Security Prison (Al-Aqrab or the Scorpion), which stated that: prisoners received insufficient quantities of food; the food received was typically served from filthy buckets and often infested with insects; tuberculosis was widespread inside the prison; prisoners requiring hospitalization or specialized tests such as x-rays were denied access to such medical care, even upon the recommendation of the prison doctor; and according to a decision taken by the Minister of the Interior in December 1993, the prison was considered "closed", meaning that visits of families and relatives are banned. The Administrative Court had issued five rulings cancelling the closing decision but the Ministry of the Interior did not comply with any of them; and, torture and ill-treatment of prisoners was widespread at the High Security Prison. The report also notes that inmates were said to undergo "reception parties" at Fayyom Prison upon entering.

The SR communicated to the government nine newly reported cases, some of them collective, on behalf of 12 individuals and a group of 100 prisoners. Follow-up information was also sought on two previous cases involving 53 individuals, and a number of allegations were retransmitted involving situations to which a reply had not been received. An urgent appeal also raised the case of a group of 250 farmers.

The cases taken up by the SR involved arrest, followed by torture and/or ill treatment against, *inter alia*: members of al-Gama'a al Islamiya; an individual accused of stealing a tape recorder from his workplace; a person suspected of having set fire to an effigy of British Marshal Allenby; two people suspected of involvement in a killing; and, an individual who converted from Islam to Christianity, in order to gain information from him about other converts. The SR also took up the case of some 100 prisoners at the high security prison in Cairo who were reportedly subjected to collective punishment by flogging in June 1996, after a watch had been discovered in one inmate's cell and part of a ball-point pen in another.

The government's reply to the cases transmitted in previous years indicated: none of the persons alleged to have been tortured had responded to the summonses from the Assistant Attorney-General's Office for Human Rights,

preventing completion of the investigations; in the cases of 17 military persons accused of torture, the officers denied the accusations, the victims were unable to identify the persons responsible, and the Department of Public Prosecutions had therefore closed the investigation; a complaint concerning torture had not been lodged either by the lawyer or his client; an investigation into allegations had led to nine police officers being found responsible for abuses and the case was continuing, pending testimony by witnesses; the case had been closed due to inadequate evidence; one of the officers and others involved in the incident had been indicted and charged with excessive use of force causing injury, but a judgement had not yet been handed down; the person had dropped the complaint after being questioned and the case had been closed; the three officers implicated had been found to have ill-treated the victim and had been subjected to disciplinary action and docked three days' salary each; the accused officer had been found guilty, subjected to disciplinary action and transferred to another police station; the officer concerned had been subjected to disciplinary action by being docked 10 days' salary.

The SR noted the government's replies, as well as the fact that in no case had a police or security official been convicted and sentenced for torture. The SR stated that the few cases of disciplinary action, involving reduction of salary or transfer to another police station, did not adequately suggest a serious commitment to redress grave abuses of prisoners.

Mechanisms and Reports of the Sub-Commission

Traditional practices affecting the health of women and girls, Special Rapporteur on: (E/CN.4/Sub.2/1998/11, paras. 108–110)

The report refers to the pressure exerted by certain Islamist extremists who had campaigned against the 1996 decree of the Egyptian Minister of Health prohibiting the practice of excision by members of the medical profession, and the June 1997 decision of the Administrative Court to repeal this decree. In December 1997 the Council of State decided that it was "henceforth prohibited to practise excision even in cases where the girl and her parents give their consent". The Court of Appeal concurred with this decision and subsequently stated that circumcision of girls is not a right of the individual under the Sharia and nothing in the Koran authorizes it. The Special Rapporteur (SR) noted: the Council's decision is of broader impact than the decree issued by the Minister of Health which was addressed only to members of the medical profession; and the condemnation of female genital mutilation by the Court of Appeal was pronounced in a country that has always been at the centre of Islamic jurisprudence and Islamic studies. The SR stated that the court's decision puts an end to the manipulation of Islam and efforts to justify circumcision on religious grounds.



EQUATORIAL GUINEA

Date of admission to UN: 12 November 1968.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Equatorial Guinea has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Acceded: 25 September 1987.

Equatorial Guinea's initial report was due 30 June 1990; the second periodic report was due 30 June 1995.

Civil and Political Rights

Acceded: 25 September 1987.

Equatorial Guinea's initial report was due 24 December 1988; the second periodic report was due 24 December 1993.

Optional Protocol: Acceded: 25 September 1987.

Discrimination against Women

Acceded: 23 October 1984.

Equatorial Guinea's second and third periodic reports were submitted as one document (CEDAW/C/GNQ/2-3) which has not yet been scheduled for consideration; the fourth periodic report was due 22 November 1997.

Rights of the Child

Acceded: 15 June 1992.

Equatorial Guinea's initial report was due 14 July 1994.

COMMISSION ON HUMAN RIGHTS

Report of the Special Rapporteur

(E/CN.4/1998/73)

The Commission appointed a Special Rapporteur (SR) in 1993 with a mandate to conduct a thorough study of violations of human rights by government on the basis of information received from such sources as intergovernmental and non-governmental organizations, and private individuals. As well, the SR was to review documentation provided by the government. The SR for 1998 was Alejandro Artucio.

The SR conducted the seventh official mission to Equatorial Guinea from 30 November to 7 December 1997. The report to the 1998 session of the Commission (E/CN.4/1998/73), based in part on the mission, contains commentary on, *inter alia*: the economic and social situation; political rights; the state's legal structure; and the independence and impartiality of the judiciary; arbitrary arrests, intimidation and harassment; deprivation of freedom; torture and ill-treatment; incidents occurring beyond the territorial borders; the rights and situation of women; ethnic diversity; and non-governmental organizations. The SR states that, as on previous occasions, the government and authorities cooperated fully and did not impede access to places or people.

The report cites several findings and assessments, namely: the assessment of an OHCHR evaluation mission that refers to gratuitous use of force, the non-publication and unavailability of legal texts and documents, the fact that government authorities often ignore the existence of the legal authority from which their power flows, the limits of the authorities' competence as specified by law, and the rampant impunity enjoyed by state officials. The SR also cites a report prepared by the International Monetary Fund (IMF) following a mission in 1996 in which conditions in the country were characterized as including: a narrow productive base and extreme poverty, a low level of human capital, a lack of the most basic infrastructure, inadequacies in the judicial system, serious limitations in the administrative capacity, a rudimentary financial system, and persistent fiscal mismanagement as a result of corruption and a lack of transparency in government finance. An April 1997 UNDP assessment is also reviewed, which states that 80 per cent of the national income is being amassed by five per cent of the population, there was little evidence that the additional income derived from extracting and exporting oil was filtering down to the mass of the population, and that there had been no noticeable progress in health care, education, housing, public works and other areas.

The report reviews elements of the National Pact, agreed in 1993, related to democratization and elections. These elements included, *inter alia*: an agreement to end "intermittent arrests" and require administrative and criminal liability in cases of infringement; establishment of a commission, with representatives of the government and the political parties, to draw up a plan for the return of those nationals outside the country who wanted to come back; legalization of any application for the recognition of new political parties that met the requirements of the law; strengthening of individual public freedoms and freedom of movement, and the inviolability of the home, public offices and correspondence, and express prohibition on extrajudicial arrests. The report also reviews elements on the establishment of a government-political party commission responsible for guaranteeing the parties access to the media; the creation of an investigation commission to oversee the strict implementation of Agreement 7 of the National Pact of 1993 to ensure the free development of political parties and the application of civil and political rights; the eventual establishment of a "general framework of coexistence"; a prohibition on the active presence on electoral campaign committees of members of the armed and security forces, judges, magistrates and public prosecutors, as well as ministers of religion of different faiths and foreign citizens; a prohibition on members of the armed and security forces joining political parties; the granting of approximately US\$10,000 to each political party; an in-depth review of the electoral roll with political parties guaranteed free and direct access to the data and sources of the electoral roll; repudiation of, and prohibition on, any act of commission or omission intended to promote political violence; a prohibition on foreign individuals and organizations, and nationals residing outside the country for six consecutive months, to lead political parties or secretly

sponsor them; and a prohibition on foreigners residing in the country to participate in propaganda activities.

The report notes that the government and political parties approved a Code of Conduct for the legalized political parties, with the goal of fostering the development of democracy and political freedoms. Under the Code, which is binding, all the legalized political parties undertook: to respect each others' freedom of expression, assembly and association; not to intervene in the internal affairs of other parties; not to foment conflict between communities or ethnic groups; to act in defence of democratic ideals, including peace, democracy and respect for human rights; not to make any statements in support of violence, and to refrain from insults and personal disparagement; not to bear arms, and not to disturb the meetings of other parties during the electoral campaign; and not to intimidate members of other parties or to use force or violence.

The "Legislative Agreements" derived from the National Pact establish that: under the revised law on Political Parties the courts are responsible for dissolving political parties; applications for the recognition of a new party must be dealt with within 30 days; recognition of a party implies the recognition of its organs of information; within their jurisdiction, before banning any political act for reasons of public order, the governors shall endeavour to reconcile the conflicting interests; the reform of the Law on the Financing of Political Parties will increase the amount of the contributions to party finances which natural and legal persons may make; the Law on Complaints and Petitions will provide for the application of time limits established by the Law on Administrative Procedures in connection with appeals and for reasoned decisions; reform of the Law on Meetings and Demonstrations will include a guarantee that any request for a public meeting or demonstration will be approved or rejected by the authorities within 48 hours, in the case of rejection of such a request the reasons will be provided, approval shall be deemed to have been given if authorities fail to respond within the 48-hour period, and meetings held by parties in their offices or headquarters will not have to be approved and notification will not have to be given to the government authority. The "Legislative Agreements" also establish that: the Law on Amnesty, which is to be promulgated by the government, forgives and forgets all offences of a political nature so as to guarantee personal freedom and security in the national territory; under the Law on Legislative and Municipal Elections and Referenda, the provision granting the Ministry of the Interior and Local Corporations the chairmanship of the National Electoral Council will be abolished; Provincial Electoral Councils will also be abolished; the government, the judiciary and the political parties will appoint the national, district and municipal electoral authorities (councils), polling station officials shall be appointed by the National Electoral Board; and, the secrecy of the ballot during voting shall be ensured by imposing penalties on those responsible for encouraging public voting, for electoral coercion, or for unlawfully preventing the casting of votes.

The report cites information received by the SR from representatives of opposition parties stating that: the April 1997 Agreements had not been implemented; there was a lack of political will on the part of the government to put them into effect; the political parties had not been granted the financial assistance agreed and were short of funds and unable to function normally; there were still restrictions on civil liberties, especially in the mainland region, with their members still being arbitrarily detained for short periods; it was still impossible to gain access to the media (radio and television); and, the work on revising the electoral roll, at least with the comptroller of the political parties, had not been begun in October 1997 as projected. The report notes that senior government officials rejected these accusations and provided the SR with the texts of a number of presidential decrees and orders implementing the Agreements affecting such issues as: the free movement of persons, goods and publicity material belonging to the political parties; the prohibition on entry and search of homes and offices for political reasons; abolition of extrajudicial arrest; establishment of the Fund for Democracy which will receive voluntary contributions and share out the income equally among all the legalized political parties; an undertaking for both the government and the political parties to prohibit any action or act of commission or omission intended to restrict the free exercise of fundamental rights and freedoms, and to ensure that the political parties can pursue their activities freely throughout the national territory; establishment of the National Media Commission with responsibility for guaranteeing the political parties access to the state media; establishment of the Special Government-Political Parties Joint Commission responsible for continuously monitoring the transparency of the electoral roll; and accreditation of the members of the Commission for Overseeing and Monitoring the Fulfilment of the National Pact Agreements who represent the government and the political parties.

The discrepancies between the views of the government and those of the opposition were considered by the SR, who concluded that: the government had not refused to fulfil the agreements; there clearly had been, however, a considerable delay in implementing them; and, while it was possible that the delays were rooted in the unwillingness of elements within the government to advance the process of democratization, they were mostly attributable to the sluggishness and disorganization of the public service.

On other matters related to the political process and the elections planned for 1998, the report refers to: disagreements between opposition parties and an associated weakening of the effectiveness of the opposition in demanding greater civil liberties and respect for human rights; the fact that civil society continues to display serious structural weaknesses and an inability to generate a network of institutions capable of maintaining its rights; and the fact that this latter reality is closely related to civil society's political, social and cultural situation and its subordination to the structure of state power. The report also refers to a draft law which, if adopted, would

prohibit political coalitions in the 1998 legislative elections and to the decision of the Criminal Division of the Court of Appeal of the city of Malabo to order the disbanding of the Partido del Progreso de Guinea Ecuatorial.

In the section dealing with strengthening the legal structure of the state, the report notes concerns arising from adoption of Law No. 6/1997 on the Press, Publishing and the Visual Media (May 1997). The Law, which contains a statement of "publishing principles" open to subjective interpretation, also establishes a system of control over the media and a code of penalties governing the activities of the free press for minor, serious and very serious infringements.

Concerning the administration of justice, the report notes a number of factors including, *inter alia*: the absence of any evident improvement in the independence of the judiciary; the fact that the Instituto de Práctica Judicial, established by Decree No. 95 of 8 August 1997, was not yet functioning; the imposition of a criminal penalty of imprisonment by the Office of the Head of State, which could constitute an encroachment on the powers of the judiciary; less encroachment, in practice, of military jurisdiction into criminal matters despite the fact that legislation had not yet been enacted to ensure this separation of jurisdictions; a number of ritual murders, in some cases involving the removal of the victim's organs, in Bata and Malabo; and the removal of police and military road blocks, thereby decreasing one of the main sources of continual incidents involving members of the opposition parties. The report notes deprivation of liberty for short periods for various leaders and members of political parties and the continuation of the practice of imposing heavy fines — arbitrarily fixed by administrative rather than judicial authorities — as a substitute for detention, with the requirement that such a fine must be paid before freedom can be regained. The SR noted that the number of complaints received related to repressive measures aimed at opponents and dissidents had fallen. Note was also made of continuing incidents of repression, partly as the result of the lack of experience of democracy in rural areas — arising from the general low level of education, the attachment to traditional forms of local power exercised in an absolutist manner and the difficulty experienced by the village chiefs in understanding the abandonment of the single party in favour of a multi-party system.

The report acknowledges the efforts made by the authorities to improve the conditions of prisoners and detainees. Areas of continuing concern were outlined as including that: the diet of prisoners and detainees is still clearly inadequate — two loaves a day with a small portion of sardines and rice once a week; medical care continues to be inadequate and there is a shortage of medicines for treating the prisoners; prisoners continue to perform unpaid compulsory labour outside the prison grounds; and, though fewer, reports were still received of detainees, who were being held for short periods, suffering torture and ill-treatment.

Concerning impunity, the report recalls the SR's statement in the report to the 1997 session of the Commission that any progress towards respect for human rights in Equatorial Guinea, except incidentally, will be difficult as long as the highest government and judicial authorities show no desire to put an end to the impunity enjoyed by state officials who have perpetrated or instigated human rights violations. The report notes that the problem of impunity has been included in the National Pact Evaluation and Legislative Agreements drafted by the government and the political parties, and a formal undertaking was given to impose criminal and administrative penalties on all perpetrators of human rights violations.

As in previous reports, the SR included commentary on the rights and situation of women and quoted a UNDP report from April 1997 that referred to the fact that: women are engaged in low-productivity activities, especially subsistence farming which is an important source of employment for women since the activity represents more than 90 per cent of agricultural production. The UNDP report also noted that: a Ministry was created to deal with matters of concern to women and the aggressive campaign it has conducted has raised greater awareness of the situation of women; women's share of the total number of executive positions has increased from 2.3 to 4.8 per cent but, despite this progress, in many sectors women are still failing to gain equality with men; in Parliament women occupy only 7.5 per cent of the 80 seats; women's share of administrative and senior management posts and jobs in the professional and technical categories amounts to only 1.6 per cent and 26.8 per cent respectively; in the public service, 23 per cent of officials are women but, because of their relative low level of education, they perform the least well paid and lowest grade jobs; only 28 per cent of the national income goes to women; and, in the health sector, women are again worse off and the maternal mortality rate is estimated at 500/100,000. The report notes the approval, through residential Decree No. 98 of 13 August 1997, of the National Action Programme for the Integration of Women into the Development Process, which had been proposed by the Ministry of Social Affairs and the Situation of Women to address some of the issues raised in the UNDP assessment.

Brief commentary addresses a number of other issues, including: continuing reports of actions against persons belonging to the Bubi ethnic group on the island of Bioko and the inhabitants of the island of Annobon; the fact that the proceedings for legal recognition of non-governmental organizations engaged in defending human rights — which applied to the Ministry of the Interior for recognition several years ago — are still at a virtual standstill; and, that the applications of other NGOs with social interests are also still pending.

The recommendations contained in the report included, *inter alia*, that the government:

- ♦ ensure periodic and regular publication of laws, decrees and governmental acts;
- ♦ accede to the Convention Against Torture and to the Convention on the Elimination of All Forms of Racial Discrimination;
- ♦ improve both the functioning of the judiciary and the training of judges, prosecutors and lawyers in order to ensure the proper, guaranteed and effective administration of justice;
- ♦ ensure that the jurisdiction of military courts be limited to trying strictly military offences committed by military personnel;
- ♦ reiterate the instructions transmitted in 1997 to the central authorities, government delegates, police and armed forces, and village chiefs not to order or make arbitrary arrests and to respect the right of the individual to security, integrity and freedom;
- ♦ dismantle the remaining police and military checkpoints both on the island of Bioko and in the mainland region of Rio Muni;
- ♦ put an immediate end to all acts of torture or ill treatment and investigate, try, and impose criminal and disciplinary penalties on those responsible for such offences;
- ♦ continue efforts to improve the conditions of convicted and unconvicted prisoners and take fundamental and urgent steps to provide them with sufficient food and medical attention, including medicines and appropriate treatment;
- ♦ avail itself of any opportunities offered to send members of the prison service, especially officials of the Malabo and Bata prisons, to training courses in other countries;
- ♦ continue efforts already undertaken to put an end to the relegation of women to an inferior position — and discrimination against them — until they have achieved equality of opportunity with men;
- ♦ foster the conditions necessary to ensure that all the people enjoy economic, social and cultural rights and enable broad sectors of the population to escape from the extreme poverty in which they are living; and
- ♦ firmly oppose any sign or symptom of discrimination against ethnic minorities.

Resolution of the Commission on Human Rights (1998/71)

At the 1998 session, the Commission adopted by consensus a resolution on the situation of human rights in Equatorial Guinea. The Commission, *inter alia*: expressed the view that the government has taken steps to promote and protect human rights and fundamental freedoms as a priority in its programme of good governance; noted with concern continuing violations and abuses of human rights, including prolonged incommunicado detention; noted the political dialogue to revise

the 1993 National Pact; noted that legislative elections were scheduled for 1998; welcomed the first National Economic Conference held in September 1997 which included the participation of all political forces and national and international economic actors and adopted a better and more transparent administrative and economic programme for national development; encouraged the government to continue efforts aimed at effectively integrating women into the socio-economic, cultural and political development of the country; encouraged the government to promote conditions in which economic, social and cultural rights are enjoyed by everyone; called on the government to take appropriate measures to avoid any form of discrimination against ethnic groups; invited the government to become a party to the Convention against Torture and the Convention on the Elimination of Racial Discrimination; encouraged the government to continue efforts to improve the functioning of the judiciary and the training of judges, prosecutors and lawyers; encouraged the government to publish regularly laws, decrees and other governmental acts; encouraged the government to ensure that forces of law and order respect the rights to security, physical integrity and freedom; encouraged the government to continue efforts aimed at the eradication of impunity; called on the government to adopt the necessary measures to ensure transparency and respect for the electoral process in the 1998 legislative elections; requested the High Commissioner for Human Rights to provide technical assistance, in particular in support of the government's effort to establish the Centre for the Promotion of Human Rights and Democracy, and renewed the mandate of the SR for another year.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Disappearances, enforced or involuntary, Working Group on: (E/CN.4/1998/43, paras. 172–174, 417)

No new cases of disappearance were transmitted to the government. The three cases of disappearance reported on concerned members of political opposition parties who were reportedly arrested in Malabo in August 1993. Information indicated that police authorities refused to disclose any information on their whereabouts. The Working Group noted that although several reminders have been sent, no information has been received from the government on these outstanding cases.

Torture, Special Rapporteur on: (E/CN.4/1998/38, paras. 94–95; E/CN.4/1998/38/Add.1, paras. 115–118)

Four urgent appeals were sent to the government which replied to one of them. The Special Rapporteur (SR) recalled the statement in the 1997 report that cases of tor-

ture and ill-treatment of prisoners continue to occur, although the number of complaints received is lower and that the impunity of the perpetrators of human rights violations is still continuing.

The appeals were sent on behalf of: a member of the Progress Party who was arrested in Cogo in June 1996, allegedly tortured and sentenced to rigorous imprisonment by a military court, and whose request for an examination by a physician had not been granted; a number of members of the Convergencia para la Democracia Social Party and the Fuerza Demócrata Republicana Party (FDR) who were arrested without a warrant in July 1997 by police officers in Bata and held incommunicado; two other members of the FDR who were arrested after participating in a seminar on the independent press; and a former parliamentarian and leader of the Fuerza Demócrata Republicana, as well as one other FDR member.

In response to the appeal on behalf of the group of FDR members, the government stated that they had been arrested for ordinary offences and not political crimes, and that they had been conditionally released. With regard to members of the Convergencia para la Democracia Social Party, the government stated that they had provoked an incident with the owner of the premises which they were occupying without paying rent, causing the police to intervene; however, they had not been deprived of liberty. The government also stated that no one could be deprived of freedom because of political affiliation or participation in political activities, as recognized by law.



ERITREA

Date of admission to UN: 28 May 1993.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Eritrea has not submitted a core document for use by the treaty bodies.

Discrimination against Women

Acceded: 5 September 1995.

Eritrea's initial report was due 5 October 1996.

Rights of the Child

Signed: 20 December 1993; ratified: 3 August 1994.

Eritrea's initial report was due 1 September 1996.



ETHIOPIA

Date of admission to UN: 13 November 1945.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Ethiopia has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Acceded: 11 June 1993.

Ethiopia's initial report was due 30 June 1995.

Civil and Political Rights

Acceded: 11 June 1993.

Ethiopia's initial report was due 10 September 1994.

Racial Discrimination

Acceded: 23 June 1976.

Ethiopia's seventh through 11th period reports (covering the period 1989-1997) have not been submitted; the 11th periodic report was due 23 July 1997.

Discrimination against Women

Signed: 8 July 1980; ratified: 10 September 1981.

Ethiopia's fourth and fifth periodic reports were due 22 April 1994 and 1998 respectively.

Reservations and Declarations: Paragraph 1 of article 29.

Torture

Acceded: 14 March 1994.

Ethiopia's initial report was due 12 April 1995.

Rights of the Child

Acceded: 14 May 1991.

Ethiopia's third periodic report (CRC/C/70/Add.7) has been submitted and is pending consideration at the Committee's September/October 2001 session.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on:

(E/CN.4/1998/44, paras. 4, 6, 7, 14, 16, 19, 21, Annex III; E/CN.4/1998/44/Add.1, Opinion No. 12/1997)

The report notes that information was transmitted to the government but no details were provided. An urgent appeal on behalf of 15 persons was also sent.

Opinion No. 19/1997 concerned two individuals. The first person was a teacher and the facts presented to the WG included that: he was arrested in April 1996 on order of the administrative authority of the region of Oromia; the arrest was apparently linked to accusations that he and 13 other local people were involved in a politically motivated killing; in June 1996 he was transferred to Gimbi

prison; no warrant nor any other decision by a public authority was shown to uphold the arrest; no formal charge had been brought against him and he was being kept incommunicado; this was the fourth time that he had been imprisoned since 1992; and the arrest may have been politically motivated because of his ethnic origin (Oromo) and because of his sympathizing with and supporting the Oromo Liberation Front (OLF) between 1991 and 1992 when the OLF was in the transitional government. The WG concluded that the arrest was essentially of a political nature.

The second case involved a farmer. The facts presented to the WG included that: he was arrested in April 1996 at his home in Oromia; he was transferred to Gimbi prison in June and, in April 1997, moved to Karchale prison (Addis Ababa), where he was still detained; no warrant nor any other decision by a public authority was shown to uphold the arrest; no formal charge had been brought against him; the family failed to obtain *habeas corpus* as the authorities claimed that he was a political prisoner; and the arrest may have been politically motivated because of his ethnic origin (Oromo) and because of his involvement in the OLF. The WG stated that there was no doubt about the political character of the detention since it was precisely due to his being considered by the Ethiopian authorities as a political prisoner that he was refused *habeas corpus* by the authorities.

The WG decided that the detention of these two individuals was arbitrary.

Opinion No. 12/1997 concerned one individual who had reportedly been detained since 1992 without charge or trial. It was alleged that the person was one of approximately 1,700 former officials who were accused of having participated in genocide, war crimes or crimes against humanity between 1974 and 1991 under the government of Lieutenant-Colonel Mengistu Haile-Mariam and who have not been formally charged, nor brought before a tribunal or given the opportunity to challenge their detention. Information indicated, *inter alia*, that: the new government had undertaken the task of prosecuting the accused; the Special Prosecutor's Office (SPO) planned to try detainees in three categories — first, "the policy and decision makers", second, "the field commanders, both military and civilian", and third, "the actual perpetrators" of murder, torture and other crimes; and the case reportedly fell within the last category since the person was an official of a local urban-dweller's association (kebele). Information also indicated that: only persons falling within the first category had thus far been charged and brought to trial; hundreds of detainees were released by court orders in 1993, as a result of *habeas corpus* applications or decisions of the SPO with respect to time limits legally imposed on such types of detentions; and, in late 1993, the appeal division of the Supreme Court barred further *habeas corpus* applications and ruled that, in light of the special circumstances and the seriousness of the crimes involved, the SPO detainees were to remain incarcerated without any specific time limit until they were charged.

The government did not contest the facts as reported to the WG but did state that the SPO, which is mandated to investigate and prosecute cases of gross and systematic human rights violations during the campaign of mass extermination, was in the process of finalizing the investigations and preparing to charge the suspects under detention, including the person named in the case considered by the WG. The government pointed out that the individual was being detained by court order in connection with suspected involvement in the killing of 14 teenagers in Addis Ababa during the "Red Terror" campaign of 1977–1978 when many innocent lives were lost. The government affirmed it was conscious of its international and national commitment to fair, impartial and speedy trials and stated that every effort was being made to accelerate the process of bringing charges against all detained officials of the former regime suspected of involvement in genocide, war crimes and/or crimes against humanity.

The WG stated that even though many of the detainees may indeed have been responsible for serious human rights violations or may have personally committed serious crimes, their prolonged detention without trial is not justified. On the basis that the person named had already been detained since 1992 without charge or trial and had not been given the opportunity to challenge the legality of the detention, the WG decided that the detention was arbitrary.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 13, 24, 25, 30, 37, 50, 175–179)

In the section dealing with the question of compensation for disappearances, the report notes that in Ethiopia: the right to sue, the conditions under which compensation is to be made, and the right to and extent of the compensation, are all governed by the provisions of the Civil Code; under the Ethiopian Penal Code if an offence has caused considerable damage to injured persons or those having rights from them, a claim of damages by way of compensation may be made; two years must have elapsed before a court may, upon the provision of sufficient evidence, officially declare a person absent; if it is reliably determined that the absentee is dead, the court may deliver a judgement declaring the death of the absentee; in matters related to a declaration or presumption of death, any individual may initiate proceedings; and the method of exhumation is used to determine the identity of persons who have disappeared, for example, in the trial of the officials of the former government.

The Working Group (WG) noted that five newly reported cases of disappearance were sent to the government and two cases were retransmitted on the basis of new information from the sources. The majority of the 105 cases of disappearance reported to the WG occurred between 1991 and 1996 under the Transitional Government, and concerned members of the Oromo ethnic group suspected of participation in the Oromo Liberation Front (OLF). Other cases concerned members of the Ogaden

National Liberation Front (a political party) who disappeared in Region Five in eastern Ethiopia, also known as the Ogaden. Cases of disappearance were reported which occurred in Ogaden between 1974 and 1992, after the military government took power, and concerned mainly high-ranking officials of Emperor Haile Selassie's government, members of the Oromo ethnic group — in particular those believed to be involved with the OLF — or persons accused of involvement with opposition political groups, including the Ethiopian Socialist Movement. The report refers to one case, which occurred in 1996, concerning an Ethiopian refugee in Djibouti who was said to have been arrested at a refugee camp in Djibouti by members of the Djibouti police and handed over to the Ethiopian authorities.

The newly reported cases allegedly occurred between 1991 and 1996; four of them concerned members of the Oromo ethnic group, including two students, a judge, and one person of unknown profession. The fifth case concerned a merchant who reportedly disappeared in Hararge.

The government provided information on one individual case, citing information produced by the family stating that the person concerned was in Addis Ababa receiving medical attention.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 13; 14, 16, 17, 32, 33, 39; E/CN.4/1998/68/Add.1, paras. 164–171)

The Special Rapporteur (SR) referred to information indicating that extrajudicial, summary or arbitrary executions, as well as other human rights violations, occurred on a regular basis in secret detention centres, of which the government reportedly denies the existence.

Communications to the government involved, *inter alia*: detainees reportedly held in 23 secret detention centres in Deder district, mainly on the suspicion of supporting the Oromo Liberation Front (OLF); approximately 300 persons held at Harrar prison, most of them farmers, after reports had been received expressing fear for their lives or physical and mental integrity and information detailing killings during detention that had already taken place; deaths in custody as a consequence of injuries resulting from torture; and a killing by armed men belonging to the Ethiopian People's Revolutionary Democratic Front (EPRDF) in Kolli village, Anfilo district, western Wollega and, reports that those responsible were taken by villagers to the town police station, where they were immediately released.

The government denied that there were secret detention centres in Deder district, stating that the only places of detention are one prison, one police station, and one sub-police station in Kobo town. In response to some of the individual cases the government stated: the person named had answered the mobilization call made by the OLF and no adverse action was taken against him by the government; a warrant of arrest was issued against the

person who was accused of murder but still at large; the person was detained on charges of murder; the person was not under detention and was leading a normal life; the person named was a lieutenant and killed in a conflict with the OLF after he had left the government; the person named was arrested in connection with the investigation of a murder; and the person named was not killed by soldiers but rather by three unidentified gunmen, and the case was still under investigation.

Freedom of opinion and expression, Special Rapporteur on: (E/CN.4/1998/40, para. 56)

In the section on women, freedom of expression, and violence against women, the Special Rapporteur (SR) referred to the 1997 report of the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on traditional practices affecting the health of women and children, and a case in Ethiopia (see E/CN.4/Sub.2/1997/10, para. 27). The SR noted that in May 1997, according to the Ethiopian Press Agency (ENA), six girls of the Woreda tribe in eastern Ethiopia had committed suicide to avoid abusuma, the traditional marriage between cousins. It was further noted that most of the girls subject to this tradition are about 15 years old and that many of them prefer death to being married off to men who are 80 years old, while others have refused this type of marriage because they consider it to be a form of "women's slavery".

Torture, Special Rapporteur on: (E/CN.4/1998/38, paras. 96–97; E/CN.4/1998/38/Add.1, paras. 119–133)

Eight individual cases and four urgent appeals were sent to the government. The urgent appeals related to a group of approximately 200 individuals and approximately 20 members of the Oromo ethnic group. The Special Rapporteur (SR) stated that the consistency of allegations of torture, particularly with regard to persons in the custody of the army and suspected of involvement with the Oromo Liberation Front (OLF), remained a concern. The SR further stated that a minimum measure that should be taken by the government, as a matter of urgency, is a thorough inquiry into the detention and interrogation practices of the army in its counter-insurgency operations, in order for those practices to conform with international standards.

The cases investigated by the SR referred to: a member of the OLF who was reportedly detained on three occasions between 1993 and 1995; one of approximately 200 persons detained from Makaballo village, Hararge, in late May 1996 by government soldiers and held in an army camp, with reports indicating that the family paid a bribe, and beatings were limited to the palms of the victim's hands; an individual who was in Djibouti as a refugee and voluntarily repatriated in 1995 and, upon return to Ethiopia, had his UNHCR papers declared "no good" and was accused of OLF membership; an individual from Chalanko, East Hararge, who was reportedly detained and tortured 10 times from 1992 to 1996 — including 8 times at a secret detention centre at Kumutu

military camp, near Chalanko; an artist, reportedly detained by plain clothes police officers in Addis Ababa in 1996, subsequently interrogated at an unknown detention centre about his criticism of the government, and tortured when he did not respond to questions relating to his ethnic origin; an individual who was reportedly abducted by unidentified security agents in May 1995 from Birka-Tirtira, on suspicion of having links with the OLF; arrest of a health worker on two occasions by security forces in Addis Ababa, in July 1992 and March 1997, on suspicion of supporting the OLF; a 65-year-old farmer from the village of Rira Dinsho in Bale province who was arrested in May 1997 on the accusation of supporting the OLF; approximately 200 students of Addis Ababa University who were said to have been arrested at a peaceful demonstration in March 1997; and approximately 20 prominent members of the Oromo ethnic group in Addis Ababa, who were reportedly arrested in the first half of November 1997 and accused of having links with the OLF and of involvement in bombings in Addis Ababa and other towns.

The government confirmed the arrest of approximately 200 Addis Ababa University students, stating that they had tried to stage a demonstration without a permit in contravention of Proclamation No. 37/1991, noting that they had been released after submitting a formal apology and denying allegations of ill treatment. With regard to the group of approximately 20 Oromo leaders, the government stated that: they had been arrested on the basis of an arrest warrant issued by the court because of their support for terrorist activities; fears of torture or ill treatment were unfounded; the detainees were accorded humane treatment and full respect for their person in accordance with the Ethiopian Constitution and other relevant laws; and four persons named in the SR's communication had been informed of the reasons for their arrest and their rights, and their case was being processed in line with due process of law. In response to a case transmitted in 1996 on behalf of a large number of persons detained in Hararge province on suspicion of supporting the OLF, the government stated that: one person had died in a conflict with the OLF; it was not possible to ascertain whether another person named, who had joined the OLF, was dead or alive; a third person was in prison in connection with murder charges; a fourth was pending arrest on a charge of murder; and a fifth person had been arrested in connection with a murder investigation but had been released when found not to be implicated. The government also stated the Regional Administration of Oromia had affirmed that there were no secret detention centres in Deder district and, while some of the detainees were members of the OLF, they were detained on charges under the Ethiopian Penal Code and not for their political affiliation.



GABON

Date of admission to UN: 20 September 1960.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Gabon has submitted a revised core document (HRI/CORE/1/Add.65/Rev.1) for use by the treaty bodies. The report prepared by the government contains demographic and statistical data and information on the economy, history and the general political structure, and the general legal framework within which human rights are protected. The preamble of the Constitution affirms the country's commitment to the basic human rights and fundamental freedoms defined in, *inter alia*, the Universal Declaration, the African Charter on Human and Peoples' Rights, and the 1990 National Charter of Freedoms. The Human Rights Department, established in 1987, is entrusted with the mandate of applying government human rights policy and coordinating initiatives derived from the policy. The Ministry of Justice and Human Rights focusses its efforts on the protection and promotion of human rights. Information on, and the dissemination of, international human rights instruments at the national level is central to the promotion of these rights.

Economic, Social and Cultural Rights

Acceded: 21 January 1983.

Gabon's initial report was due 30 June 1990; the second periodic report was due 30 June 1995.

Civil and Political Rights

Acceded: 21 January 1983.

Gabon's second periodic report (CCPR/C/128/Add.1) has been submitted and is not yet scheduled for consideration; the third periodic report is due 31 December 2003.

Racial Discrimination

Signed: 20 September 1966; ratified: 29 February 1980. Gabon's second through ninth periodic reports were submitted as one document (CERD/C/315/Add.1), which was considered at the Committee's August 1998 session; the 10th periodic report is due 30 March 1999.

Discrimination against Women

Signed: 17 July 1980; ratified: 21 January 1983.

Gabon's second through fourth periodic reports were due 20 February 1988, 1992 and 1996 respectively.

Torture

Signed: 21 January 1986.

Rights of the Child

Signed: 26 January 1990; ratified: 9 February 1994.

Gabon's initial report was due 10 March 1996.

REPORTS TO TREATY BODIES

Committee on the Elimination of Racial Discrimination

Gabon's 2nd through 9th periodic reports were submitted as one document (CERD/C/315/Add.1) which was considered by the Committee at its August 1998 session. The brief report prepared by the government states that racial discrimination is not a feature of Gabonese culture and that cultural plurality is a geopolitical fact. Information is provided on, *inter alia*: amendments to the Constitution in 1997 and provisions related to freedom of thought, conscience and religion; the right and duty to work; freedom of association; and education, access to education, and the education policy.

The Committee's concluding observations and comments (CERD/C/304/Add.58) noted that Gabon is in the process of a difficult economic period and that limits on resources available in the public service have hampered the full implementation of the Convention. The Committee welcomed Gabon's accession to the major international human rights instruments, including the 1981 African Charter on Human and Peoples' Rights, incorporation of the Convention into the 1997 Constitution, the establishment of the Ministry for Human Rights and achievements in the field of education, especially the high school attendance rate.

The principal subjects of concern identified by the Committee included, *inter alia*: the insufficiency of the information on the demographic composition of the population, including the composition of the foreign community and indigenous Pygmy groups; the lack of information on the implementation of article 4 of the Convention, especially on how this principle is reflected in domestic legislation (e.g., Penal Code) and applied by judges, lawyers, and civil servants; the lack of information on the existence of available legal mechanisms to lodge complaints in cases of racial discrimination; the possibility that members of the public, judges and lawyers may not be sufficiently aware of the protection against racial discrimination provided by the Convention; and the lack of information on programmes for the training of magistrates, law enforcement officials, teachers, and social workers, aimed at raising their awareness of problems related to racial discrimination.

The Committee recommended that the government, *inter alia*:

- ♦ provide further information on the demographic composition of the population;
- ♦ provide information in the next report on the implementation of article 4 of the Convention — prohibition of organizations and individuals promoting racial hatred, especially on how this principle is reflected in domestic legislation and is applied by judges, lawyers, and civil servants;
- ♦ provide comprehensive information on the realization by all groups of the rights under article 5, in par-

ticular concerning participation in public life and enjoyment of economic, social and cultural rights;

- ♦ provide information on the existing legal mechanisms available to lodge complaints in cases of racial discrimination and to emphasize the role of the judicial system in eliminating racial discrimination; provide information on measures undertaken or envisaged for improving public awareness of the Convention; and
- ♦ take all necessary measures to ensure the training and education of law enforcement officials, teachers, social workers and students in the prevention of racial discrimination; include the teaching of human rights in school curricula.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Religious intolerance, Special Rapporteur on: (E/CN.4/1998/6, paras. 48, 50)

The report refers to violations of freedom of religion and belief against Jehovah's Witnesses, but no details are provided.



GAMBIA

Date of admission to UN: 21 September 1965.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Gambia has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Acceded: 29 December 1978.

Gambia's initial and second periodic reports were due 30 June 1990 and 1995 respectively.

Civil and Political Rights

Acceded: 22 March 1979.

Gambia's second, third and fourth periodic reports were due 21 June 1985, 1990 and 1995.

Reservations and Declarations: Paragraph (3) (d) of article 14; declaration under article 41.

Optional Protocol: Acceded: 9 June 1988.

Racial Discrimination

Acceded: 29 December 1978.

Gambia's second through tenth periodic reports have not been submitted (covering the period 1982-1998); the tenth periodic report was due 28 January 1998.

Discrimination against Women

Signed: 29 July 1980; ratified: 16 April 1993.

Gambia's initial and second periodic reports were due 16 May 1994 and 1998 respectively.

Torture

Signed: 23 October 1985.

Rights of the Child

Signed: 5 February 1990; ratified: 8 August 1990.

Gambia's initial report was due 6 September 1992; the second periodic report was due 6 September 1997.

COMMISSION ON HUMAN RIGHTS

At its 1998 session, the Commission on Human Rights considered the situation in Gambia under the confidential 1503 procedure. The Commission decided to continue consideration under 1503 at its 1999 session.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on: (E/CN.4/1998/44/Add.1, Decision No. 40/1996)

Decision No. 40/1996 was adopted in December 1996 and concerned 35 individuals who were reportedly arrested in October 1995 and held at a disused hangar at Fayara army barracks in Bakau, outside the capital. Information indicated that they had been denied visits by their families and experienced serious difficulties in gaining access to their lawyers. Among the 35 detainees were 25 alleged supporters of the People's Progressive Party (PPP) who were reportedly charged with sedition and released on bail in January 1996, but were rearrested later the same day. They had reportedly been granted bail by the magistrate in accordance with the provision of the decree which allows for bail after 90 days in custody. The source reported that the legal basis for their rearrest was unclear. Although a decree was said to have been issued permitting their rearrest, the source affirmed that the decree was not invoked in court by the Deputy Director of Public Prosecutions acting as counsel for the prosecution. This suggested that it had not in fact been issued by that time. Information alleged that a retrospective decree was used to justify illegal acts taken by the authorities.

At least 10 other persons remained in holding without charge, in contravention of the decree providing for a detainee to be brought before a court within 90 days.

The Working Group decided that the detention of all the named persons was arbitrary since it could not be linked to any legal basis.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 13, 404)

One case of disappearance was clarified when the source reported that the person concerned had been released

from detention. The case involved a member of the now dissolved House of Representatives who was arrested in 1995 by the police and subsequently disappeared. Information indicated that the person had been held for nearly two years in various prisons, without being charged or tried.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 14, 17, 27, 32; E/CN.4/1998/68/Add.1, paras. 178–181)

An urgent appeal was sent to the government on behalf of four persons reportedly sentenced to death in July 1997 by the High Court of Gambia for trying to overthrow the government. The appeal was based on fears that the four might be executed before the last day for submission of appeals. A case involving death in custody as a result of torture was also transmitted. The arrest followed an attack by an armed group on the Farafenni military camp, in which six soldiers died. The government responded to the case, stating that the person named had died of natural causes — septicæmia complicating a membranous colitis and severe gastro intestinal hæmorrhage — and providing the Special Rapporteur (SR) with a copy of the autopsy report and the death certificate.

The SR noted with regret the imposition of the first death sentences following abolition of the death penalty in 1993, and its reinstatement in 1995.

Religious intolerance, Special Rapporteur on: (E/CN.4/1998/6, paras. 48, 50, 60)

The report refers to violations of freedom of religion and belief against the Ahmadis, and notes that appeals for the murder of Ahmadis were reportedly made by the Secretary of State for the Interior and Religious Affairs and an imam.

Mechanisms and Reports of the Sub-Commission

Traditional practices affecting the health of women and girls, Special Rapporteur on: (E/CN.4/Sub.2/1998/11, para. 95–96)

The report refers to information provided by the government noting that in 1997, 1,000 girls between the ages of three months and seven years had been mutilated in one region of the country. Reference is also made to the Gambian Committee on Traditional Practices which has had taken action to inform and develop awareness among all sectors of society. Experience in the field had shown the importance of the role played by traditional midwives who also practised excision. Their incorporation in the system of health care — and the provision to them of full and suitable information on the harm mutilation could cause — had led many of these practitioners of excision to decide to cease carrying out these mutilations. The Special Rapporteur noted that there had been pressure

exerted by certain powerful groups on governments and broadcasting authorities to oppose the awareness campaign that was being carried out related to the harm being caused by mutilation. The Gambian government was among those that had authorized the awareness campaigns and had given instructions to the radio authorities to allow NGOs to make use of radio programmes to broadcast their messages concerning female genital mutilation.



GHANA

Date of admission to UN: 8 March 1957.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Ghana has not submitted a core document for use by the treaty bodies.

Racial Discrimination

Signed and ratified: 8 September 1966. Ghana's 12th through 15th periodic reports were submitted as one document (CERD/C/338/Add.5) which have not yet been scheduled for consideration; the 16th periodic report is due 4 January 2000.

Discrimination against Women

Signed: 17 July 1980; ratified: 2 January 1986. Ghana's third periodic report was due 1 February 1995.

Rights of the Child

Signed: 29 January 1990; ratified: 5 February 1990. Ghana's second periodic report was due 1 September 1997.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 48)

In a commentary on deaths caused by a failure of authorities to act, the report refers to incidents in which persons, particularly foreigners, were reportedly killed by mobs after having been accused of "stealing a person's sexual organs" through simple physical contact, such as shaking hands.



GUINEA

Date of admission to UN: 12 December 1958.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Guinea has submitted a core document (HRI/CORE/1/Add.80) for use by the treaty bodies. The report prepared by the government contains economic, demographic and statistical data, a brief historical overview as of independence, and information on the political and administrative structure and the legal framework for the protection of human rights. Title II of the Constitution sets out the fundamental freedoms and the duties and rights of citizens. There is no authority with exclusive competence related to the protection of human rights; neither is there one court specifically competent to try violations of human rights. In addition to recourse to the courts, remedies are available through applications to vacate judgements, appeals, reviews and applications for judicial review. International law takes precedence over domestic law and the Constitution provides that citizens may invoke various human rights instruments before the courts. There are no national public institutions or organizations responsible for ensuring respect for human rights. The government has authorized, however, the establishment of NGOs concerned with the support or protection of human rights, including the Guinean Association for Human Rights and the Guinean Organization for the Defence of Human Rights.

Economic, Social and Cultural Rights

Signed: 28 February 1967; ratified: 24 January 1978. Guinea's initial and second periodic reports were due 30 June 1990 and 1995 respectively.
Reservations and Declarations: Paragraph 1 of article 26; paragraph 3 of article 1; article 14.

Civil and Political Rights

Signed: 28 February 1967; 24 January 1978. Guinea's third periodic report was due 12 November 1993.
Reservations and Declarations: Paragraph 1 of article 48.

Optional Protocol: Signed: 19 March 1975; ratified: 17 June 1993.

Racial Discrimination

Signed: 24 March 1966; ratified: 14 March 1977. Guinea's second through eleventh periodic reports, covering the period from 1980 to 1998, have not been submitted; the eleventh periodic report was due 13 April 1998.

Discrimination against Women

Signed: 17 July 1980; ratified: 9 August 1982. Guinea's initial and second through fourth periodic reports have not been submitted; the fourth periodic report was due 8 September 1995.

Torture

Signed: 30 May 1986; 10 October 1989. Guinea's initial report was due 8 November 1990; the second periodic report was due 8 November 1994.

Rights of the Child

Acceded: 13 July 1990. Guinea's initial report (CRC/C/3/Add.48) has been submitted and is pending for consideration by the Committee at its January 1999 session; the second periodic report was due 1 September 1997.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 191–193, 417)

No new cases of disappearance were transmitted by the Working Group (WG) to the government. The majority of the 28 reported cases in Guinea occurred in 1984 and 1985 in the context of a coup d'état. The WG noted that it has not received any reports of disappearances occurring in Guinea after 1985. In the absence of new information from the government on the outstanding cases, the WG was unable to report on the whereabouts of the disappeared persons.



GUINEA-BISSAU

Date of admission to UN: 17 September 1974.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Guinea-Bissau has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Acceded: 2 July 1992. Guinea-Bissau's initial report was due 30 June 1994.

Discrimination against Women

Signed: 17 July 1980; ratified 23 August 1985. Guinea-Bissau's initial and second through fourth periodic reports have not been submitted; the fourth periodic report was due 22 September 1998.

Rights of the Child

Signed: 26 January 1990; ratified: 20 August 1990. Guinea-Bissau's initial report was due 18 September 1992 and 1997.

SECURITY COUNCIL

The Security Council agreed a statement by the President (S/PRST/1998/31, November 1998) in which the Council, *inter alia*: welcomed the agreement reached on 1 November 1998, in Abuja, between the government and the Self-Proclaimed Military Junta; affirmed its firm commitment to preserve the unity, sovereignty, constitutional order and territorial integrity of Guinea-Bissau; considered the agreement to be a positive step towards national reconciliation and lasting peace; particularly welcomed the decision immediately to put in place a government of national unity and to hold general and presidential elections not later than the end of March 1999; appealed to states and organizations concerned to provide urgent humanitarian assistance to displaced persons and refugees; called upon the government and the self-proclaimed military junta to continue to respect relevant provisions of international law, including humanitarian law, and to ensure safe and unimpeded access by international humanitarian organizations to persons in need of assistance as a result of the conflict; and welcomed the decision to open the international airport and the seaport at Bissau.



KENYA

Date of admission to UN: 16 December 1963.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Kenya has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Acceded: 1 May 1972.

Kenya's second periodic report is due 30 June 2000.

Reservations and Declarations: Paragraph 2 of article 10.

Civil and Political Rights

Acceded: 1 May 1972.

Kenya's second through fourth periodic reports were due 11 April 1986, 1991 and 1996 respectively.

Optional Protocol: Acceded: 1 May 1972.

Discrimination against Women

Acceded: 9 March 1984.

Kenya's third and fourth periodic reports were due 8 April 1993 and 1997 respectively.

Torture

Acceded: 21 February 1997.

Kenya's first periodic report was due 22 March 1998.

Rights of the Child

Signed: 26 January 1990; ratified: 30 July 1990.

Kenya's initial and second periodic reports were due 1 September 1992 and 1997 respectively.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 14, 17, 32, 39, 70; E/CN.4/1998/68/Add.1, paras. 244–251)

The report notes that cases related to deaths in custody — due to attacks or killings by security forces, paramilitary groups or private forces cooperating with or tolerated by the state — were transmitted to the government. One case involving the death of a lawyer was also referred to the government.

The addendum to the main report cites the October to December 1996 quarterly report of the Kenyan Human Rights Commission stating that 632 persons had died in 1996 due to acts of "omission or commission" by the government, including 180 persons killed by bandits — whom the Commission said the government had done little to control, 95 by mobs, and 130 by security forces. In respect to those killings alleged to have been committed by security forces, the Commission reportedly stated that only 12 police officers had been charged and only 2 had been convicted. The Special Rapporteur (SR) also noted information related to the high number of deaths occurring in Kenyan prisons, with the majority of deaths reportedly the result of widespread illnesses due to unsanitary conditions, lack of food, lack of sunlight, and torture. Additional reports indicated deaths in custody or detention as a result of ill-treatment or torture. With regard to the death of a lawyer, who was working on a file about an armed robbery of the Standard Chartered Bank, information suggested that the individual had been killed after he had accused police officials of having kept part of the recovered money for themselves.

The government responded to some of the concerns related to deaths in custody arising from torture or ill-treatment, stating that in one case the police officer responsible had been arrested and charged with murder and that the case would be heard in 1997 and, in another, no post mortem investigation could be performed because by the time a doctor was available the body had decomposed badly, owing to the fact that the District Hospital mortuary had no refrigeration facilities. In the latter case, the Provincial State Counsel had returned the inquest file to the District Criminal Investigation Officer, acknowledging the difficulty of establishing the cause of death in view of the situation and recommending that the file be closed unless tangible evidence incriminating someone could be presented.

The SR reiterated his concern regarding the large number of deaths in custody and again urged the government to take all necessary measures to avoid further such

deaths and to ensure that prison conditions conform to the norms set out the Standard Minimum Rules for the Treatment of Prisoners, in particular regarding living conditions and medical services. Concern was also noted about the alleged killing of the lawyer by members of the police, and hope was expressed that the perpetrators will be brought to justice. The SR also referred to the high number of mob killings and called upon the government to take every measure to prevent such crimes, to investigate them promptly, to bring the perpetrators to justice, and to provide compensation to the victims' families.

Independence of judges and lawyers, Special Rapporteur on the: (E/CN.4/1998/39, paras. 17, 19, 99–103)

The report notes that the Special Rapporteur (SR) referred the case of the murdered lawyer to the government. The SR also sent a communication concerning the independence of the judiciary, drawing the government's attention to the fact that the judicial system was underfunded and that the President had made "presidential comments" publicly predicting the outcome of pending cases. Following one such comment, a former Chief Justice reportedly issued a circular to all magistrates ordering them to follow the President's directive. Information also alleged that sensitive political cases were not allocated to judges who are regarded as being either pro-human rights or completely independent. Additional allegations stated that lawyers supporting human rights or opposition parties were harassed and economically sanctioned through, for example, excessive tax demands. These same lawyers often received threats, were summoned to the police station for questioning, and were asked to surrender clients' files.

On specific cases, the report notes: bias against the defendant by the presiding Chief Magistrate who made numerous unwarranted interventions in the defence's case and denied defence counsel's request for a trial record; the arrest, detention, and harassment of a lawyer because of activities on behalf of victims of violence which had occurred in 1993 in the Western and Rift Valley provinces, and in pursuit of a civil action against those believed to be responsible; the arrest of a lawyer and the charge of belonging to an illegal guerilla organization, the February the Eighteenth Movement, and information indicating that the lawyer signed a confession under torture, which he later withdrew; the fire-bombing on one occasion, and threats of arson on another occasion, against the office of Kituo Cha Sheria, a legal advice centre; and reports indicating that the Law Society of Kenya, which had defended judicial independence and human rights in Kenya, was facing lawsuits challenging the constitutionality of its existence.

The reply of the government indicated that, with regard to the murder of the lawyer, the first investigations had not been satisfactory and the Attorney General had requested the Director of Public Prosecutions to place the investigation file before the Chief Magistrate in Nairobi who would appoint a senior member of staff to lead a public inquest.

Sale of children, child prostitution, child pornography, Special Rapporteur on the: (E/CN.4/1998/101, paras. 73, 120)

The main report refers to a children's theatre group in Nairobi that involves more than 100 former street children, "Shangilia Mtoto wa Africa" ("Rejoice Child of Africa"). The group is an awareness-raising and direct-action organization which uses theatre productions performed by children to expose the predicament of street children and child labour issues. Since its first public performance in Nairobi in 1994, the theatre group has generated widespread publicity and strong interest, and has toured throughout Kenya and abroad. Children are provided with informal schooling, food, accommodation, and medical care and, through their involvement with the theatre, develop a sense of confidence and social achievement. The targets of the theatre productions are other street children, adult policy makers, parents, non-governmental organizations, and the general public through broadcasting, church congregations, and schools. Further reference is made to street children, noting that the Child Welfare Society has started a programme that aims at rehabilitating and providing education and medical support for girls working and living on the streets. A shelter was set up on the outskirts of Nairobi to provide these children with care until their reunification with their families or full integration into society was achieved.

The Special Rapporteur (SR) visited Kenya from 25 August to 1 September 1997. The primary aim of the mission was to look into the issue of commercial sexual exploitation of children and the SR chose to visit Kenya in order to study commercial sexual exploitation of children in a large urban centre like Nairobi, as well as in a coastal area with a view to exploring the impact of tourism on the sexual exploitation of children. The report of the mission (E/CN.4/1998/101/Add.1) contains information on, *inter alia*: the causes, characteristics, and perpetrators of commercial sexual exploitation; the impact of HIV/AIDS on society; the international and national legal frameworks for addressing the problem; the systems of government and criminal justice, as they relate to commercial sexual exploitation of children; a case study based on information about the situation in Mombasa and Malindi; and non-governmental and community-based organizations in Kenya.

The report cites information from Human Rights Watch indicating, *inter alia*, that in Kenya: more than 40,000 children live on the street; 38 per cent of all children are sexually abused by an adult or a family member by the age of 18; 74 per cent of those abused report severe damage or long-lasting consequences; 11 per cent of sexual abuse is perpetrated by a stranger, 29 per cent by a family member, and 60 per cent by a person known to the victim; and estimates suggest that urban population grows at an annual rate of more than 45 per cent, resulting in population explosion in the cities, with a direct correlation to deteriorating living standards, overcrowding, and high unemployment.

The report identifies poverty as one of the major causes of marginalization of children in society, with an estimated 43 per cent of the population living in absolute poverty. Other factors contributing to the rise in the number of children living in the streets were identified as including: abuse or rejection within families; the breakdown of traditional family values and the culture of the extended family; cultural practices in some communities where families send children out to earn money through prostitution; the increasing number of single-parent families, especially female-headed households, giving rise to the need to supplement family income; traditional practices which give preference to boys' education if there is insufficient money to send all children to school; the practice of marriages for girls at an earlier age than for boys which is used by parents in some parts of the country for financial gain; and moral acceptance of sexual acts at a very young age because of exposure to adult sexual behaviour. The report also states that persuasion, deception, threats, or violence are used by adults to lure children into being exploited.

The summary comments on the incidence of HIV/AIDS and steps that have been taken by the government and non-governmental institutions and organizations to stop the spread of the disease establishes a link between HIV/AIDS and the sexual exploitation of children. The SR stated that one particularly disturbing trend related to the increase in the number of persons living with HIV/AIDS in Kenya, is the mistaken belief by many that having sex with young children will reduce the possibility of HIV infection. This results in the so-called "spiral effect", which manifests itself in progressively younger children being used for purposes of commercial sexual exploitation. Another equally dangerous conception is that having sex with an infant cures a person infected by HIV/AIDS. In some discussions, the SR was informed that there had been cases reported in which infants under 1 year old had been raped or sodomized due to such false beliefs.

The characteristics of sexual exploitation of children in Kenya are noted as including, *inter alia*, that: the secrecy surrounding the phenomenon compromises to some degree the effectiveness of strategies to eradicate and prevent such exploitation; there is a lack of a legal basis in national laws through which to address the issue; under-reporting of incidents and instances occurs, in part because of either non-existent or ineffective response mechanisms to provide support, protection and assistance to victims; the age of child victims ranges from 9 to 17 years; the categories of children who are victimized by commercial sexual exploitation include school girls, young girls who have migrated from rural communities — especially those who work as unskilled domestic helpers, school boys who need money for school fees, "second-generation" prostitutes, beach boys, and school drop-outs; the children most affected come from "non-Nomadic" and economically and socially more advanced families because of their higher consumption needs and increased demand for goods; the main "modes of operation" by which commercial sexual exploitation takes

place are through pimps, madams and middlemen, parents or other family members, in brothels and massage parlours, in the streets, in nightclubs, bars and in discotheques; runaway or "throwaway" children or school drop-outs and other children living in the streets are frequently engaged in "sex for survival". The report notes information indicating: in many private houses illegal activities involving children are taking place but access by law enforcement officials on mere grounds of suspicion is not allowed and police are reluctant to enter, meaning that activities inside such private houses are very difficult to control; many of the children working in the streets are accompanied by their mothers or older siblings who also engage in prostitution; most brothels are managed by female pimps or madams and the majority of recruiters are also women; information on the use of children in the production of child pornography remains scarce and difficult to obtain although there are indications that such productions are concentrated in populated and/or tourist areas, such as in Nairobi, Mombasa, Malindi and Watamu; children are being trafficked internally from rural to urban areas by intermediaries or, at times, by loosely organized crime networks, for the purpose of prostitution; and refugee children, mainly from the Sudan and Somalia and often marginalized in Kenyan society, are particularly vulnerable to exploitation and abuse.

The profile of the perpetrators of sexual exploitation of children in Kenya includes a wide range of individuals from all levels of society. Intermediaries, family members, service providers and customers, tourists, community leaders, government officials, and the business sector may all be implicated in the growing problem, be it through indifference, ignorance of the consequences suffered by children, or through the active perpetuation of the phenomenon. The customers exploiting children commercially for sexual purposes are both Kenyans and foreigners. Clients include local Kenyans from all social levels, migrant workers whose families have stayed behind in rural areas, expatriates, university students, tourists, paedophiles, and adults who falsely believe that children are safer from HIV/AIDS infection. The SR was also informed that tourist agents, both local and foreign, have been known to direct and guide tourists to specific areas to find child prostitutes.

The report also cites information indicating that law enforcement officials have been implicated in physical abuse, monetary extortion and sexual abuse of street children, with documented instances of girls living on the street having been sexually propositioned or raped by police in order to avoid arrest, or to be released from custody.

Concerning legal protections and remedies, the report notes that the laws related to commercial sexual exploitation are fragmented and there are no specific provisions to address the problem. As a consequence, implementation of protection measures and appropriate intervention by relevant authorities remain ineffective. The difficulties inherent in this fragmentation are compounded by the

fact that under the Evidence Act the burden of proof in an offence of sexual exploitation of children rests with the prosecution and the law requires that the testimony of a child be corroborated by other material evidence. This very often gives rise to insurmountable difficulties in successfully prosecuting cases involving children. The report also notes more generally that the coexistence of Kenyan statutory, religious, and customary laws has resulted in conflicts of interests between such crucial actors as parents, guardians, religious leaders, and secular authorities, with children often caught in the middle.

The principles upon which government action to combat the problem of commercial sexual exploitation has been taken are noted as: the total elimination of the involvement of children of both sexes under 18 years of age in the commercial sex business; the prohibition of luring, threats, exploitation, and acts of violence in the operation of the commercial sex business; and, the imposition of punishments to all persons taking part in involving children in the commercial sex industry and punishment of any officials who are neglecting, or choose to ignore, their duty to enforce compliance with relevant policies, laws, rules and regulations, in particular those directed at the protection of children.

The strategies devised with these principles in mind are noted as including, *inter alia*: efforts to address the root causes of sexual exploitation of children and to prevent the phenomenon from increasing; the creation of projects and policies focussed on rural development strategies, poverty alleviation, and the raising of living standards of the rural poor, with the goal of reducing migration from rural to urban areas; efforts by provincial administrations, through education and awareness-raising campaigns, to discourage early marriages in an effort to prevent young girls from succumbing to the dangers of commercial sexual exploitation; a decision by the Ministry of Education to allow young girls who are pregnant to continue schooling; the establishment of a Crisis Desk within the Ministry for Home Affairs where complaints and cases concerning child abuse and neglect, as well as commercial sexual exploitation of children, can be directed; and the establishment of a National Coalition on Child Rights and Child Protection, involving governmental and non-governmental organizations and establishment of a subsidiary network to address such issues as early marriages, female genital mutilation, and other harmful traditional practices affecting the health of girls such as the ritual enslavement of young girls among some ethnic groupings, as well as child prostitution.

On the issue of prevention, the report notes there has been an effort to incorporate into school curricula a "family life education" campaign, targeted especially at girls, but that the Catholic Church has opposed the programme. The SR stated that the Catholic Church is willing to participate in the rehabilitation of child victims and in the healing process but, it seems, not in some preventative actions, such as sex education in schools.

The commentary on the criminal justice system notes a number of points, including that: most cases of sexual

exploitation are not reported; one of the major causes of such under-reporting is the fact that since the majority of child sexual exploiters are men, male police officers tend not to take reported cases seriously; the practice of law enforcement agents, the majority of whom are men, is to consider child abuse cases as largely "domestic matters", which has minimized the importance of developing suitable places of safety for child victims; the high turnover of responsible officers within the police force has made it difficult for non-governmental organizations to maintain cooperation with law enforcement officials; police lack training and sensitization programmes in how to address child victims; current legislation does not distinguish between a child in need of discipline and a child in need of protection, making the work of law enforcement officers difficult; magistrates still tend to overuse institutionalization as a remedial measure for street children; there are no specific psychological rehabilitation programmes for child victims of crime, including sexual abuse or exploitation; street children are frequently tried in regular courts as adults, without the special protection provided to children under Kenyan law; judicial authorities do not appear to appreciate fully the severity of sexual abuse or exploitation, as evidenced by court decisions in which child sex offenders appear to have been treated leniently; and there exists no formal or informal training for members of the judiciary, including justices and magistrates, on juvenile issues.

The recommendations in the report are addressed to both government and other sectors.

The report recommends that the government, *inter alia*:

- ♦ relative to ratification of the Convention on the Rights of the Child, submit its reports as scheduled to the Committee on the Rights of the Child; ratify the African Charter on the Rights and Welfare of the Child; take measures to harmonize chapter V of the Constitution with the Convention on the Rights of the Child;
- ♦ set the legal age of majority at 18 years;
- ♦ include specific provisions prohibiting commercial sexual exploitation of children in the proposed Children's Bill; ensure that the Children's Bill clearly separates criminal from protection cases for children, and that children receive all due process protections required by international law when deprivation of liberty is at stake;
- ♦ revise penalties concerning rape and defilement;
- ♦ revise laws to ensure, as a matter of priority, that child-care institutions provide separately for children in need of protection and those in need of discipline, and that remedial and reintegration measures for one are distinct from the other;
- ♦ formulate national laws governing extra-territoriality to prosecute and deter tourist involvement in commercial sexual exploitation of children;

- ♦ increase security and police patrols in areas with hotels, nightclubs, bars and restaurants, and entertainment establishments to prevent and intervene in the involvement of minors;
- ♦ institute aggressive and nationwide awareness-raising and education campaigns on the issue of HIV/AIDS for all sectors of society, in particular children; in view of the high prevalence of HIV/AIDS in the country, ensure that free testing clinics and/or facilities, respecting the right to privacy and requirements for confidentiality, are made available throughout the country, especially for children;
- ♦ ensure institutionalized and continuous sensitization and training programmes for all sectors involved in responding to children in distress, particularly law enforcement officers, judges and social workers; sensitize law enforcement personnel and members of the judiciary to the facts of commercial sexual exploitation of children, to the international and national legal standards protecting children from exploitation, and on procedures for treating children victims within the criminal justice system;
- ♦ mainstream offences against children as a matter of policy, especially on the law enforcement level;
- ♦ as a preventive measure, empower the family through income-generating activities;
- ♦ increase the percentage of female law enforcement officials to ensure that at least one trained female police officer is assigned to each police station in the country;
- ♦ establish a hotline and contact centres with trained personnel to receive complaints by child victims of commercial sexual exploitation;
- ♦ form cultural committees within communities to discuss the advantages and disadvantages of traditional practices, such as early marriages, and to mobilize societal support for the elimination of such harmful practices;
- ♦ institute sex education programmes as part of the compulsory school curriculum;
- ♦ establish rehabilitation institutions for child victims of commercial sexual exploitation in order to ensure effective recovery and to avoid revictimization by failing to distinguish between children in need of protection and children in need of discipline;
- ♦ make deliberate efforts to keep girls in schools by providing educational subsidies and bursaries to girls from rural and slum areas; and
- ♦ establish programmes to raise public awareness of the plight of children, child rights, and the legal penalties applicable to those who abuse or neglect children.

The recommendations to non-governmental organizations include, *inter alia*, that they should:

- ♦ make concerted efforts to forge a stronger partnership between government, other non-governmental organizations, parents and children themselves;
- ♦ critically appraise the numerous umbrella organizations and networks of organizations working on children's issues with a view to rationalizing efforts and increasing focus on specific subject areas; and
- ♦ provide a directory of all non-governmental organizations working with child victims of sexual exploitation to all police officers, giving detailed information on the programmes available for children and referral contacts.

Torture, Special Rapporteur on: (E/CN.4/1998/38, paras. 4, 124–128; E/CN.4/1998/Add.1, paras. 226–231)

The report notes that the Special Rapporteur (SR) continued to receive information concerning widespread instances of torture in Kenya with the methods including: beatings, kicking to the ribs, beating on the soles of the feet or on the legs, beating all over the body, beating with a sharp-edged pole and “boxing” of the ears; being held in a hole which is progressively filled with water; exposure to cold; administration of burns; administration of electric shocks; confinement in the dark; forcing victims to maintain tiring postures; sexual abuse, including rape, the tightening of a wire tied around the testicles, insertion of objects into the rectum, pricking of the genitals, and threats of rape to the victim or the victim's family; forced exercise; and prevention of access to the toilet.

The report notes that individuals wishing to file a complaint against the police for ill treatment were said to be discouraged or refused permission by police to fill out the required form, which also has to be completed by a doctor. In cases where the forms were completed, they were said to be frequently lost or removed from case files. Information indicated that many victims did not complain because, prior to their release, they might have been threatened by police that they would be rearrested or face other adverse consequences if they did so.

The SR also received reports concerning some 50 persons from Western Province who were suspected of links with the February Eighteenth Movement (FEM) or the February Eighteenth Resistance Army (FERA) and reported to have been taken to an unknown detention centre between January and September 1995. Information indicated that detainees were subjected to various forms of torture, including many cited above. Information further indicated that: the detainees were held in solitary confinement in a block of 36 rooms, some 300 metres from where the torture sessions took place; 12 or 13 officials dressed in suits would typically be present during torture sessions, with the torture carried out by four persons and the remaining officials observing and encouraging the others; a number of detainees were inspected by a doctor, accompanied by three police officials, who appeared to be

making a determination as to whether the prisoners were fit for further "interrogation"; one prisoner was not tortured for a period of one week, after a doctor in his presence told police officials to let him rest; and most injured prisoners examined by a doctor were given only tablets of paracetamol for their injuries.

The report notes that the SR has requested an invitation to visit Kenya but that the government had not, as of the date the report was prepared, acted on the request.

The addendum to the main report summarizes the cases transmitted to the government and the replies received. The cases involved, *inter alia*: the head of the non-registered Kenya Universities Student Organization (KUSO), who was arrested in 1995 and reportedly questioned under torture about alleged links with the FERA; the arrest and torture of four persons in December 1995 who were subsequently acquitted at trial on the grounds that they had been tortured; detention by administrative police officers and death in custody three days later following ill-treatment, such as whipping, slapping, kicking and beating; arrest arising from mistaken identity, followed by beatings and death while in police custody; and arrest of an individual, who had been a political refugee in Ghana for three years, upon arrival at Nairobi airport, followed by incommunicado detention at an undisclosed location.

Violence against women, Special Rapporteur on: (E/CN.4/1998/54, Sections II.D, III.E)

In the section of the report addressing violence against women in custody, the report refers to the case of a human rights activist and the sister of a well-known government critic who was arrested three times and tortured while in detention. The torture included beating and having blunt objects forced into the vagina until bleeding occurred.

The commentary on violence against refugee and displaced women notes that in Kenya, in 1993, UNHCR established the Vulnerable Women and Children's Programme in an effort to prevent the occurrence of sexual violence in the Somali refugee camps in north eastern Kenya. The Special Rapporteur stated that the magnitude and severity of violence against women in the Dadaab camps in the North Eastern Province led to the establishment of the Women Victims of Violence (WVV) project, the primary focus of which was to prevent a range of problems associated with physical and mental trauma, particularly those resulting from the social stigma of rape in a traditional society. Important elements of the project included medical care for victims of violence, physical and legal protection of refugee women, and the empowerment of women through income generating activities and community groupings. The project also emphasized protection and sensitization training for local security personnel, local government officials, implementing partners and community elders in an effort to raise awareness about the rights of refugee women and the particular problems they must confront. Over time, the

project achieved a reduction in the incidence of rape and was eventually institutionalized to achieve a useful preventive effect.



LESOTHO

Date of admission to UN: 17 October 1966.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Lesotho has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Acceded: 9 September 1992.

Lesotho's initial report was due 30 June 1994.

Civil and Political Rights

Acceded: 9 September 1992.

Lesotho's initial report (CCPR/C/81/Add.14) has been submitted and is scheduled for consideration at the Committee's March 1999 session; the second periodic report was due 8 December 1998.

Racial Discrimination

Acceded: 4 November 1971.

Lesotho's seventh through 14th periodic reports were submitted as one document (CERD/C/337/Add.1) which is scheduled for consideration at the Committee's March 1999 session; the 15th periodic report is due 4 December 2000.

Discrimination against Women

Signed: 17 July 1980; ratified: 22 August 1995.

Lesotho's initial report was due 21 September 1996.

Reservations and Declarations: Article 2.

Rights of the Child

Signed: 21 August 1990; ratified: 10 March 1992.

Lesotho's initial report (CRC/C/11/Add.20) has been submitted and is pending for consideration by the Committee at its May/June 2001 session; the second periodic report is due 8 April 1999.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 14, 36; E/CN.4/1998/68/Add.1, paras. 252-253)

One communication was sent to the government concerning five persons who were reportedly killed by mem-

bers of the police in December 1996 when they stormed a workers' camp at Butha-Buthe in the context of a prolonged labour dispute at the Lesotho Highlands Water Project. According to the information received, police employed excessive force, using tear gas and live ammunition to disperse the workers, and continued firing as workers fled the scene. The Special Rapporteur called on the government to ensure that the force used by security forces is, at all times, in accordance with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

FIELD OPERATIONS

Lesotho is a member of the Southern Africa Development Community (SADC) and, therefore, a beneficiary of and participant in the Regional Human Rights Programme Office for Southern Africa, a joint project of OHCHR and UNDP, which is based in Pretoria (see profile under "South Africa").



LIBERIA

Date of admission to UN: 2 November 1945.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Liberia has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Signed: 18 April 1967.

Civil and Political Rights

Signed: 18 April 1967.

Racial Discrimination

Acceded: 5 November 1976.

Liberia has not submitted its initial and second through 11th periodic reports, due from 1977 through 5 December 1997.

Discrimination against Women

Acceded: 17 July 1984.

Liberia has not submitted its initial and second through fourth reports, due from 1985 through 16 August 1997.

Rights of the Child

Signed: 26 April 1990; 4 June 1993.

Liberia's initial report was due 3 July 1995.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68/Add.1, para. 254)

No new cases were transmitted to the government. The Special Rapporteur welcomed, however, the successful completion of the peace process in Liberia and expressed regret that those responsible for human rights violations had not yet been held accountable, noting the importance of truth and justice in the consolidation of peace.

Violence against women, Special Rapporteur on: (E/CN.4/1998/54, Section I.A)

The report refers to a survey of 20 women and girls over the age of 15 years which was conducted in Monrovia and its environs in 1994, nearly five years after civil conflict broke out in Liberia. The surveys were conducted by Liberian health workers in four types of settings: high schools, markets, displaced persons camps, and urban communities in Monrovia. Interviewees were randomly selected at these sites. The survey was undertaken in order to find out how common it was for women who were living in Monrovia to have experienced violence, rape, and sexual coercion from soldiers or fighters since the war began in 1989. Sexual coercion was defined as being forced into a relationship with a combatant because of wartime conditions, e.g., in order to feed oneself or one's family, to get shelter or clothing, or for protection and safety. The report notes that nearly half (49 per cent) of the 205 women and girls surveyed experienced at least one type of physical or sexual violence; soldiers or fighters beat, tied up or detained (locked in a room and kept under armed guard) one in every six of the women and girls (17 per cent); strip searched nearly one-third of the women and girls (32 per cent) one or more times; and, raped, attempted to rape, or sexually coerced more than one in every seven (15 per cent). In addition, a large percentage of the women and girls (42 per cent) witnessed a soldier killing or raping someone else. Women who were forced to cook for soldiers or fighters were particularly at risk of sexual violence.

The report also notes that being accused of belonging to a particular ethnic group or fighting faction was a significant risk factor for physical violence and attempted rape and states that in the beginning of the civil conflict, the government army and fighting factions were divided primarily along ethnic lines. As a consequence, it was common for civilians, when confronted by a soldier or fighter, to be forced to identify their ethnic group by speaking their ethnic language.

Mechanisms and Reports of the Sub-Commission

Systematic rape, sexual slavery and slavery-like practices during armed conflict, Special Rapporteur on: (E/CN.4/Sub.2/1998/13, para. 30)

Noting that the term "sexual" is used as an adjective to describe a form of slavery and not to denote a separate crime, the report refers to situations in which women and girls are forced into domestic servitude or other forced labour. Citing the report of the Special Rapporteur on violence against women (E/CN.4/1998/54, para. 42), reference is made to information indicating that during the conflict in Liberia women and girls were forced by combatants into working as cooks and were also held as sexual slaves.

OTHER REPORTS

Children affected by armed conflict, Special Representative: (A/53/482, paras. 43, 49–51)

The Special Representative (SRep) visited Liberia from 11 to 13 March 1998 to assess the situation of children after a period of protracted civil war in the country. The report notes that the conflict has had a devastating effect on children, many of whom have known no other way of life. A serious erosion of local value systems has also taken place. The categories of children identified as having special protection needs include ex-combatant youth, refugee and internally displaced children, sexually abused girls and unaccompanied and street children.

The SRep identified the following key challenges requiring initiatives: empowering families, economically and socially, to resume their roles in bringing up and supporting children, thus moving away from a policy of heavy dependence on institutional care; carefully assessing and accrediting existing institutions such as orphanages; improving educational opportunities through reduced school fees, better infrastructure and reading materials and improving salaries for teachers; revitalizing primary health care, particularly through the revival of rural clinics, noting that a major child health issue is the need to promote adolescent reproductive health awareness and practice; dedication of a larger proportion of the national budget to the revitalization of social services, in particular health and education; improving the juvenile justice system, particularly by complementing the newly created juvenile court with facilities for the separate pre-trial detention and post-trial incarceration (if necessary) of minors; training for income-generating activities for all children affected by war, without differentiating between former combatants and those who were involved in conflict in other ways; reviving local values and support systems, such as the role of the traditional Sande and Poro "bush" schools, which is a traditional system in rural communities to inculcate local ethics in children; and supporting local advocacy efforts, by encouraging the formation of a group of local eminent persons willing to act as advocates for children in Liberia and by instituting a radio station

to promote issues related to the interests and rights of children.

FIELD OPERATIONS

The human rights field presence in Liberia (focal points) was established as part of the peace-building support office in Liberia which succeeded UNOMIL upon the expiration of the latter's mandate. The Secretary-General's recommended terms of reference for the support office were adopted by the Security Council in November 1997. The human rights focal points can be contacted through New York. Mr. Desmond Parker/Mr. Biang Deng, Human Rights Focal points, UN Peace Building Support in Liberia, c/o UNOMIL Liberia, P.O.Box 4677, Grand Central Station, New York, N.Y. 10163-4677, USA; Phone: (1-212) 963-9927; 963-9928; Fax: (1-212) 963-9924.

The functions and mandate of the support office are to: engage all components of Liberian society in the development and implementation of promotional activities aimed at establishing confidence among them; provide advice and assistance to the government to help bring laws and institutional practices in line with international human rights standards; liaise with the relevant authorities in the armed forces and police with a view to assessing shortcomings and identifying needs for improvement as regards human rights standards; provide assistance in formulating legislative reform; develop projects which incorporate regular human rights training into the curricula of the armed forces and the police and organize training activities for experienced police and military trainers; maintain regular contacts with the judicial authorities to assist them in the rehabilitation of the justice system; ascertain the needs for rebuilding the judicial system and formulate projects for the training of judicial personnel; provide technical legal advice for the implementation of human rights standards in the administration of justice; and raise human rights awareness in public service and local administration to assist in developing mechanisms and procedures aimed at the promotion and protection of human rights.

The main activities carried out as of August 1998 included: facilitation, in collaboration with the Carter Center, of a public forum of civil society organizations on the need to review and revise the Act creating the Liberia Commission on Human Rights; training, in collaboration with the National Police Academy and ICRC experts, in the human rights aspects of police duties for members of the Liberia National Police; assistance to the Ministry of Education in the development of a national strategy within the school system in the context of a programme initiated by the Carter Center; provision of advisory services and programming support to civil society groups and human rights NGOs; work with the staff of the Liberia Commission on Human Rights to identify project proposals which would include training for the Commission's staff in human rights reporting and information gathering techniques; assistance to the Ministry of Foreign Affairs with regard to various international human rights instruments that Liberia has yet to sign and ratify,

with a view to stimulating action on the process of signing and/or ratifying these instruments; development of a human rights awareness campaign which will include distribution of more than 3,000 copies of the Universal Declaration in Monrovia and other parts of Liberia.



LIBYAN ARAB JAMAHIRIYA

Date of admission to UN: 14 December 1955.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Libya has submitted a core document (HRI/CORE/1/Add.77) for use by the treaty bodies.

The judicial system consists of the courts, the Department of Public Prosecutions and ancillary bodies staffed by criminal investigation officers. There are four types of courts in Libya: civil, criminal, administrative and personal status. The last applies Islamic law. The Supreme Court is the highest judicial authority in the legal system and hears appeals of judgements handed down by the highest court in each of the four types noted.

Economic, Social and Cultural Rights

Acceded: 15 May 1970.

Libya's second periodic report was due 30 June 1995.

Reservations and Declarations: General declaration.

Civil and Political Rights

Acceded: 15 May 1970.

Libya's third periodic report (CCPR/C/102/Add.1) was considered at the Committee's October 1998 session; the fourth periodic report is due in October 2002.

Reservations and Declarations: General declaration.

Optional Protocol: Acceded: 16 May 1989.

Racial Discrimination

Acceded: 3 July 1968.

Libya's 11th through 14th periodic reports were submitted as one document (CERD/C/299/ADD.13) which was considered at the Committee's March 1998 session; the 15th periodic report was due 4 January 1998.

Reservations and Declarations: Article 22; general declaration.

Discrimination against Women

Acceded: 16 May 1989.

Libya's second and third periodic reports were due 15 June 1994 and 1998 respectively.

Reservations and Declarations: Article 2; paragraphs (c) and (d) of article 16.

Torture

Acceded: 16 May 1989.

Libya's third periodic report (CAT/C/44/Add.3) has been submitted and is scheduled for consideration at the Committee's May 1999 session.

Rights of the Child

Acceded: 15 April 1993.

Libya's initial report (CRC/C/28/Add.6) was considered at the Committee's January 1998 session; the second periodic report is due 14 May 2000.

REPORTS TO TREATY BODIES

Committee on the Rights of the Child

Libya's initial report (CRC/C/28/Add.6, May 1996; CRC/C/Q/LIBYA.1) was considered by the Committee at its January 1998 session. The report was prepared by the government's Special Committee under the supervision of the Higher Committee for Child Welfare and contains information on, *inter alia*: the Great Green Document on Human Rights in the Age of the Masses; the Child Protection and Welfare Ordinance; the Higher Committee for Child Welfare, established in 1990; the definition of the child and minimum ages; provisions in the Civil Code related to name and nationality; provisions in the Penal Code related to preservation of identity; parental guidance and responsibilities; the Social Security Act 1980; grounds for separation from parents; measures on behalf of socially deprived children and social welfare facilities; children with disabilities; social security and child care services and facilities; health and health care services; the policy and principles regarding education, the aims of education; rest, leisure and culture; the juvenile justice system; and economic, sexual and other forms of exploitation. The report also includes information on factors and difficulties hindering implementation of the Convention, and refers to the air embargo imposed by Security Council resolutions 748 (1992) and 883 (1993), covering the period from April 1992 to December 1994.

The Committee's concluding observations and comments (CRC/C/15/Add.84, January 1998) welcomed: the fact that the Convention is self-executing and that its provisions may be invoked before the courts; the range of services provided, especially in the fields of health and education; the fact that education is free of charge and that primary school attendance is nearly universal; the provision of free health services for all children, the 91 per cent level of breast-feeding, and the existence of a range of specialized services and facilities for persons with disabilities, including children.

Bearing in mind General Comment No. 8 adopted by the Committee on Economic, Social and Cultural Rights (1997), the Committee noted that the aerial embargo imposed by the Security Council had adversely affected the economy and many aspects of daily life, thereby impeding the full enjoyment by the population, including children, of their rights to health and education.

The principal subjects of concern identified by the Committee included, *inter alia*: the lack of full conformity of domestic legislation with the principles and provisions of the Convention; the lack of adequate coordination among various governmental bodies in promoting and protecting the rights of the child and developing a comprehensive approach to the implementation of the Convention; insufficiencies in the steps taken to promote awareness and understanding of the principles and provisions of the Convention among both children and adults; insufficient and unsystematic training on children's rights provided to professionals working with and for children; the absence of data on adolescent health, including on teen-age pregnancy, abortion, suicide, violence and abuse; and the absence of an independent mechanism to register and address complaints from children concerning violations of their rights under the law.

The Committee expressed regret that the Great Green Document on Human Rights does not include express prohibition of discrimination on the basis of language, national, ethnic or social origin, property, disability, and birth status. Particular concern was expressed over discrimination against children of migrant workers and non-citizens, and children born out of wedlock. The Committee was also concerned that although the Great Green Document on Human Rights prohibits discrimination on the basis of sex, there are still disparities in legislation and practice, in particular with regard to inheritance rights and, further, that decisions related to the acquisition of nationality are only based on the status of the father.

Concern was also expressed over: the continued use in administrative instructions and regulations of the term "illegitimate children" to refer to children born out of wedlock; provisions in the law applicable in the case of rape of a minor, excusing the perpetrator of the crime from penal prosecution if he is prepared to marry his victim; the lack of prohibition in local legislation of the use of corporal punishment, however light, at home; the existence of child abuse and violence within the family; and, the fact that diarrhoea and chronic under-nutrition or stunting in children under the age of five, are still wide spread.

The Committee recommended that the government, *inter alia*:

- ♦ review legislation with the aim of reforming it to conform fully with the Convention, and consider enacting a children's code; ensure that the legislation explicitly prohibits discrimination on any grounds and guarantee the right to a nationality to every child;
- ♦ take further steps to strengthen coordination between the various government bodies involved in children's rights, at both national and local levels as well as between the ministries, and make greater efforts to ensure closer cooperation with NGOs working in the field of human and children's rights;

- ♦ consider designing and implementing a special plan of action for children reflecting a comprehensive approach to children's rights, and incorporating all aspects and provisions of the Convention;
- ♦ make greater efforts to ensure that the provisions of the Convention are widely known and understood by adults and children alike; organize systematic training and retraining programmes on the rights of the child for professional groups working with and for children; incorporate the Convention in school and university curricula;
- ♦ consider the introduction of a number of policies and programmes that guarantee implementation of the existing legislation through adequate services, remedies and rehabilitation programmes;
- ♦ consider the establishment of an independent body for monitoring the implementation of the Convention;
- ♦ abolish the use of the term "illegitimate children" to refer to children born out of wedlock in legislation, policies, programmes, regulations and administrative instructions;
- ♦ take adequate measures to ensure the protection and enjoyment of rights by non-citizens who are under the state's jurisdiction;
- ♦ conduct further studies in relation to widespread chronic malnutrition or stunting and diarrhoea in order to use such research to guide policies and programmes to reduce the occurrence of stunting;
- ♦ provide to the Committee further information on the legislation that excuses the perpetrator of the crime of rape from penal prosecution if he is prepared to marry the victim, noting that this provision interferes with the victim's free will and could lead to early marriage;
- ♦ enhance the the inclusion approach which entails including disabled children in the mainstream facilities and natural environment of the child, while still maintaining specialized programmes and facilities as needed;
- ♦ take all appropriate measures, including those of a legislative nature, with the aim of prohibiting corporal punishment at home; conduct awareness-raising campaigns to ensure that alternative forms of discipline are administered in a manner consistent with the child's dignity and in conformity with the Convention;
- ♦ ensure proper investigation of cases of abuse and ill treatment of children, including rape and sexual abuse within the family, that sanctions are applied to perpetrators and publicity is given to decisions taken in such cases, with due regard to protecting the right to privacy of the child;

- take further measures to ensure the provision of support services to children in legal proceedings, the physical and psychological recovery and social reintegration of the victims of rape, abuse, neglect, ill treatment, violence or exploitation;
- undertake research on the issue of domestic violence and child abuse to identify the extent of the problem and provide socio-economic background information and analysis on the families facing these problems;
- envisage taking further steps to reform the system of juvenile justice, with particular attention paid to considering deprivation of liberty only as a measure of last resort and for the shortest possible period of time, the protection of the rights of children deprived of their liberty, due process of law and the full independence and impartiality of the judiciary;
- consider the possibility of ratifying the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, as well as the 1954 Convention on the Status of Stateless Persons, and the 1961 Convention on the Reduction of Statelessness; and
- conduct research on the situation of child labour, including the involvement of children in hazardous work, to identify its causes and the extent of the problem.

Committee on the Elimination of Racial Discrimination

Libya's 11th through 14th periodic reports were submitted as one document (CERD/C/299/Add.13, March 1997) which was considered by the Committee at its March 1998 session. The report prepared by the government states that the citizens of Libya are descended from the same race, speak the same language (Arabic), and profess the same religion (Islam). As a consequence, there are no theories or communities based on religion, race, ethnic origin or political affiliation. The report contains statistical data as well as information on, *inter alia*: the Constitutional Declaration and provisions related to religious freedom; the Great Green Document on Human Rights in the Age of the Masses; the General People's Congress; the Promotion of Freedom Act 1991; provisions in the Penal Code related to religious freedom; equality before the law; the functions and mandate of the People's Court; nationality, marriage and divorce, the right to own property and inheritance rights; the freedoms of thought, expression, association and assembly; access to housing and health care; social security; and the right to education.

The Committee's concluding observations and comments (CERD/C/304/Add.52) noted that the government's report provided information on legislative, judicial, and administrative developments only up to 5 January 1994. The Committee recalled the government's obligation to combat racial discrimination as a preventive measure so as to avoid any possible manifestation or recurrence of

the phenomenon. The Committee welcomed: the fact that the Convention forms an integral part of domestic legislation and, in case of legal conflict, takes precedence over domestic law; provisions in the Constitution and the other relevant documents guaranteeing equality of all citizens before the law; and the serious effort made to give effect to a number of the provisions of article 5, particularly those concerning certain economic and social rights.

The principal subjects of concern identified by the Committee included, *inter alia*: the statements of the government that there is no racial discrimination and no complaints concerning racial discrimination, and the absence of specific legislation to prohibit racial discrimination; the failure to provide any information on the demographic composition of the population, despite the Committee's request when it considered Libya's 10th periodic report in 1989; the failure to implement fully the provisions of article 4 (concerning racist organizations, incitement, propaganda); the insufficiency of information with regard to remedies and the practice of the tribunals; the fact that the government's statement that there are no ethnic minorities in Libya does not take into account the existence, in particular, of Berbers, Tuaregs, Black Africans, etc., who are reported to experience acts of discrimination because of their ethnic origin; and allegations of acts of discrimination against migrant workers on the basis of their national or ethnic origin.

The Committee recommended that the government, *inter alia*:

- provide in its next report detailed information on the demographic composition of the population, including of non-Libyans living in the country, as well as information on the status and working conditions of foreign workers, and on measures taken to prevent any acts of discrimination against them;
- enact specific legislation to prohibit racist organizations, incitement, propaganda and similar acts or practices; adopt appropriate policies to promote the rights of ethnic minorities and to ensure their equality;
- make a particular effort to train law enforcement officials in the light of the provisions of the Convention; and
- continue to take appropriate measures to increase awareness of the population about the provisions of the Convention, particularly those contained in article 7 (teaching, education, culture, information to combat racism), and widely disseminate the concluding observations adopted by the Committee.

Human Rights Committee

Libya's 3rd periodic report (CPR/C/102/Add.1, November 1995) was considered by the Committee at its October 1998 session. The report prepared by the government provides geographic, demographic and statistical data, as well as comparisons between the provisions of the Covenant, article by article, and the corresponding

domestic legislative texts. A brief account of the political system is also provided. The two domestic instruments cited, relative to articles of the Covenant, are the Great Green Document on Human Rights and the Promotion of Freedom Act. Reference is also made to, *inter alia*: the Code of Criminal Procedure, the role and functions of the Department of Public Prosecutions; residency and the obligations of foreigners; equality and non-discrimination; abolition of the concept of marital insubordination; provisions and measures related to the equality of women; the Emergency Act 1958 and provisions related to states of emergency and derogation; the right to life, the death penalty, security of person; slavery, forced labour, domestic servants; liberty and security of person; provisions in law related to arrest, detention, appearance before the courts, due process; the right to remedy; prohibition of torture and ill treatment, the Prisons Act No. 47 1975, juveniles in detention; freedom of movement and place of residence, aliens and expulsion; independence of the judiciary, right of appeal and review; the right to legal personality under the law; protection of privacy; religion, belief and conscience; freedom of opinion and expression, the Publications Act No. 76 1972; freedom of association, the Trade Unions Act No. 107 1975, freedom of assembly; protection of the family; and measures to protect the rights of the child.

The Committee's concluding observations and comments (CPR/C/79/Add.101) welcomed, *inter alia*: efforts made by the government to reduce inequalities between women and men through legislation on personal status; measures taken to improve the situation of women in public life and civil society, particularly in the workplace and with regard to access to education; and the principle of direct applicability of the Covenant and the possibility of invoking it directly before the courts. The embargo on air travel, in effect since 1992, and the associated economic difficulties were noted as factors impeding implementation of the Covenant.

Principal subjects of concern identified by the Committee included, *inter alia*: lack of clarity on how conflicts between the Covenant and domestic law are solved and the role of the Supreme Court in this area; allegations of extrajudicial or summary executions committed by state agents, the high incidence of arbitrary arrest or detention, long detention without trial; the vague wording of article 4 of the Promotion of Freedom Act related to the death penalty and similar wording in the Green Document; imposition of the death penalty for offences that cannot be characterized as the most serious, including political and economic offences; and legal acceptance of retribution as a ground for imposition of the death penalty.

Concern was also expressed about: the high rate of maternal mortality; persistent allegations of systematic use of torture and ill treatment; imposition of flogging as punishment in some cases; that the "Charter of Honour" authorizes collective punishment for those found guilty of collective crimes (e.g., "obstructing the people's authority"); the excessive duration of remand in custody

and undue prolongation of pre-trial detention; and the independence of the judiciary and the freedom of lawyers to exercise their profession without being employed by the state. The Committee noted with concern: numerous restrictions, in law and practice, on freedom of expression and, in particular, the right to express opposition or criticism of the government, the established political, social and economic system and the cultural values prevailing in the country; continuing inequality between women and men in such areas as inheritance, freedom of movement, acquisition and transmission of nationality and divorce; that polygamy may still be practised under certain conditions; inadequacies in law to protect women from domestic violence and rape; the persistence of discrimination in law and practice against children born out of wedlock; and the statement by the government that there are no ethnic, religious or cultural minorities in Libya.

The Committee recommended, *inter alia*, that the government:

- ♦ fully, publicly and impartially investigate all allegations related to summary execution, arbitrary arrest or detention and long periods of detention without trial; bring the perpetrators of these acts to justice; compensate the victims and/or the family of victims;
- ♦ include, in the next report, names and statistics about disappeared persons, cases of extrajudicial, arbitrary or summary executions, persons kept in detention without charge, indefinite detention without trial, continued detention after acquittal by the courts;
- ♦ provide, in the next report, information on the number of death sentences carried out in the last 10 years, the type of offences for which the death penalty has been imposed, the manner in which the execution has been carried out;
- ♦ take urgent steps to reduce the number and type of crimes entailing capital punishment; repeal all legislation incompatible with article 6 of the Covenant;
- ♦ provide information on the steps taken to reduce maternal mortality;
- ♦ enforce a more efficient system for monitoring treatment of all detainees; ensure that all cases of alleged torture or ill treatment are investigated by an impartial body; publish the results of such investigations; ensure that officials responsible for torture and ill treatment are prosecuted and, if convicted, severely punished; include in the next report information on prison conditions;
- ♦ provide human rights training for law enforcement personnel;
- ♦ repeal, without delay, all laws and regulations providing for flogging as punishment; abolish the provision of amputation as punishment, noting that the practice is not used but related provisions remain on the books;

- ♦ suspend, without delay, and take steps to repeal the "Charter of Honour";
- ♦ provide human rights training to all judges and members of the legal profession; provide information on the jurisdiction, composition and activities of the Revolutionary Security Courts as well as on the organization of the legal profession;
- ♦ suspend immediately provisions in the Publication Act (1972) that are incompatible with the Covenant and take steps to revise the Act;
- ♦ take steps to ensure compliance with article 25 of the Covenant, related to genuine elections by secret ballot;
- ♦ ensure that all individuals realize their right to freedom of thought, conscience and religion, noting the statement that "all Libyans are Muslims by birth and heredity";
- ♦ intensify efforts to guarantee full realization by women and men of all human rights;
- ♦ include, in the next report, information on the protection of persons belonging to minorities as well as specific information on minorities; and
- ♦ take urgent steps to allow the free operation of independent non-governmental human rights organizations.

The Committee decided that Libya's 4th periodic report would be due in October 2002.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 3, 13, 255-256)

During the period under review, two new cases of disappearance were transmitted to the government which occurred in September 1996; one case concerned a Palestinian who was arrested at the Palestinian camp near Salloom in north east Libya and subsequently released. This case was clarified by the Working Group. The other case concerned a Palestinian who was reportedly arrested in Tubruk on suspicion of having connections with a religious opposition movement. The one other outstanding case, transmitted in 1994, concerns a Sudanese translator at the International Centre of Research of the Green Book in Tripoli, who reportedly disappeared in 1993.

On the second newly reported case, the government stated that the person named had been arrested for smuggling drugs and for involvement in selling foreign currency. The case was pending before the court, awaiting a judgement.



MADAGASCAR

Date of admission to UN: 20 September 1960.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Madagascar has submitted a core document (HRI/CORE/1/Add.31) for use by the treaty bodies. The report prepared by the government includes demographic data and information on religion, the general political structure, political history and the general legal framework for the protection of human rights.

The 1992 Constitution stipulated that the government would undertake to establish an independent body responsible for the promotion and protection of human rights and the government has appointed an ombudsperson with this function. Under Malagasy law there is no special system for compensation for the violation of human rights; therefore actions alleging violations must be brought before the courts in terms of seeking remedy and/or damages. International human rights treaties are incorporated de jure into national law following accession or ratification.

Economic, Social and Cultural Rights

Signed: 14 April 1970; ratified: 22 September 1971. Madagascar's second periodic report was due 30 June 1990; the third periodic report was due 30 June 1995.

Civil and Political Rights

Signed: 17 September 1969; ratified: 21 June 1971. Madagascar's third periodic report was due 31 July 1992; the fourth and fifth periodic reports were due 3 August 1993 and 1998 respectively.

Optional Protocol: Signed: 17 September 1969; ratified: 21 June 1971.

Racial Discrimination

Signed: 18 December 1967; ratified: 7 February 1969. Madagascar has not submitted a report since 1989, covering the 10th through 14th periodic reports; the 14th periodic report was due 9 March 1998. *Reservations and Declarations:* Article 22.

Discrimination against Women

Signed: 17 July 1980; ratified: 17 March 1989. Madagascar's second and third periodic reports were due 16 April 1994 and 1998 respectively.

Rights of the Child

Signed: 19 April 1990; ratified: 19 March 1991. Madagascar's second periodic report was due 17 April 1998.



MALAWI

Date of admission to UN: 1 December 1964.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Malawi has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Acceded: 22 December 1993.

Malawi's initial report was due 30 June 1996.

Civil and Political Rights

Acceded: 22 December 1993.

Malawi's initial report was due 21 March 1995.

Optional Protocol: Acceded: 11 June 1996.

Racial Discrimination

Acceded: 11 June 1996.

Malawi's initial report was due 11 July 1997.

Discrimination against Women

Acceded: 12 March 1987.

Malawi's second periodic report was due 11 April 1992; the third periodic report was due 11 April 1996.

Torture

Acceded: 11 June 1996.

Malawi's initial report is due 10 July 1998.

Rights of the Child

Acceded: 2 January 1991.

Malawi's initial and second periodic reports were due 31 January 1993 and 1998 respectively.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 14, 17, 32, 44, 64; E/CN.4/1998/68/Add.1, paras. 255-258)

An urgent appeal was sent in response to information that preparations were under way to forcibly return approximately 765 Rwandese refugees and approximately 470 refugees from the DR Congo to their respective countries. According to the reports received, despite the fact that the repatriation of the refugees was to be voluntary, the Dzaleka camp, where most of these refugees were living, had been surrounded by Malawian police and roadblocks had been erected to prevent refugees from leaving. It was also reported that refugees who tried to flee in order to escape repatriation had been brought back to the camp forcibly by Malawian police. An allegation was also sent regarding the death in custody of

17 persons who reportedly died during a night in March 1996 in Lilongwe police station as a result of asphyxiation caused by overcrowding. Investigations were reported to have been promptly initiated.

In response to the urgent appeal, the government stated that no decision would be taken without adequate consultations with the Office of the UN High Commissioner for Refugees (UNHCR). The government provided a copy of a UNHCR press release which stated that at no point did the government abandon the voluntary nature of the repatriation exercise. The Special Rapporteur (SR) was also informed that, due to a communication breakdown, security personnel had turned up at the refugee camp and, even though they did not interact, had created a general panic in which hundreds of refugees ran away, many of whom did not return later.

The SR welcomed the government's policy on refugee matters, in particular its cooperation with UNHCR, and stated that information on the outcome of investigations conducted into the deaths in custody which occurred in Lilongwe police station would be forthcoming.

FIELD OPERATIONS

The OHCHR Malawi Office is responsible for carrying out the activities provided for in the Malawi Technical Cooperation Project "Consolidation of the Democratic Process" (MLW/95/AH/34), which began in 1996. The project is managed and implemented by a National Human Rights Project Officer, who was recruited through and is supported by UNDP. The headquarters is located in Lilongwe. Ms. Anne-Marie Mulagha, National Human Rights Project Officer, c/o UNDP, P.O. Box 30135, Lilongwe 3, Malawi; Phone: (265) 783-500; Fax: (265) 783-637.

The project is based upon a comprehensive needs assessment which was undertaken by the OHCHR in 1993 and on the August 1994 Joint Declaration on technical cooperation of the government and the High Commissioner for Human Rights. The technical cooperation project is designed to benefit a variety of government ministries and all branches of government. It provides major support to national human rights institutions, particularly the National Compensation Tribunal, the Human Rights Commission and the Inspectorate of Prisons. The principal government counterpart for the project is the Inter-Ministerial Committee on Human Rights and Democracy.

The main activities carried out as of August 1998 included: assistance in formulating the National Human Rights Plan of Action and support for a workshop on implementing the plan; assistance in the technical review of the new Constitution; expert advice on the establishment of the National Compensation Tribunal for victims of past human rights abuses; assistance with the ratification of further human rights treaties; advice and assistance to the Malawi Inspectorate of Prisons; participation in a workshop on the investigation of past human rights abuses; expert advice on the enabling act for the

Human Rights Commission and a workshop on the establishment of the Commission; a human rights training course for police trainers; assistance in reporting under human rights treaties; production of various publications, particularly a general guide to human rights practice, a guide to human rights bodies and NGOs in Malawi, a pocket book of the Standard Minimum Rules on the Treatment of Prisoners, and an adapted version of the OHCHR police trainers guide and the pocket book of human rights standards for police; participation in training and strengthening human rights NGOs; and distribution of human rights documentation.

Malawi is a member of the Southern Africa Development Community and, therefore, also a beneficiary of and participant in the Regional Human Rights Programme Office for Southern Africa, a joint project of OHCHR and UNDP, which is based in Pretoria (see profile under "South Africa").



MALI

Date of admission to UN: 28 September 1960.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Mali has submitted a core document (HRI/CORE/1/Add.87) for use by the treaty bodies. The report prepared by the government contains demographic and statistical data and information on the general political structure and legal framework for the protection of human rights. The Constitution, together with other legislation, establishes a number of institutions and structures for the protection and promotion of human rights in such areas as equality of citizens before the law, equality of access to the courts, impartiality in decision making and others. The organization of the judiciary guarantees the independence of judges, remedies, and measures protecting citizens' rights against arbitrary action. National and international NGOs and human rights associations operate in Mali, including, for example, the Malian Human Rights Association, the Malian Association of Jurists, the Malian Section of Amnesty International, the Committee for Action and Defence of the Rights of the Child and Women, the Association for the Protection of Women, and the African League of Human Rights.

Economic, Social and Cultural Rights

Acceded: 16 July 1974.

Mali's initial report was due 30 June 1990; the second periodic report was due 30 June 1995.

Civil and Political Rights

Acceded: 16 July 1974.

Mali's second, third and fourth periodic reports were due

from 1986 through 1996; the fourth periodic report was due 11 April 1996.

Racial Discrimination

Acceded: 16 July 1974.

Mali's seventh through 12th periodic reports were due from 1987 through 1997; the 12th periodic report was due 15 August 1997.

Discrimination against Women

Signed: 5 February 1985; ratified: 10 September 1985.

Mali's second, third and fourth periodic reports were due 10 October 1990, 1994 and 1998 respectively.

Rights of the Child

Signed: 26 January 1990; ratified: 20 September 1990.

Mali's initial report (CRC/C/3/Add.53) has been submitted and is scheduled for consideration by the Committee at its September/October 1999 session; the second periodic report was due 18 October 1997.



MAURITANIA

Date of admission to UN: 7 October 1961.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Mauritania has not submitted a core document for use by the treaty bodies.

Racial Discrimination

Signed: 21 December 1966; ratified: 13 December 1988.

Mauritania's initial and second through fifth periodic reports were due 12 January 1990, 1992, 1994, 1996 and 1998 respectively.

Rights of the Child

Signed: 26 January 1990; ratified: 16 May 1991.

Mauritania's initial and second periodic reports were due 14 June 1993 and 1998 respectively.

Reservations and Declarations: General reservation.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 257-259)

During the period under review, no new cases of disappearance were transmitted to the government. The one outstanding case reportedly occurred in 1990 and concerned a 21-year-old man who is said to have been taken by members of the National Guard in a village in southern Mauritania during a nightly curfew. During that

time many people belonging to the Hal-Pulaar ethnic group in the south of the country were reportedly subjected to human rights violations, allegedly carried out by government forces and the Haratine militia. No new information was received from the government with regard to this case.



MAURITIUS

Date of admission to UN: 24 April 1968.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Mauritius has submitted a core document (HRI/CORE/1/Add.60/Rev.1) for use by the treaty bodies. The report prepared by the government includes basic information on elections, the economy, employment, health and religion. The framework for protection of human rights is established in the Constitution and the judiciary consists of the Supreme Court, the Intermediate Court and District Courts. The Supreme Court has unlimited jurisdiction to hear and decide on any civil or criminal proceedings. Channels for remedies include police authorities, the courts, the office of the Ombudsman and the office of the Director of Public Prosecutions. The provisions of the International Covenant on Civil and Political Rights may be referred to in proceedings but are not directly enforceable by the courts.

Economic, Social and Cultural Rights

Acceded: 12 December 1973.

Mauritius' second periodic report was due 30 June 1995.

Civil and Political Rights

Acceded: 12 December 1973.

Mauritius' fourth periodic report was due 30 June 1998.

Optional Protocol: Acceded: 12 December 1973.

Racial Discrimination

Acceded: 30 May 1972.

Mauritius' 13th periodic report was due 29 June 1997.

Discrimination against Women

Acceded: 9 July 1984.

Mauritius' third and fourth periodic reports were due 8 August 1993 and 1997 respectively.

Reservations and Declarations: Paragraph 1 of article 29.

Torture

Acceded: 9 December 1992.

Mauritius' second periodic report has been submitted (CAT/C/43/Add.1) and is scheduled for consideration by the Committee at its May 1999 session; the third periodic report is due 7 January 2002.

Rights of the Child

Acceded: 26 July 1990.

Mauritius' second periodic report was due 1 September 1997.

Reservations and Declarations: Article 22.

FIELD OPERATIONS

Mauritius is a member of the Southern Africa Development Community (SADC) and, therefore, a beneficiary of and participant in the Regional Human Rights Programme Office for Southern Africa, a joint project of OHCHR and UNDP, which is based in Pretoria (see profile under "South Africa").



MOROCCO

Date of admission to UN: 12 November 1956.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Morocco has submitted a core document (HRI/CORE/1/Add.23) for use by the treaty bodies. The report prepared by the government includes demographic and statistical data and information on the political and judicial systems.

The national courts are responsible for ensuring that human rights are respected. A human rights advisory council has been set up to monitor the human rights situation and give opinions on specific cases involving human rights. Remedies for violations of human rights are available before the commune and district courts, the courts of first instance, the courts of appeal and the Supreme Court. There are provisions as well for appeal of administrative decisions causing harm through appeals to authorities and, if the plaintiff is not satisfied, through appeal to the Supreme Court. The rights set out in the international human rights instruments to which Morocco has either acceded or ratified are protected by the Constitution and there is no constitutional provision for derogation from that protection. The provisions of these instruments may be automatically invoked before Moroccan courts.

Economic, Social and Cultural Rights

Signed: 19 January 1977; ratified: 3 May 1979.

Morocco's second periodic report (E/C/1990/6/Add.20) is scheduled for consideration at the Committee's April/May 2001 session.

Civil and Political Rights

Signed: 19 January 1977; ratified: 3 May 1979.

Morocco's fourth periodic report (CCPR/C/115/Add.1) has been submitted but is not yet scheduled for consideration by the Committee; the fifth periodic report is due 31 October 2001.

Racial Discrimination

Signed: 18 September 1967; ratified: 18 December 1970. Morocco's 12th and 13th periodic reports (CERD/C/298/Add.4) were submitted as one document which has not yet been scheduled for consideration by the Committee; the 14th periodic report was due 17 January 1998. *Reservations and Declarations*: Article 22.

Discrimination against Women

Acceded: 21 June 1993. Morocco's second periodic report was due 21 July 1998. *Reservations and Declarations*: Article 2; paragraph 4 of article 15; paragraph 2 of article 9; article 16; article 29.

Torture

Signed: 8 January 1986; ratified: 21 June 1993. Morocco's second periodic report has been submitted (CAT/C/43/Add.2) and is scheduled for consideration at the Committee's May 1999.

Rights of the Child

Signed: 26 January 1990; ratified: 21 June 1993. Morocco's second periodic report is due 19 July 2000. *Reservations and Declarations*: Article 14.

REPORTS TO TREATY BODIES

Committee on the Elimination of Racial Discrimination

Morocco's 12th and 13th periodic reports were submitted as one document (CERD/C/298/Add.4, November 1997) which was considered by the Committee at its August 1998 session. The government stated that the problem of racial discrimination does not arise in Morocco. The report contains demographic and statistical data as well as information on, *inter alia*: various institutions established for the promotion and protection of human rights; the functions of the Ministry of Human Rights; judicial and administrative remedies available in the event of violation of human rights; constitutional and legal provisions related to non-discrimination on the basis of race or religion; legal provisions that would apply to punishment of any association formed for the purpose of spreading racist propaganda or based on ideas or theories of racial superiority; equality before the law, security of person, participation in political and public life; economic and social rights; access to public places; the system of human rights education; and respect for and preservation of the Berber culture.

The Committee's concluding observations and comments (A/53/18, paras. 400–420) welcomed the government's new policy of giving greater attention to human rights issues, including the objectives of the Convention, and noted with interest the activities of the Human Rights Advisory Council and the Ministry of Human Rights. Note was also taken of the project between the government and the OHCHR to introduce human rights education in primary and secondary school curricula and to set up a national centre for human rights studies. The Com-

mittee welcomed the establishment in 1995 of regional councils for culture, and the increased attention being paid to Berber culture, particularly in respect of measures to include Berber dialects in school curricula.

The principal subjects of concern identified by the Committee included, *inter alia*: the lack of a specific legal provisions prohibiting racial discrimination; the lack of legislative, judicial and administrative measures to give effect to the Convention; and the lack of information on the number of complaints and judicial decisions concerning acts of racism, regardless of their nature, and the compensation granted as a result.

The Committee recommended that the government, *inter alia*:

- ♦ provide information on the ethnic composition of the population in its next periodic report;
- ♦ develop provisions of the Penal Code so as to conform with the Convention in terms of a prohibition on racist organizations, propaganda and activities;
- ♦ provide information on other legal reforms and on the results of the amendment of the Labour Code, from the standpoint of the provisions of the Convention;
- ♦ include, in the next report, detailed information on racially motivated offences, including the number of complaints and judicial decisions concerning racist acts, regardless of their nature;
- ♦ provide information on the activities of the Human Rights Advisory Council vis-à-vis the Convention; and
- ♦ provide additional information, in the next report, on: socio-economic indicators for the situation of the Berbers, blacks, nomads, Sahrawis and other minorities, and the results of the human rights education project, with particular reference to the components of the project relating to racial discrimination.

COMMISSION ON HUMAN RIGHTS

At its 1998 session, under the agenda item on self-determination, the Commission on Human Rights adopted by consensus a resolution (1998/5) on the question of Western Sahara. In the text, the Commission, *inter alia*: reaffirmed the inalienable right of all peoples to self-determination; recalled the August 1988 agreement between Morocco and the Frente para la Liberación de Saguia el-Hamra y de Río de Oro to proposals of the Secretary-General and the OAU; recalled Security Council resolutions of 1990 and 1991 approving a settlement plan for Western Sahara; noted the cease fire in the region and stressed the importance of maintaining the cease fire as part of the settlement plan; noted agreements reached by the two parties on implementation of the settlement plan; urged the two parties to continue their cooperation with the Secretary-General (S-G) and the S-G's Personal Envoy; reaffirmed the UN's responsibility towards the

people of Western Sahara; and, reiterated its support for efforts aimed at the holding of a referendum for self-determination.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on: (E/CN.4/1998/44/Add.1, Decision No. 39/1996)

Decision No. 39/1996 related to 10 young Sahrawis who were allegedly arrested in May 1996 by the Moroccan authorities in the town of Boujdor for distributing leaflets and brandishing flags of the self-proclaimed "Sahrawi Arab Democratic Republic" (RASD) during a demonstration. Following arrest they were immediately transferred while blindfolded to the secret prison of the Mobile Intervention Unit (CMR) at El Ayoun, where they were reportedly interrogated and ill-treated. Some of them were sentenced to prison terms between 18 months and seven years. The Decision also addressed the case of another young Sahrawi who was allegedly arrested by the police at his home at El Housseima in January 1996 and sentenced, in February that same year, to eight years' imprisonment. The Working Group (WG) did not receive any information on the main charges of which he was found guilty. According to the source, the trials of these young Sahrawis were not fair and the prison sentences imposed were disproportionate to the acts of which they were accused.

The WG noted that, as in previous cases it has addressed, the sentences imposed on these persons were usually handed down at the end of summary trials, despite the fact that in demonstrating without the reported use of violence these people were merely engaging in the peaceful exercise of their right to freedom of opinion and expression. The WG decided that the detention of the persons named was arbitrary, in violation of article 19 of the Universal Declaration and article 19 of the International Covenant on Civil and Political Rights, to which Morocco is a party.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 3, 13, 24, 37, 53, 270-278)

On the question of compensation, the report cites information provided by the government, noting that there are a number of legal provisions that provide the victim of any kind of violation with the right to compensation in proportion to the damage suffered. In the event of death, the victim's successors may claim the compensation. With regard to a presumption of death, any individual may initiate the proceedings and, in terms of exhumations, the Royal Decrees of 31 October 1969 and 29 January 1970 state that exhumation must be authorized by the local authorities or requested by a legal authority. The authorities specify the procedure to be followed and the precautions to be taken in carrying out exhumations.

During the period under review, one newly reported case of disappearance, which allegedly occurred in 1997, was transmitted to the government. It concerned a 37-year-old man who was allegedly detained by the police in May 1997 in El Aioun. During the same period, 25 cases were clarified.

The majority of the 233 cases of disappearance transmitted to the government were reported to have occurred between 1972 and 1980. Most of them concerned persons of Saharan origin who were reported to have disappeared in territories under the control of the Moroccan forces, because they or their relatives were known, or suspected, supporters of the Polisario Front. Students and better educated Saharans were reported to have been particularly targeted. In some instances, disappearances allegedly followed the mass arrest of persons after demonstrations, or before visits of prominent persons or officials from other countries.

Disappeared persons were reported to have been confined in secret detention centres, such as Laayoune, Qal'at M'gouna, Agdz, and Tazmamart. Cells in some police stations or military barracks, and secret villas in the Rabat suburbs, were also allegedly used to hide the disappeared. Despite the release in 1991 of a large group of disappeared prisoners, several hundred other Western Saharans are said to remain unaccounted for.

The Working Group (WG) noted concern that despite the release in 1991 from secret detention centres of more than 300 missing persons, the perpetrators have not yet been brought to justice, nor have the victims been compensated. Information also indicated that: since their release, some of these persons have been subjected to intimidation and restrictions placed on the right to the freedoms of expression, association, and movement; some have been rearrested and others have been placed under house arrest; and in some cases of disappearance in which evidence exists that the person concerned has died, the remains still have not been recovered and returned to the victim's family, nor has a death certificate been issued.

The government replied to information in the WG's 1997 report (E/CN.4/1997/34) that had been provided by NGOs. The government: refuted the alleged disappearance of hundreds of persons as "unsupported by any proof"; stated that allegations concerning restrictions on the freedoms of expression and association were similarly "unfounded", as demonstrated by the press conferences held by former "disappeared persons", and by the numerous communiqués they have published individually or collectively in the newspapers; stated its commitment to "spare no effort to clarify outstanding cases"; and provided the WG with information on the constitutional and other legal provisions concerning the prevention and punishment of enforced disappearances.

With regard to cases clarified, information provided by the government indicated, in two cases, that the persons named had died of natural causes in 1976, and in

another, the individual had been arrested in 1976 on charges of attempts against state security, was released in 1978, and subsequently died in 1982 in a traffic accident.

SECURITY COUNCIL

Reports of the Secretary-General

Under Security Council resolutions, the Secretary-General was requested to prepare monthly reports on the plan and timetable for the holding of the referendum for the self-determination of the people of Western Sahara in accordance with the previously agreed settlement plan. The following reports are representative of the issues addressed (S/1998/35, January 1998; S/1998/316, April 1998; S/1998/404, May 1998; S/1998/534, June 1998; S/1998/634, July 1998; S/1998/775, August 1998; S/1998/849, September 1998). The reports provide updates on: the identification process related to individuals in advance of the referendum to establish eligibility to vote; civilian police and military aspects of the UN Mission for the Referendum in Western Sahara (MINURSO) — including provision of 24-hour security for the identification process, monitoring the ceasefire between the Royal Moroccan Army and the Frente POLISARIO forces, and demining activities; and, repatriation of Saharan refugees and preparations for their return.

Resolutions of the Security Council

The Security Council adopted a series of resolutions related to the plans and timetable for the referendum, the Settlement Plan and the mandate of the MINURSO (S/RES/1148, January 1998; S/RES/1163, April 1998; S/RES/1185, July 1998; S/RES/1198, September 1998). The Council, *inter alia*: approved the deployment of the engineering unit required for demining activities; reiterated its commitment to assist the parties to achieve a just and lasting solution to the question of the Western Sahara and its commitment to the holding without further delay of a free, fair and impartial referendum for the self-determination of the people of the Western Sahara in accordance with the Settlement Plan; maintained the mandate of MINURSO so that the Mission could proceed with its identification tasks, with the aim of completing the process; called upon the parties to cooperate constructively with the UN in order to complete the identification of voters phase of the Settlement Plan and the agreements reached for its implementation; and, noted the expressed readiness of the Moroccan government to cooperate with the UN High Commissioner for Refugees (UNHCR) in order to formalize the presence of UNHCR in the Western Sahara and enable the Office to carry out the necessary preparatory work for the repatriation of Saharan refugees eligible to vote, and their immediate families.



MOZAMBIQUE

Date of admission to UN: 16 September 1975.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Mozambique has not submitted a core document for use by the treaty bodies.

Civil and Political Rights

Acceded: 21 July 1993.

Mozambique's initial report was due 20 October 1994.

Second Optional Protocol: Acceded: 21 July 1993.

Racial Discrimination

Acceded: 18 April 1983.

Mozambique has not submitted the second through eighth periodic reports (covering the period 1986-1998); the eighth periodic report was due 18 May 1998.

Reservations and Declarations: Article 22.

Discrimination against Women

Acceded: 21 April 1997.

Mozambique's initial report was due 16 May 1998.

Rights of the Child

Signed: 30 September 1990; ratified: 26 April 1994.

Mozambique's initial report was due 25 May 1996.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 279-281, 417)

No new cases of disappearance were transmitted to the government. The two previously reported cases both occurred in 1974. One case concerned a doctor, who was said to have been arrested in 1974 in a hotel in Blantyre, Malawi, and to have been taken first to Mozambique and then to the southern part of Tanzania. It was believed that he was then transferred to Niassa province, Mozambique. The other case concerned a doctor who was said to have been arrested at his home in Matola and imprisoned at the headquarters of Frelimo troops in Boane, and later in Maputo. The report notes that although a number of reminders have been sent, no information has ever been received from the government with regard to these cases. The Working Group was, therefore, unable to report on the whereabouts of the disappeared persons.

Religious intolerance, Special Rapporteur on:

(E/CN.4/1998/6, paras. 48, 50, 63)

The report refers to violations of freedom of religion or belief against Christianity. The report notes information

received indicating that the authorities have imposed controls on, and/or interfered illegally with, religious activities.

Sale of children, child prostitution, child pornography, Special Rapporteur on the:
(E/CN.4/1998/101, para. 127)

In commentary on education and its importance in teaching children about their rights, the report refers to the Adolescent Girl Communication Initiative which has been undertaken to educate adolescent girls and their parents about the importance of staying in school. Other issues, such as sexual harassment, HIV/AIDS, early marriage, female genital mutilation and girls' domestic workload are also discussed in a radio series and animated films, comic books, story books, audio cassettes, posters and guides which have been developed. The multi-media effort is the result of months of collaboration among hundreds of writers, artists and researchers, with input from thousands of people in villages and cities.

FIELD OPERATIONS

Mozambique is a member of the Southern Africa Development Community (SADC) and, therefore, a beneficiary of and participant in the Regional Human Rights Programme Office for Southern Africa, a joint project of OHCHR and UNDP, which is based in Pretoria (see profile under "South Africa").



NAMIBIA

Date of admission to UN: 23 April 1990.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Namibia has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Acceded: 28 November 1994.

Namibia's initial report was due 30 June 1997.

Civil and Political Rights

Acceded: 28 November 1994.

Namibia's initial report was due 27 February 1996.

Optional Protocol: Acceded: 28 November 1994.

Second Optional Protocol: Acceded: 28 November 1994.

Racial Discrimination

Acceded: 11 November 1982.

Namibia's eighth periodic report was due 11 December 1997.

Discrimination against Women

Acceded: 23 November 1992.

Namibia's second periodic report was due 23 December 1997.

Torture

Acceded: CAT: 28 November 1994.

Namibia's second periodic report is due 27 December 1999.

Rights of the Child

Signed: 26 September 1990; ratified: 30 September 1990.

Namibia's second periodic report was due 29 October 1997.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Torture, Special Rapporteur on: (E/CN.4/1998/38, para. 142; E/CN.4/1998/38/Add.1, para. 268)

An urgent appeal was sent to the government on behalf of a Ugandan national residing with his family in Namibia, whose request for asylum had reportedly been rejected. The report notes that the person named is a member of the Ugandan intelligence services, had allegedly been arrested by the Ugandan army in June 1995, and accused of collaboration with the armed opposition. Information indicated that during his arrest he was severely beaten and his wife was raped. In detention he was reportedly subjected to electric shocks, suspension upside down, and food deprivation. He was reported to have fled in mid-1996 with his family to Namibia. Fears were expressed that, if deported, he may be detained and again subjected to torture upon his return to Uganda.

FIELD OPERATIONS

Namibia is a member of the Southern Africa Development Community (SADC) and, therefore, a beneficiary of and participant in the Regional Human Rights Programme Office for Southern Africa, a joint project of OHCHR and UNDP, which is based in Pretoria (see profile under "South Africa").



NIGER

Date of admission to UN: 20 September 1960.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: The core document prepared by the government in 1994 (HRI/CORE/1/Add.45) provides

demographic and statistical data as well as information on the economy, the political system, and the judiciary.

Two national institutions on human rights have been established Democracy, Freedom and Development and the Human Rights Association which deal with freedom of association. Efforts have been made to publicize and disseminate information on various human rights instruments on radio (in French and national languages) and television as well as through the newspapers, plays and songs. The freedom and independence of media, including the press, are guaranteed by the Supreme Communications Council that is an independent administrative authority. The Council monitors media ethics and fair access of political parties, associations and citizens to official information and communications media.

Economic, Social and Cultural Rights

Acceded: 7 March 1986.

Niger's initial report was due 30 June 1990; the second periodic report was due 30 June 1995.

Civil and Political Rights

Acceded: 7 March 1986.

Niger's second periodic report was due 31 March 1994; the third periodic report was due 6 June 1997.

Optional Protocol: Acceded: 7 March 1986.

Racial Discrimination

Signed: 14 March 1966; ratified: 27 April 1967.

Niger's 11th through 14th periodic reports have been submitted as one document (CERD/C/299/Add.18) which was considered at the Committee's August 1998 session; the 15th periodic report was due 4 January 1998.

Torture

Acceded: 5 October 1998.

Rights of the Child

Signed: 26 January 1990; ratified: 30 September 1990.

Niger's initial and second periodic reports were due 29 October 1992 and 1997 respectively.

REPORTS TO TREATY BODIES

Committee on the Elimination of Racial Discrimination

Niger's 11th through 14th periodic reports were submitted as one document (CERD/C/299/Add.18, August 1997) which was considered by the Committee at its August 1998 session. The consolidated report, prepared by the government, states that racial discrimination does not exist in Niger and notes Order No. 84-6 of 1 March 1984 establishing the regulations banning associations of a regional or ethnic character. The report includes information on, *inter alia*: the general legal framework for the prohibition of racial discrimination; ethnic and demographic characteristics; constitutional and legal provisions related to specific propaganda of a regionalist,

racial or ethnic character or any manifestation of racial or ethnic discrimination; provisions generally related to civil and political rights; the rights to housing, health and education; educational programmes aimed at tolerance and mutual respect; and human rights education in the schools.

The Committee's concluding observations and comments (A/53/18, paras. 445-464) welcomed the signing of an agreement to establish peace between the government and the Organisation de la Résistance armée (ORA) in 1995, as well as the establishment of the High Commissioner's Office for the Restoration of Peace. The Committee took note of the various activities being carried out in the fields of culture and education and, in particular, the strengthening of the itinerant schools system, as well as planned measures for the administrative decentralization of the country as a means of finding better solutions to the problems of the various communities.

Factors hindering implementation of the Convention were seen to include the fragility of the government's process of democratization, the very low standard of living, the geographical and climatological situation, the extremely high population growth rate and the very low literacy rate.

The principal subjects of concern identified by the Committee included, *inter alia*: acts of violence against persons belonging to certain ethnic groups, particularly the Toubous; the lack of information about measures for incorporating ORA armed forces into the army and the country's civil activities, and the participation of various ethnic groups in public life; the lack of specific legal provisions prohibiting racial discrimination and the absence of a specific prohibition on the dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination and provocation or acts of violence or assistance in racist acts; the ambiguity of Order No. 84-6 (1984) governing associations and prohibiting those of a regional or ethnic nature, which may also lead to the prohibition of cultural associations that have no involvement in acts of racial discrimination; the lack of information on the implementation of provisions in the Convention related to the participation of the various ethnic groups in political life; and the lack of information on foreign refugees in Niger and the return of Niger refugees from abroad.

The Committee recommended that the government, *inter alia*:

- ♦ provide information, in the next report, on relations between the country's various ethnic groups and on efforts to encourage them to live together peacefully and harmoniously;
- ♦ develop its Penal Code to conform with the provisions of the Convention with regard to the prohibition of racist organizations, actions and speech; and provide information, in the next report, on racially motivated offences as well as complaints and judicial decisions concerning racist acts, regardless of their nature;

- ♦ provide information on legislative reforms which have been scheduled or undertaken, particularly with regard to the right to freedom of association;
- ♦ provide information on measures taken relative to civil and political rights, economic and social indicators for all the country's ethnic groups, and on the teaching, educational, cultural and information activities carried out to prevent and combat all forms of racial discrimination; and
- ♦ provide information on the activities of the Association nigérienne pour la défense des droits de l'homme (Niger Association for the Protection of Human Rights).

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on: (E/CN.4/1998/44, paras. 19, 21)

The report notes that one urgent appeal was sent to the government on behalf of three persons. Information subsequently received indicated that the persons named were not in detention. No details of the cases were provided.

Torture, Special Rapporteur on: (E/CN.4/1998/38, para. 147; E/CN.4/1998/38/Add.1, paras. 280–283) Information was sent to the government on behalf of two named persons who were part of a group of demonstrators reported to have been arrested in Niamey in July 1996, and then taken to the military camp at Ekrafane. The incidents arose when opposition sympathizers preparing to stage a peaceful demonstration were attacked by a police patrol using tear-gas grenades. Police actions also reportedly included bludgeoning. Approximately 40 demonstrators were rounded up and taken to the military camp at Ekrafane where they were said to have been subjected to protracted beatings over the course of a week and had had their heads shaved. One of the persons named was said to have been led, blindfolded, in front of a firing squad several times; the order had then been given to fire into the air to frighten him.

The Special Rapporteur (SR) also sent to the government a case related to a militant member of the Front for the Restoration and Defence of Democracy who was arrested in Niamey in February 1997 by six police officers. Information indicated that he was taken to the outskirts of the town, beaten, and abandoned there. The SR noted the victim had also been beaten up at a judicial police station the month before, after being arrested for criticizing the government over the radio.

A fourth case sent to the government related to a lecturer at the University of Niamey who was abducted in April 1997 by four men, one in military uniform, and taken some kilometres from Niamey. There he was stripped and beaten unconscious. The SR noted that some days

before the incident he had published an article in a newspaper criticizing the government.



NIGERIA

Date of admission to UN: 7 October 1960.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Nigeria has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Acceded: 29 July 1993.

Nigeria's initial report (E/1990/C/Add.31) was considered at the Committee's May 1998 session; the second periodic report is due 30 June 2000.

Civil and Political Rights

Acceded: 29 July 1993.

Nigeria's second periodic report is due 28 October 1999.

Racial Discrimination

Acceded: 16 October 1967.

Nigeria's 14th and 15th periodic reports were due 4 January 1996 and 1998 respectively.

Discrimination against Women

Signed: 23 April 1984; ratified: 13 June 1985.

Nigeria's second and third periodic reports were submitted as one document (CEDAW/C/NGA/2-3), which was considered at the Committee's July 1998 session; the fourth periodic report was due 13 July 1998.

Torture

Signed: 28 July 1988.

Rights of the Child

Signed: 26 January 1990; ratified: 19 April 1991.

Nigeria's second periodic report was due 18 May 1998.

REPORTS TO TREATY BODIES

Committee on Economic, Social and Cultural Rights

Nigeria's initial report (E/1990/5/Add.31, February 1996) was considered by the Committee at its May 1998 session. The report was prepared by the government that came into office on 17 November 1993 and contains information on, *inter alia*: the right to work, trade unions and workers' rights; the Labour Act 1990 and the Minimum Wage Act; women in the labour force; provisions related to young people and persons with disabilities in the labour force; the Young Persons Act 1958; health care policy and delivery of medical services; the National Pri-

mary Health Care Development Agency, established in 1992; problems in health care delivery arising from funding constraints; the Education For All objective; problems and challenges related to the education system (e.g., infrastructure, gender disparity); institutions established to provide services for target groups vis-à-vis basic education; the Family Support Programme (FSP); and creation of the Ministry for Women's Affairs.

The Committee's concluding observations and comments (E/C.12/1/Add.23) welcomed the government's presentation of its initial report but expressed regret that: an expert delegation was not available from Lagos; the report did not conform with the Committee's guidelines; additional information was received too late to allow for its translation; the delegation was not equipped with the detailed and up-to-date facts and statistics required to answer satisfactorily the list of issues submitted by the Committee to the government eleven months earlier; and the additional information promised by the government delegation during the dialogue was never received.

The factors hindering implementation of the Covenant were noted as including: the absence of the rule of law; the existence in Nigeria of military governments; the suspension of the Constitution in favour of ruling by military decrees; the concomitant resort to intimidation and the negative effects that widespread corruption has on the functioning of governmental institutions; the absence of the necessary judicial protection of human rights since the judiciary is being undermined by "ouster clauses" attached to many military decrees as well as by the government's refusal to implement the judiciary's decisions; and the negative attitude of the government with regard to the promotion and protection of human rights in general, and economic, social and cultural rights in particular.

The Committee welcomed the establishment of the Nigerian Human Rights Commission and its recommendations in the field of human rights — including that prison committees be created — but noted that the powers and independence of the Commission have been the subject of criticism and many of its recommendations have been ignored. The Committee also welcomed: the establishment of a Ministry for Women's Affairs, responsible for the welfare of women and children; small improvements in women's participation in the political process, for example in representation in the Cabinet; the establishment of the National Child Rights Implementation Committee and the preparation of a National Child Plan of Action; and the fact that, as of 1998, more attention was given, and budgetary allocations substantially increased, for infrastructure, health and education.

The Committee noted with regret that the Special Rapporteur of the UN Commission on Human Rights had not been permitted to visit the country. The Committee also noted with regret that the government had failed to heed the appeals and concerns expressed by the U.N. Secretary-General's fact-finding mission, the decisions of the African Commission on Human and Peoples' Rights, the statements of the Nigerian Human Rights Commission,

those of the Commonwealth Ministerial Action Group and of the International Labour Organization.

With regard to the right to work and workers' rights, the principal subjects of concern identified by the Committee included, *inter alia*: the decision of the authorities to expel an estimated half a million Chadian and other nationality workers in inhuman and undignified circumstances, some of whom had been legally established for many years with residence permits and had participated in, and contributed to, the social security system; the apparent failure to pay adequate compensation to the majority of the workers expelled; the high percentage of unemployment and underemployment among Nigerian workers, particularly among agricultural workers; discrimination against women in the workplace, particularly with regard to access to employment, promotion to higher positions and equal pay for work of equal value; the 1994 decision to dissolve three major trade unions and the appointment of military administrators to run them; the decision of the government to decrease the number of labour unions from 42 to 29 and prohibit unions from associating with international federations of labour unions; the imprisonment without charge or trial of the General Secretaries of two of the major unions; repeated violations of the right to strike; the policy of retrenchment aimed at expelling up to 200,000 employees in the public sector, without adequate compensation; an inadequate social security system and the fact that the National Nigerian Insurance Trust Fund does not cover all the needy; and that, in the private sector, social security benefits are left to the employers' discretion.

On issues affecting women and girls, the Committee expressed concern over: the failure of the government to abolish female genital mutilation, noting an estimate by UNICEF that the practice affects 50 per cent of the female population; the continuing existence of legal provisions which permit the beating ("chastisement") of women by their husbands; the fact that polygamy, a practice which is very often incompatible with the economic, social and cultural rights of women, is widespread in Nigeria; and the rising number of homeless women and young girls who are forced to sleep in the streets where they are vulnerable to rape and other forms of violence.

The Committee also expressed concern over: the tendency of children to resort to prostitution to feed themselves; a primary school drop-out rate of more than 20 per cent; information indicating that as many as 12 million children hold one job or another; overcrowding in, and the dilapidated condition of, schools; failure in law to provide equal treatment to children born in wedlock and those born out of wedlock; the widespread problem of children suffering from malnutrition; the fact that 21 per cent of the population live below the poverty line despite the country's rich natural resources; and the fact that due to economic and administrative mismanagement, corruption, runaway inflation and the rapid devaluation of the Naira, Nigeria now ranks among the world's 20 poorest countries.

Concern was also expressed over: the great number of homeless people and the acute housing problem; the fact that clean drinking water is available to only 39 per cent of the population; the fact that gross under-funding and inadequate management of health services led to rapid deterioration of health infrastructures in hospitals over the last decade; the extent of devastation that oil exploration has done to the environment and quality of life in such areas as Ogoniland; and the fact that the government's social and health allocations consistently diminished up until 1998 and that new hospital charges have been imposed in certain states.

In the area of education, the Committee referred to: the reintroduction of primary school fees in certain states; the marked reduction in school age children going to school because parents cannot afford to pay the new drastically increased school fees; poor educational quality arising from the lack of attention being devoted by teachers to school work; the dramatic increase in university fees in 1997 and the closure of satellite campuses for no particular reason; the view of military authorities that intellectuals, journalists, university professors and university students constitute the most vociferous and dangerous political opposition; the fact that one of the major university campuses was put under military guardianship and universities have suffered repetitive and long periods of closure; and a "brain drain" in academia, as a result of political and academic instability as well as the extremely low salaries of university professors.

The Committee noted that the restoration of democracy and the rule of law are prerequisites for the implementation of the Covenant and that the elimination of the practice of governing by military decree and the strengthening of the authority of the Nigerian judiciary and the Human Rights Commission are necessary first steps to reinstitute democratic civilian rule. The Committee then recommended that the government, *inter alia*:

- ♦ restore a democratic political system and respect for the rule of law, as well as respect for trade union freedoms and academic freedom;
- ♦ free immediately union leaders and their rank and file members who have been imprisoned without charge or trial; alleviate harsh prison conditions; free and pardon political prisoners;
- ♦ respect the rights of minority and ethnic communities — including the Ogoni people — and provide full redress for the violations of the rights set out in the Covenant that they have suffered;
- ♦ cease and prevent, in law and in practice, all forms of social, economic and physical violence and discrimination against women and children, especially the continuous, degrading and dangerous practice of female genital mutilation;
- ♦ enact legislation and ensure by all appropriate means protection against the many negative consequences

which ensue from child school drop-outs, child labour, child malnutrition and from discrimination against children born out of wedlock;

- ♦ take steps to meet the targets it has accepted in relation to the Education for All by the year 2000, and enforce the right to compulsory free primary education; and
- ♦ cease immediately the massive and arbitrary evictions of people from their homes, take the necessary measures to alleviate the plight of those who are subject to arbitrary evictions or are too poor to afford a decent accommodation, and allocate adequate resources and make sustained efforts to combat this serious situation.

Committee on the Elimination of Discrimination against Women

Nigeria's 2nd and 3rd periodic reports were submitted as one document (CEDAW/C/NGA/2-3, February 1997) which was considered by the Committee at its July 1998 session. The report prepared by the government covers the period from 1987 to 1994 and contains information on, *inter alia*: general constitutional provisions related to freedom from discrimination; the traditional role of women in Nigeria; establishment of the National Committee to monitor implementation of the Convention; the upgrading of the National Commission for Women to the Ministry for Women's Affairs and Social Development; a proposed law on female genital mutilation; the Women Education Programme; measures to change stereotyped attitudes towards women; legal provisions related to rape and violence against women; the National Policy on Communication and the electronic media; trafficking in, and prostitution of, women; participation in political and public life; nationality and citizenship; equal rights in education, the policy objectives of women's education, non-formal education and rural women, nomadic education; employment and labour, the Labour Act, social security, pensions, obstacles to women's employment; health care and family planning, HIV/AIDS and STDs; access to loans and credit, the Family Economic Advancement Programme, family benefits; the situation of rural women, the Women in Agriculture programme; equality before the law; and marriage and family law rights.

The Committee's concluding observations and comments (CEDAW/C/1998/II/L.1/Add.6) welcomed the establishment of a Ministry of Women's Affairs, an increase in school attendance rates for girls and literacy rates for women, the increase in the number of women in decision-making posts, and improvements in access to drinking water and electricity for rural women.

Factors hindering implementation of the Convention were noted as including: the predominance of cultural stereotypes that are prejudicial to women; the continued existence of such practices as polygamy, inhumane rites undergone by widows, and female circumcision; and the coexistence of three legal systems — civil, religious and

customary — making it difficult to adopt and enforce laws which genuinely protect women's rights.

The principal subjects of concern identified by the Committee included, *inter alia*: religious and customary laws and practices in the family context that violate women's human rights; inadequacies in the legal and constitutional framework; the lack of statistical data in such areas as domestic violence, prostitution, women's labour — including in the informal sector, and women's and children's health; the inadequate representation of women in the judiciary; the various forms of violence against women and the absence of laws, programmes and policies to address this serious problem; and the low literacy rate among women and the low attendance rate of girls at secondary institutions.

Concern was also raised over: the lack of statistics and information on AIDS and STDs and the fact that polygamy and prostitution contribute to the spread of sexually transmitted diseases; the rates of maternal and infant mortality and the lack of medical facilities for women and children; and the fact that rural women have little access to education and credit facilities.

The Committee recommended that the government, *inter alia*:

- ♦ take effective measures to change laws and cultural norms which allow such practices as polygamy, one-sided repudiation, unequal subsistence rights and shares, and the stipulation that women may not travel without the permission of a male relative;
- ♦ collect statistical information disaggregated by sex in all areas of importance in the lives of women and include that data in future reports;
- ♦ adopt temporary special measures to increase the participation of women in the judiciary;
- ♦ collect information on violence against women; introduce and enforce appropriate laws, programmes and policies to confront all forms of violence against women; establish shelters for victims; introduce measures to ensure that women are protected from reprisal where they report their victimization; introduce, at all levels of education, courses on women's and children's rights and public awareness campaigns highlighting these issues;
- ♦ increase efforts, through implementation of a specific programme, to reduce illiteracy among women, particularly in rural areas, and promote access by girls to secondary education; ensure that primary education is free;
- ♦ compile statistical data and information on the incidence of HIV/AIDS and other sexually transmitted diseases;
- ♦ increase efforts to guarantee access to medical services and hospital medical facilities, particularly in the context of women's health needs; make family

planning programmes available to all, including young women and men; establish, as a priority, provision of free access to health services; and

- ♦ strengthen socio-economic programmes so as to reduce discrimination suffered by rural women.

COMMISSION ON HUMAN RIGHTS

Report of the Special Rapporteur

The Special Rapporteur (SR) on the situation in Nigeria was appointed at the 1997 session of the Commission. In the enabling resolution the Commission expressed concern over, *inter alia*: continuing violations such as arbitrary detention and failure to respect due process of law; continued use of the flawed judicial process that had previously led to the arbitrary execution of Ken Saro-Wiwa and his associates; the refusal of the government to cooperate with the Commission; and the fact that the absence of representative government was contrary to the popular support for democratic government which was expressed in the 1993 elections. The Commission called on the government to respect and meet the obligations Nigeria had freely undertaken under the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and other human rights instruments, including the African Charter on Human and Peoples' Rights. It also called on Nigeria to cooperate fully with the Commission and its mechanisms and take concrete steps to restore democratic government without delay. The Special Rapporteur for 1998 was Soli Sorabjee.

The report to the 1998 Commission (E/CN.4/1998/62) includes a brief description of communications with the government concerning an in-country visit, as well as historical information on conditions in Nigeria, the government's international obligations, mechanisms for the protection of human rights, allegations related to specific rights, and measures related to human rights that were taken by the government. The report notes that the SR was unable to secure approval from the Nigerian authorities for a fact-finding mission to Nigeria prior to the 1998 session on the Commission. As a consequence, the report was based on information gathered during consultations in London and Geneva with individuals, NGO representatives, representatives of inter-governmental organizations and specialized agencies, as well as commentary in the reports of several of the Commission's thematic mechanisms, e.g., arbitrary detention, summary/arbitrary execution, the independence of judges and lawyers, torture, and freedom of expression.

The report recalls the November 1993 decision of the Provisional Ruling Council (PRC), the October 1995 PRC announcement of a three-year programme for the restoration of democracy and return to civilian rule, and the fact that the government had established three of the five institutions scheduled to be created according to its transition timetable — namely the Transitional Implementation Committee, the National Electoral Commis-

sion of Nigeria (NECON) and the State Creation, Local Government and Boundary Adjustment Committee.

On elections, the report notes that local government elections were held in March 1997, without violence, but were marked by severe problems arising from a flawed registration process, pre-election screening of candidates and unresolved disputes about the delineation of constituencies. The state assembly elections, held in December 1997, were marked by an extremely low voter turn-out and the government's cancellation of the results in some constituencies. Elections of state governors, originally planned for late 1997, were re-scheduled, reportedly to take place at the same time as presidential elections in the third quarter of 1998. The SR reported that only five of 17 political parties which had applied for registration were registered, and refers to reports that four of the registered parties had chosen Sani Abacha as their joint presidential candidate. The SR also pointed out that, according to an April 1997 decree, the head of state had the authority to remove duly elected local council representatives from their positions. The report states that, on the basis of these considerations, non-governmental organizations and opposition groups had expressed doubt with regard to the genuineness of the commitments to return to civilian rule and restoration of democracy.

The review of mechanisms in Nigeria for the protection of human rights covers a number of points, including that there is no constitutional guarantee for the protection of human rights, ouster clauses had undermined the independence of the judiciary and, by decree, legal challenges to any military decrees were prohibited.

The report cites the decision of the African Commission on Human and Peoples' Rights, in *Civil Liberties Organization v. Nigeria*, in which the Commission held that Decree No. 107 of 1993 — the Constitution (Suspension and Modification) Decree, which restored the 1979 Constitution and suspended the application of its human rights provisions and excluded the jurisdiction of the courts — was a breach of articles 7 and 26 of the African Charter. Not only was Decree 107 a violation of human rights in itself, but it permits other violations of rights to go unredressed. The report also notes that the authority of the judiciary is further impaired because court orders are either disobeyed or implemented only after considerable delay. This was demonstrated in a number of cases in which the Federal High Court had ordered the release of prisoners who continued to be held, often in incommunicado detention.

In the section dealing with allegations of human rights violations, the report addresses a number of areas including, *inter alia*: excessive use of force by security forces and extrajudicial killings at roadblocks, during patrols, in the course of putting down disturbances and pro-democracy rallies, when combatting crime, and when dealing with detained persons. Concerning the justice system, the report notes the imposition of the death penalty following trials which fall short of international standards regarding fair trial; the execution of persons

under 18 years of age; deaths in custody as a result of cruel, inhuman and degrading treatment, as well as neglect and harsh and life-threatening conditions of detention. Further, it describes detention without trial for an indefinite period of time and the ousting of the jurisdiction of the courts in respect of challenges to arbitrary detention; frequent extension of detention orders beyond the period of three months; despite restoration of *habeas corpus*, refusal by the government — with impunity — to produce detainees as ordered by the court; continued arbitrary detention of trade union leaders, human rights activists, lawyers and journalists as well as detention of family members and other relatives of Nigerians living in exile or "underground"; establishment of special tribunals which are neither impartial nor independent, with the confirmation of sentences ultimately resting with the military; the denial of legal assistance to the accused, insufficient time to prepare a defence, punishment before the time for appeal has expired, long delays for persons awaiting trial, challenges in appeal court by the government of court orders granting bail and obtaining a stay of these orders; the seizure of passports with no reason given and no sanction for the action in law, with the apparent purpose of preventing individuals from attending international conferences or seminars and expressing their views at such meetings; detentions of persons upon their return from travel abroad; extremely harsh prison conditions, reportedly life-threatening, such as severe overcrowding, lack of basic sanitation, lack of adequate food and clean water, lack of ventilation and health care, chronic and debilitating diseases, skin infections, and refusal of the authorities to allow detainees to avail themselves of their own medical services; the holding of political detainees in remote locations, complicating access to visits by family members or medical personnel; decree provisions providing for the proscription and confiscation of any publication likely to disrupt the process of democracy and peaceful transition to civil rule or disturb the peace and public order; and criminalization of peaceful criticism of, or activities against, the transition to civilian rule.

With regard to media, the report addresses a number of areas including the imposition of significant registration requirements on newspaper and broadcasting enterprises; the announcement in January 1997 of the government's intention to establish a "press court" in order to charge journalists who report "untruths"; the establishment of a process of appointment by the government of the National Broadcasting Commission with the power to revoke radio and television licences in instances in which it decides that the applicant does not promote national interest, unity and cohesion.

The SR referred to the promulgation of various decrees infringing on the rights of professional bodies and trade unionists such as those eroding the independence and autonomy of the Nigerian Bar Association; criminalization of the association of a trade union with any other international association without government approval; dissolution of the elected national executive council of the Nigeria Labour Congress; dissolution of the elected

national executive councils of the two key unions, the National Union of Petroleum and Natural Gas Workers (NUPENG) and the Petroleum and Natural Gas Senior Staff Associations (PENGASSEN); the decree ordering the merger of a number of unions and barring full-time union managers and organizers from seeking elective positions in the NLC or the unions that employ them; raids by the Rivers State Internal Security Task Force during peaceful protests commemorating Ogoni National Day; banning and disruption of rallies to mark the anniversary of the June 1993 elections and cancellation and prevention by the authorities of various other public gatherings, ceremonies and celebrations.

On the situation of women, the report makes a number of points, including that: violations of human rights arise from continued discriminatory administrative policies, the practices of authorities, and cultural beliefs and attitudes which are given the force of law through customary law systems; the dual system of law empowers the courts to administer rules of customary law provided they are not repugnant to natural justice, equity and good conscience; customary and Shariah (Islamic) courts established in all states administer and enforce customary laws, some of which uphold the unequal treatment of women; reports indicate that, among the Igbo people, a woman has no right to own land, despite the fact that many women are farmers, may therefore lose land in a divorce after having spent years farming it, and are unable to use land as credit collateral; and, some customary practices regard a woman as part of her husband's property, which may then be "inherited" by the husband's eldest male relative. Additional commentary on customary law notes that it is particularly influential in the private sphere, regulating such issues as marriageable age, consent to marriage, property rights and custody of children upon divorce. The report also notes that, under customary law, the practice — particularly in northern Nigeria — of giving away female children in marriage continues and, further, that customary law marriages are also often polygamous and, under the Islamic faith, every Muslim has the right to marry up to four wives provided the man can take care of the wives equally. Following on these points the SR noted that, while the implementation of international norms in particular cultural or religious contexts may entail their adaptation, freedom of religion may not be invoked to shield from scrutiny any law which infringes upon women's rights.

The report also notes that domestic violence remains a problem, especially with regard to the practice of wife-beating, and that: definitions in the law make it extremely difficult for a woman to file a criminal complaint against her husband for spousal abuse; law enforcement agents practice a policy of non-interference in "domestic" matters, and reportedly regard a certain amount of physical battery as culturally acceptable; in customary practices, seeking redress may actually attract more punishment for the woman because her actions are construed as an act of insubordination and disobedience

to the traditional norms; and women therefore tend to adopt a "culture of silence".

Discrepancies in penalties are also noted in the report. For example, section 353 of the Criminal Code (Laws of the Federation of Nigeria 1990) characterizes the offence of indecent assault on males as a felony punishable by three years' imprisonment while section 360 treats a similar offence of indecent assault on females as a misdemeanour punishable by a maximum of two years' imprisonment.

On other points related to the situation of women, the report notes, *inter alia*, that: marital rape is unrecognized by law in Nigeria, on the basis that consent to marriage is tantamount to the foreclosure of consent to each particular sexual intercourse; a man who inflicts extensive bodily harm on his wife while forcibly having sex with her is not punished for a sexual offence, but rather for an ordinary assault; cultural inhibitions and taboos about sexual activities constrain most victims from acknowledging and reporting incidents even informally; victims trapped in situations of sexual harassment and assault often remain exploited because of their inability to leave — arising from threats of physical harm, withdrawal of financial support, or ostracism from the community; in law, rape is punishable maximally by life imprisonment but victims are not granted anonymity during prosecutions and media attention and social stigma dissuade most victims from reporting; the SR received allegations of rape taking place at police roadblocks as well as in prisons; and, when rape has been committed during armed robbery attacks in urban areas, the perpetrators are often charged solely for the property offence of armed robbery.

Reports indicate that female genital mutilation is still practised extensively in many parts of Nigeria although the practice has been recognized as a form of violence against women. In some parts of the country there remains a stipulation that married women must obtain the consent of their husbands before they can be medically treated; women's health is generally not given attention unless they become mothers and, even then, many women have been denied proper reproductive health care, which contributes to a high rate of maternal mortality.

The SR noted that despite the lack of legislative barriers to women's participation in politics and the judicial system and the fact that women have had the same voting rights as men for years, women continue to be marginal actors in the public sphere; women's participation in politics has been complicated by the role of money in the determination of political participation and outcomes, as well as their lack of access to adequate education and information; in recent years, however, there has been an increase in the number of women lawyers and three women were included in the Cabinet as announced in December 1997. There is no law expressly requiring a woman to have the written consent of her husband to obtain bank loans and overdrafts but, depending on the

bank and particular person, a woman is often asked for her husband's written permission as additional collateral, a practice that is also applied to cases of goods on hire purchase and in obtaining passports, especially if the names of the children are to be included in the passport.

The report acknowledges that the government has taken some measures to protect the rights of women including the establishment of a Ministry for Women's Affairs — which is also represented at the state level — and involvement of the Ministry in development issues affecting rural women through assistance in farming, handicrafts and textile-making. The report notes, however, that many women in the urban areas have yet to see concrete results from Ministry's development programme. Measures aimed at promoting education as a tool to improve the situation of girls have not yet had a perceptible positive impact. And, despite requests, no information has been made available by the government regarding the effectiveness of the Ministry in combatting the practices of forced marriage, female genital mutilation and other discriminatory practices against women arising from customary laws.

On children's rights, the report notes that a National Child Rights Implementation Committee was established in 1994, *inter alia*, to: ensure the popularization of the Convention on the Rights of the Child and the Charter on the Rights and Welfare of Children of the Organization of African Unity (OAU); review the state of implementation of the Convention; develop specific programmes to enhance the status of the child; and collect and collate data on the implementation of the rights of the child. Despite the establishment of this Committee, information continued to be received related to violations of children's rights, especially with regard to the administration of juvenile justice and the institutionalization of children.

In brief commentary on the right to development and to a satisfactory environment the report notes information received related to the activities of the Shell Petroleum Development Company of Nigeria (SPDC) that were alleged to have led to widespread and severe environmental damage in the River Delta region and a negative impact on the health of those living in that area. Note is also made of information received related to the use, by SPDC, of its own well-armed security force which is intermittently employed against people protesting and demonstrating against SPDC's activities. Information indicated that such action has resulted in serious injuries and, further, that the Nigerian authorities have put at SPDC's disposal a mobile police force to suppress protests and demonstrations.

Balancing this commentary on continuing problems and violations, the report notes a number of measures taken by the government for the protection and promotion of human rights including the inauguration of a National Human Rights Commission in June 1996. The Commission's recommendations are not binding on the government; however, it appears that, in some cases, action taken by the Commission has resulted in the release of

some prisoners. Also, information indicates that the Chairman of the Commission has been able to initiate a constructive dialogue on human rights issues; as well, the Chairman has recommended that committees be established to study prison conditions and to introduce human rights education courses in schools and police and law enforcement agencies. The Commission has undertaken several human rights promotional activities in conjunction with NGOs.

Points made in the conclusion to the report include, *inter alia*, that: widespread violation of basic human rights occurs in Nigeria and the legal system currently does not provide effective protection of human rights; the Provisional Ruling Council (PRC) is the main decision-making body and rules by executive decrees that are clearly incompatible with the rule of law; the decisions of the African Commission on Human and Peoples' Rights are not respected; the right to life is insufficiently protected, with deaths occurring in custody under unexplained circumstances and on account of indiscriminate and excessive use of force; and imposition of the death penalty occurs in contravention of articles in the ICCPR and the Convention on the Rights of the Child. The right to liberty and security of person is violated on a massive scale; "hostage-taking" is prevalent, involving the detention of family members and other relatives of Nigerians living in exile; due process and fair trial are conspicuously absent in criminal trials; prison conditions are harsh and life-threatening with medical relief withheld from sick persons and access to doctors and to their own medications denied to detainees, often in direct contravention of court orders; the government suppresses freedom of expression and freedom of the press, with numerous journalists arrested, intimidated, harassed, arbitrarily detained and also subjected to inhumane treatment; freedom of assembly and association continue to be violated; freedom of movement is violated by seizure and impounding of passports for extraneous reasons; the government has failed to address the plight of the Ogoni people and to protect their human rights; the government is indifferent towards the right to development and to a satisfactory environment and issues related to environmental degradation in the River Delta region, alleged to be caused by the operations of the SPDC, have received insufficient attention. The conclusion also states that the violation of women's rights continues both in law and in practice, discrimination is prevalent in the public and private spheres, and the practice of female genital mutilation is still widespread; there seems to be some awareness, however, about the importance of women's rights and small improvements have been made in women's participation in the political process. The SR also noted the continued lack of compliance with provisions in the Convention on the Rights of the Child — especially in the areas of the administration of juvenile justice — with indiscriminate arrest and detention of children for long periods and indiscriminate sentencing. Reference is also made to a total lack of confidence between the opposition and the government, with the government regularly suppressing, harassing and detaining those who criticize its

policies; and, the fact that the National Human Rights Commission of Nigeria has given a good account of itself and made welcome suggestions about human rights education as well as the establishment of committees for inspection of prisons.

In light of these conclusions, the report recommends, *inter alia*, that the government:

- ♦ release immediately all political prisoners, trade union leaders, human rights advocates and journalists currently being detained without charge or trial;
- ♦ repeal all decrees which suspend the human rights provisions in the Constitution and/or oust the jurisdiction of courts in matters involving life and liberty of the people;
- ♦ entrust to the Court of Appeal, rather than the President of the PRC, confirmation or reversal of conviction and sentence and provide for a process of appeal to the Supreme Court;
- ♦ abolish the death penalty or, in the alternative, ensure that imposition of the death penalty occurs only in strict compliance with article 6 of the ICCPR, and in no circumstances, on persons under the age of 18 years;
- ♦ provide prompt compensation to persons whose human rights have admittedly been violated;
- ♦ redress as a matter of urgency conditions in prisons and discontinue the practice of keeping persons in solitary confinement except in rare cases of security risk in which specific reasons for solitary confinement are recorded in writing; provide for frequent visits to prisons by a committee comprised of judicial officers, lawyers, doctors and representatives of NGOs; permit detainees periodic visits by members of their family and access to lawyers and doctors of their choice; and, cease the practice of denying detainees reading material and other basic amenities;
- ♦ repeal or amend existing decrees to remove restrictions on the freedom of expression and freedom of the press and repeal immediately Decree No. 1 of 1996 criminalizing criticism of the transition programme;
- ♦ cease immediately the practice of impounding passports without notice and without grounds; enact a statutory provision establishing the grounds on which passports can be impounded and providing a right of appeal against the impoundment to a judicial body;
- ♦ remove all restrictions on trade unions and other professional associations which erode their autonomy and independent functioning;
- ♦ take steps to ensure full and equal enjoyment by women of rights and freedoms; encourage women's equal participation at all levels of political, social and economic life of the country; repeal laws contrary to the equal rights of women; and adopt urgent measures to curtail the practices of female genital mutilation and forced marriage;
- ♦ take urgent steps to ensure compliance with the provisions of the Convention on the Rights of the Child and initiate immediate measures to strengthen safeguards for children in detention in respect of their recovery and rehabilitation;
- ♦ promptly initiate measures to alleviate the plight of the Ogoni people through, *inter alia*, the appointment of a committee comprised of representatives of the Ogoni community and other minority groups in the region, to be chaired by a retired judge of the High Court, for the purpose of introducing improvements in the socio-economic conditions of these communities;
- ♦ establish an independent agency, in consultation with MOSOP and SPDC, to determine all aspects of environmental damage arising from oil exploration and other operations and make public the findings and conclusions of such a study;
- ♦ ratify the Convention against Torture;
- ♦ extend its cooperation to special rapporteurs of the Commission on Human Rights in the exercise of their mandates; and
- ♦ grant to an international team observer status and permission to attend criminal trials for alleged crimes of treason and other crimes involving the death penalty or long-term imprisonment.

Resolution of the Commission on Human Rights

At the 1998 session, the Commission adopted a resolution (1998/64) by roll call vote. In the text, the Commission, *inter alia*: noted the continuing concern of the Commonwealth and its decision that Nigeria should remain suspended from the organization; noted the decision of the Governing Body of the ILO (March 1998) to initiate a Commission of Inquiry into abuses of labour rights in Nigeria; welcomed the declared commitment of the government to civilian rule, multi-party democracy and freedom of assembly, press and political activity by 1 October 1998; expressed concern at continuing grave violations — including arbitrary detention and the failure to respect due process of law, trials of military and civilian persons in camera and without access to counsel of their own choosing in connection with an alleged coup attempt, life-threatening conditions in prisons and deaths in detention, the refusal of the government to accept a visit by the SR and the fact that the absence of representative government has led to violations of human rights and fundamental freedoms; called on the government to ensure, on an urgent basis, observance of human rights and fundamental freedoms, including by releasing all political prisoners, trade union leaders,

human rights activists and journalists and respecting the rights to freedom of opinion and association as well as the rights of persons belonging to minorities; called on the government to repeal all relevant decrees ousting the jurisdiction of the courts; also called on the government to ensure that all trials are held fairly and promptly in conformity with international standards, ensure that the treatment of prisoners and conditions of detention conform to international standards, abide by its freely undertaken obligations under relevant international human rights treaties and to respect the decisions of the African Commission on Human Rights; called on the government to take concrete and credible steps to restore democratic government without delay, end rule by decree and permit an observer presence during the transition; called on the government to abide by relevant ILO conventions related to trade union rights, ensure the independence of the National Human Rights Commission and implement fully its interim undertakings to the Secretary-General without delay; and, called on the government to cooperate fully with the Commission and its mechanisms, including requests by the SR to visit Nigeria and implement fully all other recommendations of the SR. The Commission extended the mandate of the SR for another year and requested the SR to submit an interim report to the 1998 General Assembly and a final report to the 1999 Commission.

The resolution was adopted by a vote of 29 in favour, 9 opposed, 16 abstentions.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on:

(E/CN.4/1998/44, paras. 14, 16, 19, 20; E/CN.4/1998/44/Add.1, Decision No. 37/1996, Decision No. 38/1996) Three urgent appeals were transmitted on behalf of 21 individuals. No details of the cases were provided. The report also notes that the government contested the conclusions reached by the Working Group (WG) in decisions 2/1996 related to the cases of General Obasonjo and 22 others, and 6/1996 related to the detention of two individuals.

Decision No. 37/1996 concerned three persons. The first individual, a poet and environmental activist and member of the Oilwatch International Network, was arrested in June 1996 as he was leaving Nigeria to go to Ghana to attend an environmental conference organized by Friends of the Earth. The report notes that the purpose of the detention was apparently to prevent him from speaking at the conference. The second individual, a journalist who is the defence correspondent for an independent newspaper, the Vanguard, was reportedly arrested in May 1996, in connection with an article he wrote concerning the reshuffling of military personnel. The third individual is a civil servant, and the sister-in-law of colonel Bello-Fadile who was charged with

treason. The report notes that the woman was reportedly charged with being an accessory after the fact, in connection with treason for having passed to others the text of the defence submission of colonel Bello-Fadile.

The WG notes the persons concerned were being detained merely for having exercised their right to freedom of opinion and expression. In the case of the civil servant, her conviction was pronounced after a trial by a secret military tribunal. The WG decided that the detention of these persons was arbitrary since, on the one hand, it is in violation of all or part of the international provisions relating to the right to a fair trial, and was imposed in violation of these persons' right to freedom of opinion and expression.

Decision No. 38/1996 related to: the arrest of an assistant editor with the weekly magazine "Tell", by a special military tribunal and a sentence of life imprisonment for "publishing materials which could obstruct the work of the coup plotters tribunal" and for "misleading the public", noting the sentence was reduced to 15 years in prison; and an author who was arrested in February 1995 and subsequently held without charge or trial, possibly in connection with a documentary film he was planning to make reviewing the Nigerian cultural, economic and political life since the 1980s, for which he reportedly received a verbal agreement from the President's Press Office in November 1994.

The WG noted: resort to various emergency procedures against journalists, authors, political leaders, human rights defenders, and others who are often sentenced to heavy prison terms (and sometimes even to capital punishment) for merely having peacefully exercised their right to freedom of opinion and expression; and that convictions are pronounced after a trial by a secret military tribunal, where the defendants' rights to fair trial and due process are not respected. The WG decided that the detention of these two individuals was arbitrary.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 14, 17, 39, 57, 91, 92; E/CN.4/1998/68/Add.1, paras. 297–302)

The Special Rapporteur (SR) transmitted to the government an allegation related to murder of Kudirat Abiola, wife of Chief Moshood Abiola, who had campaigned for her husband's release. Information indicated that her killing might have been carried out by members of the state security forces acting with or without the knowledge of the central authorities. The SR noted that the investigation had been undertaken but that no progress had been made in determining who was responsible. The report notes the government's reply asserting that the allegation had been transmitted in order to justify a statement made by the SR in Mauritius, in October 1996, attributing the death of Kudirat Abiola to government officials.

The government also replied to an allegation sent during 1996 which concerned 43 persons reportedly publicly

executed in Lagos in July 1995 following proceedings which reportedly fell short of international standards for a fair trial. In its response, the government indicated that the persons concerned had been represented by counsel of their choice, were all found guilty as charged, and were thereafter executed. The government also stated that all of the persons named had been convicted earlier of armed robbery and sentenced to death. Thirty-eight had been tried and sentenced between 1980 and 1992 by the Lagos Armed Robbery and Firearms Tribunal, and the other five tried by the Lagos State High Court, with their sentences subsequently confirmed by the Supreme Court.

The SR expressed concern about the imposition and execution of death sentences after trials reported to fall short of international fair trial standards, and noted that the government's unfounded remarks in its reply to the case of Kudirat Abiola cannot serve as a justification for not promptly and impartially investigating the case and bringing the perpetrators to justice.

Freedom of opinion and expression, Special Rapporteur on: (E/CN.4/1998/40, paras. 85–88)

The report notes that an urgent appeal was sent on behalf of the bureau chief and the editor of African Concord news magazine who were being held in incommunicado detention. The same appeal referred to the arrest of the defence correspondent for PM newspaper, the editor of The News magazine, the managing editor of Tell magazine, and the managing editor of The News newspaper group. Information was also sent to the government related to the reported arrest of the Taraba State correspondent of The News magazine — possibly in connection with a publication on intercommunal killings in October 1997 in Taraba State — and of the administrative manager of The News group. The Special Rapporteur also transmitted the case of a writer and journalist who was reportedly arrested in November 1997 at Nigeria's border with Benin when returning from a writing fellowship abroad.

The SR noted that no reply had been received from the government concerning these allegations, and expressed concern at the pattern of arrests. The SR urged the government to ensure that such incidents do not occur and to give due respect to the rights of journalists in accordance with international standards.

Religious intolerance, Special Rapporteur on: (E/CN.4/1998/6, paras. 48, 50, 63, 94)

The report refers to violations of freedom of religion or belief against all religions, and all religious groups and communities, particularly with regard to the freedom to manifest one's religion. The report notes that the broadcasting of religious programmes and listening to religious cassettes are reportedly prohibited by decree and punishable by imprisonment.

Torture, Special Rapporteur on: (E/CN.4/1998/38, para. 148; E/CN.4/1998/38/Add.1, paras. 284–290)

Seven urgent appeals on behalf of 18 individuals were transmitted to the government, some jointly with other mechanisms of the Commission on Human Rights. A number of the cases referred to the arrest and detention of journalists and others in the media (see section on freedom of opinion and expression). An appeal was sent on behalf of a member of the National Democratic Coalition (NADECO), who was reportedly arrested in Akure in January 1997 in connection with bomb attacks in Lagos, and transferred to the offices of the Federal Intelligence and Investigations Bureau (15 January 1997); the government provided excerpts from a newspaper interview with the victim's wife, stating that his health was satisfactory. Other cases related to arrests of relatives or associates of an exiled member of NADECO who was accused of bombings in 1996. The arrests reportedly involved incommunicado detention and ill treatment which allegedly included being hung up by the feet and kicked in the head. In another case that included incommunicado detention without charge, the Special Rapporteur (SR) noted that repeated orders from the Federal High Court to produce the detainee before a court were ignored. The SR also sent an appeal on behalf of a member of the Civil Liberties Organization, who was reportedly held incommunicado in State Security Services offices in Ikoyi, Lagos, after returning from a visit to the United Kingdom coinciding with pro-democracy protests during the Commonwealth Heads of Government Meeting in October 1997.

Toxic wastes and products, Special Rapporteur on: (E/CN.4/1998/10/Add.1, "Comments received from States")

The Special Rapporteur summarized the government's response to information contained in the report to the 1997 session of the Commission on Human Rights (E/CN.4/1997/19) related to Shell Oil. The government stated that: the company's activities, as well as those of other oil companies, were being monitored to ensure that all drilling and prospecting procedures conform to local environmental laws and attend to the environmental needs of the local population; all federal and state government compensation is made directly through a federal government parastatal, the Oil Mineral Producing Areas Development Commission (OMPADEC), whose membership is comprised solely of indigenous people of the oil-producing areas, including the Ogoni areas; Ogoniland is one of the communities in Rivers State with the greatest concentration of educational institutions in Nigeria; most of the very important government-owned parastatals and institutions in Rivers State are sited in Ogoniland; all these institutions offer great opportunities for employment and commerce to the Ogonis; and, Ogoniland has a majority of the federally-funded road network vis-à-vis other parts of Nigeria. The government stated that the allegation that the Ogoniland had been occupied by the police since May 1994 was baseless.

GENERAL ASSEMBLY

Special Rapporteur of the Commission on Human Rights

The Special Rapporteur's (SR) interim report to the 1998 General Assembly (A/53/366) contains information on, *inter alia*: the concerns of the international community; political changes since the SR's report to the 1998 Commission on Human Rights; the current human rights situation; constitutional guarantees; independence of the judiciary; right to liberty and security of the person; right to a fair trial; right to life; freedom of assembly and association; right to dignity and humane treatment while in detention; the right to vote and be elected; economic, social and cultural rights; women's rights; children's rights; and the National Human Rights Commission. The addendum to the interim report (A/53/366/Add.1) notes that the government agreed to a visit by the SR; the mission was scheduled for November 1998.

The report refers to the plan outlined by General Abubakar to restore civilian rule by the end of May 1999 and the steps taken to lay the foundations of a truly representative government. The SR stated that the measures taken appeared to have resulted in a less tense political environment.

The assessment of the human rights situation notes, *inter alia*: the absence of constitutional guarantees for the protection of rights and freedoms and exclusion of the jurisdiction of the courts under Decree No. 107, which suspends the human rights provisions of the constitution; the promise of the current government to publish and circulate the 1995 draft constitution, which is to form the constitutional framework in the post-transition period starting 29 May 1999; that the independence of the judiciary is still undermined by the existence of ouster clauses contained in a number of decrees; the release of a number of political prisoners, human rights advocates, trade union leaders and journalists, noting others are reported to remain in custody, including several journalists; the continuing existence of tribunals established by decree which bypass the regular judicial system and seriously undermine the integrity of the judicial process, often resulting in denial of due process; continuing imprisonment of individuals convicted by military tribunals and by processes which fell short of international fair trial guarantees; the imposition and carrying out of a number of death sentences prior to the change in government; and reports that, under the current government, death sentences have been imposed, although not yet carried out, following trials which fell short of international standards.

Reference is also made to: the repeal of Decrees restricting the activities of trade unions; the need to review the remaining Decrees affecting trade unions (election to union office, international affiliation); the lack of improvement in conditions of detention — inhumane conditions, denial of access to families, lawyers and doctors, torture and ill treatment; reports related to

secret detention centres scattered all over the country; delays in persons being brought before a court as well as in their appeals against sentences being heard; the training workshop organized by the National Human Rights Commission at the Prison Staff College, Kakuri-Kaduna, in August 1998; continuing provisions in law allowing children to be detained and indiscriminately sentenced for indeterminate periods; inadequacies in safeguards for all children who are detained by legal authorities, the lack of medical services, and the lack of services for the recovery and rehabilitation of children who come into conflict with the law.

Concerning the right to vote and be elected, the SR stated that in order for the Nigerian transition process to be credible, elections must respect a certain number of benchmarks, including: universal and equal suffrage; voting by secret ballot; the establishment of an independent electoral commission; and respect for the rights to freedom of expression, opinion and association, and the rights to peaceful assembly and freedom from fear and intimidation. On economic, social and cultural rights, the SR referred to concerns raised by the Committee on Economic, Social and Cultural Rights (as above).

The commentary on women's rights notes, *inter alia*: female genital mutilation is reportedly still practised extensively in many parts of Nigeria, noting that government officials have supported a campaign against the practice; marital rape is unrecognized by law and under the law a man who inflicts extensive bodily harm on his wife while forcibly having sex with her is not punished for a sexual offence, but rather for an ordinary assault; the maximum punishment for rape is life imprisonment but victims are not granted anonymity during prosecutions, and media attention and social stigma are said to dissuade most victims from reporting; the law permits the beating ("chastisement") of women by their husbands; polygamy is widespread; and there has been an increase in the number of homeless women and young girls, who are forced to sleep in the streets where they are vulnerable to rape and other forms of violence.

With regard to children's rights, the report notes, *inter alia*: concerns related to problems in such areas as the administration of juvenile justice and the institutionalization of children, in violation of the Convention on the Rights of the Child; imposition of the death penalty on persons under 18 years of age; the fact that many children resort to prostitution to feed themselves; a school drop-out rate over 20 per cent at the primary school age; child labour, with 12 million children holding jobs; widespread malnutrition among children; and the government's National Child Plan of Action and the 1994 establishment of the National Child Rights Implementation Committee.

The SR recalled that the stated objective of the National Human Rights Commission is to handle all matters relating to the protection of human rights. Activities of the National Commission are noted as including: training for the police, a weekly human rights education radio

programme, training for senior prison staff, and consideration of ways and means to introduce human rights education courses in schools, police and law enforcement agencies.

The report recommends, *inter alia*, that the government:

- ♦ strive to ensure that all stages of the electoral process conform to international standards on the enjoyment of universal and equal suffrage guaranteeing the free expression of the will of the electors; guarantee the credibility, integrity and autonomy of the Independent National Electoral Commission; accord the Commission full independence in practice, including the sole authority for hiring its staff and employees, guaranteed financial autonomy through specific guidelines, and the power to control elections at all levels;
- ♦ in order for elections to be free and fair, fully respect the rights to freedom of opinion, expression and association, freedom of the press, and the right to peaceful assembly; remove current restrictions on these freedoms by repealing or amending the relevant decrees in force so as to allow criticism and expression of dissent; remove the remaining restrictions on trade unions and professional associations;
- ♦ release immediately all political prisoners, trade union leaders, human rights advocates and journalists currently being detained without charge or trial; provide for re-trial with proper guarantees, or release unconditionally, those convicted in connection with the alleged 1990, 1995 and 1997 coup plots; release all persons serving sentences after trial by military tribunals and by processes which fell short of international guarantees for a fair trial or, in the alternative, release these persons on bail and retry them before an independent court or tribunal whose proceedings conform to international norms of due process;
- ♦ repeal all decrees which suspend the human rights provisions in the current constitutional framework (the 1979 Constitution); repeal all decrees which oust the jurisdiction of courts in matters involving life and liberty of the person; ensure that all legal proceedings are conducted in public before independent courts whose proceedings conform to international norms of due process;
- ♦ establish a moratorium on executions, with a view to completely abolishing the death penalty; in the alternative, ensure that imposition of the death penalty occurs only in strict compliance with article 6 of the International Covenant on Civil and Political Rights (ICCPR) and, in no circumstances, is carried out on persons under 18 years of age;
- ♦ redress, as a matter of urgency, prison conditions and provide international observers with access to detention centres; ratify the Convention against Torture;
- ♦ take steps to ensure full and equal enjoyment by women of the rights and freedoms guaranteed by the

ICCPR and the Convention on the Elimination of All Forms of Discrimination Against Women; encourage women's equal participation at all levels of political, social and economic life of the country; repeal laws contrary to the equal rights of women; adopt urgent measures to curtail the practices of female genital mutilation and forced marriage;

- ♦ initiate measures to strengthen safeguards for children in detention, particularly in respect of their recovery and rehabilitation; and
- ♦ provide adequate resources to the National Human Rights Commission and respect its independence; expand its powers and jurisdiction to cover all cases of violations of human rights, notwithstanding the ouster clauses in the relevant decrees; guarantee security of tenure to the Chairman and members of the Commission; and encourage the Commission to work closely with NGOs in its activities to promote and protect human rights.

Resolution of the General Assembly

The 1998 session of the General Assembly adopted by consensus a resolution on the situation of human rights in Nigeria (A/C.3/53/L.51). The GA, *inter alia*: recalled that Nigeria is a party to the International Covenants on Human Rights and other instruments; welcomed Nigeria's positive contribution, through the Economic Community of West African States, in support of democratic governance within the West African region; noted the encouraging positive steps taken by the government of Nigeria; welcomed the announcement of a new programme of transition to civilian rule, and noted with satisfaction the commitment of the government to fully restore democracy, the rule of law and respect for human rights; welcomed the fact that the government is reviewing the remaining decrees, and urged it to repeal urgently those which have an impact on fundamental human rights; encouraged all sectors of society to participate actively and constructively in the process of democratization and the re-establishment of civilian rule; and noted the establishment of the Independent National Electoral Commission and the issuance of a detailed timetable for the election process.

The GA: welcomed, *inter alia*, the invitation by the government to various multilateral organizations to provide electoral assistance and to observe the elections at all levels so as to ensure the credibility of the electoral process, the government's declared commitment to protect freedom of expression, in particular freedom of the press, and the release of political prisoners, including the twenty detainees from Ogoni. The GA: stressed that the establishment and strengthening of national structures and institutions in the field of human rights are of the utmost importance for the promotion and protection of human rights in Nigeria; commended the National Human Rights Commission of Nigeria for its important work, and encouraged the government to provide the Commission with adequate resources and to fully respect its independence; welcomed the decision of the Euro-

pean Union, the Commonwealth and the United States to start lifting sanctions on Nigeria in the light of the progress made towards the restoration of democratic government and respect for human rights; and welcomed the invitation to visit the country extended to the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Nigeria.



RWANDA

Date of admission to UN: 18 September 1962.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Rwanda has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Acceded: 16 April 1975.

Rwanda's second and third periodic reports were due 30 June 1990 and 1995 respectively.

Reservations and Declarations: General reservation.

Civil and Political Rights

Acceded: 16 April 1975.

Rwanda's third periodic report was due 31 January 1995.

Racial Discrimination

Acceded: 16 April 1975.

Rwanda's eighth through 12th periodic reports were due 16 May 1990, 1992, 1994, 1996 and 1998 respectively.

Reservations and Declarations: Article 22.

Discrimination against Women

Signed: 1 May 1980; ratified: 2 March 1981.

Rwanda's fourth and fifth periodic reports were due 3 September 1994 and 1998, respectively.

Rights of the Child

Signed: 26 January 1990; ratified: 24 January 1991.

Rwanda's second periodic report was due 22 February 1998.

REPORTS TO TREATY BODIES

Committee on the Elimination of Racial Discrimination

At its March 1998 session, the Committee recalled that in August 1996 the government was invited to submit a report for consideration in 1997. The Committee's concluding observations and comments (CERD/C/52/Misc.42/Rev.1) note that no report was ever received. Previous concerns were recalled, including: the climate of impunity persisting in some areas and the lengthy detention of accused persons under deplorable condi-

tions, which did not assist the processes of ethnic reconciliation; the slowness of the process of rebuilding civil institutions, especially those of an independent judiciary; and reports that a new round of genocidal violence had commenced. The Committee decided to reschedule consideration of Rwanda for the August 1998 session, and expressed the hope that the government would accept the invitation to attend and engage in dialogue with the Committee.

The government did not send any representative to the Committee's August 1998 session and did not provide any written information. Notwithstanding the absence of a representative and information, the Committee discussed the implementation of the Convention in Rwanda. In its concluding observations and comments (CERD/C/53/Misc.45/Rev.1) the Committee: expressed great concern over reports of ethnic violence occurring in the north-west of the country and along the Congolese border, as well as reports that the violence has spread to the central region of the country and across the Congolese border into the DR Congo; called on the government and all parties to these conflicts to respect human rights and humanitarian law obligations at all times, including under provisions in the Convention; expressed concern over the continued flow of arms into the region and called on all states to enforce applicable arms embargos in the region; and called on the government to enhance its cooperation with the International Criminal Tribunal for Rwanda and to take additional steps to publicize its proceedings.

The Committee further: called on the government to investigate allegations of serious ethnic violence and humanitarian law violations that may have been committed in 1996 and 1997 by, or under the command of, the Rwandan Patriotic Army, in Rwanda or in the DR Congo; endorsed the recommendation in the report of the Secretary-General's Investigative Team to expand the competence of the International Tribunal for Rwanda to cover such violations; noted with concern that the mandate of the Human Rights Field Operation in Rwanda had come to an end and that the government had refused to approve a new mandate with a human rights monitoring mission; expressed the strong opinion that a human rights mission in Rwanda must be established as a matter of urgency; and called on the government and the UN to initiate a new round of discussions to ensure an international monitoring presence in the country.

The Committee also acknowledged that the Rwandan Constitution guarantees all citizens equality before the law without distinction based on race, colour or ethnic origin. Concern was expressed related to: the under-representation of ethnic Hutus in important political and social institutions of the country; the slow pace of national genocide trials and the legal deficiencies, including significant due process concerns; and, the deplorable conditions in which those accused of having participated in the genocide are being detained.

The Committee welcomed reports that members of the Rwandan Patriotic Army have been tried for grave

human rights and humanitarian law violations that appear to have been ethnically motivated — including violations that were committed in the 1994 civil war and during the course of subsequent security operations in various regions of the country. Concern was nonetheless expressed that some of these military trials appear to have been significantly lacking in basic due process guarantees. Note was also taken that additional allegations of a similar nature remain to be investigated. The Committee stated that, where sufficient evidence exists, soldiers and commanding officers must be prosecuted in a timely manner in proceedings that incorporate sufficient due process guarantees.

The Committee further welcomed steps leading to the establishment of the National Human Rights Commission and called on the government, without further delay, to nominate, from a broad cross section of society, qualified members to the new posts on the National Human Rights Commission. It was recommended that technical and advisory services of the OHCHR, including the assistance of members of the Committee, be extended to the National Human Rights Commission so that it could take up its functions and perform them effectively.

The Committee decided: to bring its decision to the urgent attention of the UN Secretary-General, the Secretary-General of the OAU, and the High Commissioner for Human Rights so that it could be studied by those who carry human rights and humanitarian responsibilities in the Great Lakes Region. It was further decided that the situation of Rwanda would be reviewed again at the Committee's March 1999 session, with the hope that government representatives would appear before the Committee or that an updated report on conditions within the country, including security conditions and reports of escalating ethnic violence, would be submitted for the Committee's consideration.

COMMISSION ON HUMAN RIGHTS

Special Representative on the situation of human rights in Rwanda

At its 1997 session the Commission did not continue the mandate of the Special Rapporteur and, instead, appointed a Special Representative (SRep). The three main points of focus of the mandate were, and remain, to: make recommendations on how to improve the human rights situation in Rwanda; facilitate the creation and effective functioning of an independent national human rights commission; and make recommendations on situations in which technical assistance to the government in the field of human rights might be appropriate. The Special Representative in 1998 was Mr. Michel Moussalli.

The SRep's report (E/CN.4/1998/60) notes that three visits were made to Rwanda — 26 July to 4 August 1997, 1 to 8 November 1997, and 19 to 25 January 1998. During the missions, discussions were held with government representatives, members of the diplomatic community posted in Kigali, non-governmental organizations and

representatives of UN agencies operating in the country. The SRep, in a separate mission to Pretoria (26 and 27 January 1998), met with ministers and officials of South Africa because South Africa now has a functioning national human rights commission which could provide the government of Rwanda with useful insights into the role and functions of such a body.

The report provides information on the cooperation extended by the government to the international community. Among the points noted were that: in November and December 1996, refugees moved en masse back to Rwanda in conditions of relative calm and security; the government took measures to enhance confidence, such as restraining local authorities from carrying out arrests of genocide suspects until the mass return movement could stabilize; the government had granted access for the human rights field officers and various other actors to all prefectures throughout the country, noting that it was the UN Security Coordinator who introduced strict security regulations in the western prefectures as well as in parts of Byumba, Gikongoro, Gitarama, Kibungo and Kigali Rural prefectures following the worsening situation in those areas and the assassination of five members of the Human Rights Field Operation for Rwanda (HRFOR). The SRep also stated that it was these restrictions and not government actions which prevented UN staff from visiting those areas and carrying out on-site monitoring activities. The SRep also referred to the fact that the monitoring activity of HRFOR has created a tense relationship, with the government recalling that its intention in agreeing to the Field Operation was to invite the presence of a UN human rights operation to encourage a sense of partnership and to help Rwandans develop the capacity to promote human rights, rather than to bring in monitors to "police" the government. The SRep strongly supports the response of the High Commissioner for Human Rights to the government's position on HRFOR, made in her report to the General Assembly (A/52/486/Add.1/Rev.1), stating that monitoring should be conceived as a means of assisting the government to address problems, as a basis for dialogue to diagnose the needs, and as encouragement to the international community to provide the help necessary.

The SRep noted that by mid-January 1998, the total detainee population in Rwanda was estimated to have reached 126,216, with individuals held in shocking conditions and with a large number of them detained without dossiers setting out substantiated grounds for their arrest and detention. Reference is made to promulgation of Law No. 16/97, on 31 December 1997, which extended the period of time for which a person may be held in pre-trial detention and resulted in a situation in which persons placed in detention prior to 31 December 1997 may be detained until 31 December 1999 without being informed of the reason for their arrest, without a provisional arrest warrant and without the benefit of a pre-trial detention hearing. The SRep noted that some officials of the prison and communal detention centres have made an effort to relieve some of the harshness of conditions, for example, by allowing families of detainees to visit and bring them

food and by providing female detainees the opportunity to be with their small children on prison grounds but outside the prison walls. It is also noted that the authorities have made an effort to promote national reconciliation through workshops and seminars aimed at increasing awareness and understanding of international human rights standards and other initiatives such as the establishment of grass-roots-level conflict-resolution groups which bring together various sectors of civil society — for example women and representatives of professional associations — to discuss openly and frankly matters of everyday concern.

Referring to the presence of a large number of UN agencies working in Rwanda, and other international efforts to assist the country, the report comments on the need for more effort to be devoted to ensuring greater cooperation and coordination of their activities, in particular in the area of technical assistance for human rights projects agreed upon with the government. Reference is also made to the government's wish to participate, with the High Commissioner for Human Rights, in a joint review of the functions and role of HRFOR. The SRep welcomed the review, seeing it as the means through which HRFOR will be enabled to contribute more effectively to improving the human rights situation and support the capacity-building needed for sustainable and long-term improvements.

Concerning efforts to create an independent national human rights commission, the report refers to the Arusha Peace Agreement (4 August 1993) and the Protocol of Agreement on rule of law between the government and the Rwandese Patriotic Front (18 August 1992). The report notes that article 15 of the Protocol of Agreement now forms part of the Basic Law of Rwanda and stipulates that: both parties to the Protocol agree that a national commission on human rights shall be established; the institution shall be independent and investigate human rights violations committed by anyone on Rwandese territory, in particular, by organs of the state and individuals acting in their capacity as agents of the state or various organizations; the investigative work of the Commission shall not be limited in time; the Commission shall be provided with the necessary means, especially legal means, to accomplish its mission efficiently; and the findings of the Commission shall be used to sensitize and educate the population about human rights and institute legal proceedings where necessary.

Referring to the November 1997 draft proposal for the establishment of a National Human Rights Commission, the report notes that: most of the key elements relating to the establishment and functioning of such a commission are contained in the draft bill; several elements need to be improved, however, particularly in provisions related to jurisdiction, functions and powers; and, prior to the actual creation of the Commission there should be a wide public discussion in order to enable various sectors of society to contribute actively to its establishment and to develop a sense of partnership with this new mechanism. The report further notes that: in order to enhance maximum national support, it would be preferable for the

Commission to be created by a bill brought before Parliament, which can be debated and discussed, rather than through presidential decree; the Commission should be based on a broad mandate that includes the competence to investigate and inquire into complaints and examine proposed legislation, cooperate with the human rights organs of the UN, regional institutions and other countries and contribute to reports which Rwanda is required to submit, under its treaty obligations, to UN bodies and regional institutions; the Commission should be free to conduct its inquiries as it considers appropriate and to cooperate with whomever it considers necessary to fulfil its functions as well as have the power to compel the production of documents or other evidence and the attendance of witnesses for the purpose of gathering evidence; and the bill creating a National Human Rights Commission should contain provisions that protect the immunity of its members and stipulate penalties for interference with its work. Further, the independence of such a Commission should be protected by the allocation of adequate resources and its membership should reflect the diversity of Rwandan society.

The report notes that, contrary to recommendations that there be wide public discussions prior to the establishment of the Commission, the government proceeded through Presidential Order No. 26/01 of 11 November 1997 to establish the Commission. The report notes, however, statements by government ministers that a full and open debate on this subject was welcome in the Transitional National Assembly and that the decree could be modified as necessary before being tabled for adoption as a law.

In addition to recommendations made in the SRep's report to the 1997 General Assembly (A/52/522), the report to the 1998 Commission recommends, *inter alia*, that:

- ♦ the government and the international community enhance their cooperation to maintain and develop the most suitable conditions for the promotion and protection of human rights in Rwanda;
- ♦ with regard to justice and law enforcement, the following areas be given priority: (a) basic training in law and human rights for judicial personnel; (b) human rights education and training for members of the Rwandese Patriotic Army, the gendarmerie, the communal police and other law enforcement personnel, including local administrative authorities; (c) training and other support to the military justice system; (d) human rights training seminars and refresher courses for prison and detention centre personnel; (e) increasing the capacity of prisons and improving conditions of detention; and (f) providing logistical support to the judiciary;
- ♦ the international community concentrate immediately on providing all necessary technical assistance to enable the government to establish a dossier for every detainee;

- ♦ the competent authorities pursue their efforts to establish an independent and credible National Human Rights Commission based on recognized international norms governing the composition and the mandate of such commissions and that the international community provide the necessary financial support for its effective functioning;
- ♦ the international community forcefully and unequivocally condemn the insurgent forces which are determined to resume the genocide they launched in 1994, destabilizing efforts to bring peace and security to Rwanda and sabotaging the efforts of the government to foster national reconciliation;
- ♦ all states cooperate fully with any and all requests of the International Criminal Tribunal for Rwanda (ICTR) concerning the arrest and transfer of any person sought;
- ♦ the efforts of the government to prosecute violations committed by some elements of its armed forces be strongly encouraged and supported;
- ♦ a survey be undertaken to identify the specific needs of genocide survivors throughout the country, with a view to implementing a programme of social and economic assistance to victims and survivors;
- ♦ all states contribute urgently to a fund for genocide survivors in view of the extreme hardship they continue to suffer with little or no assistance;
- ♦ with regard to mass education and public awareness in the field of human rights, the human rights component of all school curricula be regularized and strengthened; and
- ♦ the international community provide a substantial level of development assistance to the countries of the Great Lakes region to raise the level of personal and economic security in the region so that meaningful improvement in the human rights situation can take root.

Resolution of the Commission on Human Rights

At the 1998 session the Commission adopted a resolution by consensus (1998/69). The Commission, *inter alia*: welcomed the ongoing rehabilitation of the justice system and expressed concern over the very large number of detainees awaiting trial; commended the government for the cooperation extended to the Special Representative and the Special Rapporteur on violence against women as well as to HRFOR; reiterated its strong condemnation of the crime of genocide, crimes against humanity and all other human rights violations in Rwanda and expressed concern at the continuation of human rights violations; reaffirmed that all persons who committed or authorized actions of genocide or other grave violations of human rights and international humanitarian law are individually responsible and accountable; urged the government to give priority to the

prosecution and punishment of crimes of sexual violence committed against women; strongly condemned the continuing violence and genocidal activities perpetrated by former members of the Rwandan armed forces, Interahamwe and other insurgent groups; condemned the illegal sale and distribution of arms; encouraged the government to continue to investigate and prosecute violations of human rights and humanitarian law committed by individual members of the security forces in the course of military counter-insurgency operations; welcomed the draft Law on Matrimonial Property and Succession and encouraged the government to continue efforts to improve the welfare, status and role of women, with particular attention paid to issues related to property; commended the government for establishing a fund to assist genocide survivors; commended the work of HRFOR and welcomed the ongoing review of its role, priorities and functions; expressed deep concern at the conflict in the northwest of Rwanda; noted the progress made by the government in the establishment of a national human rights commission; encouraged the government to facilitate broad public debate on how to ensure that the national commission is independent and effective; welcomed the continuing trials of those suspected of genocide and crimes against humanity; expressed concern that perpetrators of the genocide and other gross violations of human rights continue to evade justice; reiterated its request that all states cooperate fully with the ICTR; expressed concern at the slow rate of progress in the proceedings of the ICTR; reiterated its concern at the conditions of detention in some centres; welcomed and encouraged government initiatives to reduce the prison population through the release of minors and elderly prisoners and others; welcomed the commitment of the government to promote national unity and reconciliation; called for close consultation between the government and the Special Representative on the functioning of the future national human rights commission; and, extended the mandate of the Special Representative for a further year.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on:

(E/CN.4/1998/44, paras. 19, 20)

The report notes that an urgent appeal was sent to the government. No details of the case were provided.

Disappearances, Working Group on enforced or involuntary:

(E/CN.4/1998/43, paras. 13, 329–335, 417)

The report notes that the human rights field officers deployed by the High Commissioner for Human Rights have been instructed to receive pertinent information about disappearances and to channel such reports to the Working Group (WG). The Human Rights Field Operation in Rwanda (HRFOR) informed the WG that it had received relatively few reports of cases of alleged disap-

pearances between January and October 1997 and that the majority of cases brought to HRFOR's attention concerned the alleged disappearance of recent returnees, in particular members of the former Rwandese Armed Forces who had gone back to Rwanda from the DR Congo and Tanzania. The report notes that in the majority of cases, it had not been possible to determine the identities of the perpetrators of those disappearances. HRFOR reported that it was often difficult, if not impossible, to characterize such cases of "missing" persons as enforced or involuntary disappearances, owing in part to difficulties determining whether the "missing" person had disappeared or been arrested. The report notes that within the penitentiary system, an official procedure had not been established to inform families of the arrest and subsequent location of a family member.

The report refers to cases documented by HRFOR in which persons reported "missing" had in fact fled their region of origin or habitual residence out of fears for personal safety or fear of being arrested on, for example, accusations of genocide or collaboration with armed groups. Given this, these persons might be elsewhere within the country or might even have left the country without notifying their families. In some cases, government officials had stated that certain persons believed to have disappeared had voluntarily left their homes to become part of an armed group.

The WG received additional reports from HRFOR noting that the classification of a given case as a "disappearance" had been further complicated by the lack of operational morgues in Rwanda, and the resulting practice of quickly burying the dead. In some cases, unidentified bodies were found and buried by local authorities on the day of their discovery; descriptions of the victims were not widely circulated to facilitate identification. Neither were photographs taken before burial, preventing family members from identifying the deceased at a later date. The report notes that the majority of cases of alleged disappearance reported to HRFOR in 1997 had occurred in the prefectures of Kigali Ville and Kigali Rural.

The report notes that the majority of the 11 outstanding cases of disappearance addressed by the WG occurred in 1990 and 1991 in the north of the country, in the context of the ethnic conflict between Tutsis and Hutus. Three other cases took place in 1993 in northern Rwanda and concerned students from the Seventh Day Adventist University in Mudende who were suspected of supporting the Rwandese Popular Front. Three cases allegedly occurred in 1996 and reportedly involved: the mayor of Nyabikenke, who was allegedly detained by members of the armed forces; a journalist who was allegedly arrested by the military police on the grounds that he was an accomplice to genocide, and was later released; and a mechanic from Kigali who was reportedly arrested by soldiers of the Rwandese Patriotic Army on the grounds that his father and brothers had committed crimes during the genocide of 1994.

The report notes that no response was received from the government with regard to the outstanding cases.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 13, 19, 27, 56, 85; E/CN.4/1998/68/Add.1, paras. 352–357)

The main report notes that urgent appeals were sent to the government on behalf of persons on trial for their participation in the 1994 genocide, and the fact that in the national courts the death penalty may be applied for those found guilty, possibly following proceedings in which the defendants do not fully benefit from the rights and guarantees for a fair trial. The report also notes that the statute of the International Criminal Tribunal for Rwanda does not contain provisions concerning compensation for victims of the genocide or their families.

In the addendum to the main report, the Special Rapporteur (SR) expressed concern about the deterioration in the human rights situation in Rwanda since November 1996, when half a million Rwandan refugees in Zaire returned home. According to the information received, there were many massacres of civilians, with about 6,000 deaths since the beginning of 1997. The massacres were attributed variously to the Rwandan Patriotic Army (APR), the Interahamwe militia or ex-members of the predominantly Hutu former Rwandan armed forces. The regions most affected by the killings were those in the north west, Ruhengeri and Gisenyi.

Concerning the trials for genocide and crimes against humanity, the report notes possible procedural irregularities, including: failure to respect the principles of the independence of the judiciary; the fact that some accused do not have access to a lawyer; and restrictions on the ability of the accused and/or their lawyers to call and question witnesses. The SR expressed regret that 61 death sentences had been handed down by Rwandan courts without full assurances of international guarantees of a fair trial and, while welcoming the establishment of a bar association in Rwanda, reiterated deep concern about the fairness of the trials being conducted. The report also refers to the growing insecurity and the increase in fighting between the Rwandan army and armed groups and noted that these two factors again raised the question of the prevention of massacres, the protection of the right to life of all members of the civilian population without distinction, and the need to break the cycle of violence in the country once and for all.

A communication was sent to the government, jointly with the Special Rapporteur on the situation of human rights in Rwanda, expressing indignation following the murder of five members of the human rights field operation in Rwanda on 4 February 1997. The report notes that the persons who committed these crimes had not yet been identified [as of December 1997] and the SR requested the government locate them and bring them to justice.

The report notes that the government has not replied to any of the allegations transmitted, and the SR urged the government to: prevent any excessive use of force; conduct exhaustive and impartial investigations into arbitrary/summary executions; identify those responsible

and to bring them to justice; and guarantee the rights of the families of the victims to adequate compensation.

Independence of judges and lawyers, Special Rapporteur on the: (E/CN.4/1998/39, paras. 16, 17, 32, 149–152, 184)

The report refers to concerns related to the trials for genocide and crimes against humanity in terms of fair trial, due process, and reports of shortcomings in the way in which the cases were being managed. The report notes: some of the accused had no access to a lawyer; some of those accused had been sentenced to death; information indicated that there had been cases in which the accused were subjected to uncivil treatment before the hearing; and, some prosecutors and judges had reportedly received only up to four months' training, and impartiality and the independence of the judiciary in general had reportedly not been guaranteed. The report also refers to information indicating an erosion in the independence of judges and lawyers in relation to the genocide trials, noting: judicial officers had been dismissed or forced to leave the country in fear of their lives because of military and government interference in their duties; some officials had reportedly been arrested, detained and charged with having participated in the genocide; others had allegedly been threatened, have disappeared or have been killed; defendants in the genocide trials had been denied access to files and cross-examination of prosecution witnesses; judicial and government officials had turned down the right to legal representation and courts had failed to notify defendants of their right to have a lawyer during interrogation and before trial; prosecutors, assistant prosecutors, and defence lawyers had been threatened, arrested, disappeared or killed; and there had been no objectivity in the commissions de triage, the screening committees set up to recommend the release of detainees in cases of insufficient evidence. The report notes that the government had not responded to any of the cases or general concerns transmitted and states that the prevailing political situation in Rwanda has made it difficult for an independent and impartial justice system to function effectively. The lack of adequate resources, both financial and human, was cited by the Special Rapporteur as a matter of serious concern.

Torture, Special Rapporteur on: (E/CN.4/1998/38, paras. 3, 171; E/CN.4/1998/38/Add.1, paras. 380–381)

The Special Rapporteur (SR) noted communications sent, jointly with other Special Rapporteurs, related to concerns about fair trial procedures, respect for due process and incidents in which the accused were said to have been mistreated before attending a hearing. The SR also referred to a case in which a woman in Bwakira, Kubuye, was beaten and raped by five armed individuals in military uniform before being detained in the commune. Her injuries were left untreated and her family was not allowed to visit her.

Violence against women, Special Rapporteur on: (E/CN.4/1998/54, Section I.A)

The report, dated January 26, 1998, refers to the initial failures of the International Criminal Tribunal for Rwanda (ICTR) to include the charge of rape in indictments, and the government to begin charging individuals with sexual violence during the genocide.

The report states that because of the general decline in law and order, traditional behavioural norms within affected communities often break down, leading to situations in which: refugee women and girls have been raped by other refugees; domestic violence, including sexual abuse within the family, increased in refugee camps; a breakdown in the normal community environment — in which the extended family might become the main protectors of a vulnerable wife or daughter — because family groups were often dispersed during conflict and displacement; and, the knowledge that chances of being reported or punished are minimal, exacerbating women's vulnerability.

The Special Rapporteur (SR) visited the ICTR in Arusha, Tanzania, from 23 to 25 September 1997 and was in Rwanda from 27 October to 1 November 1997. The purpose of the mission was to look into the issue of violence against women in wartime and post-conflict situations. The report of the visit (E/CN.4/1998/54/Add.1) includes information on, *inter alia*: the genocide and women victims of violence; the ICTR and national trials; the situation of women victims of violence, including their medical and psychological status; women in prisons and detention centres; the effect of the UN Human Rights Field Operation, UNDP and UNHCR operations in Rwanda; non-governmental organizations; and reconciliation, democracy and power-sharing.

Noting that the details of the preparations for the genocide have been spelled out in numerous UN and non-governmental reports, the SR focussed the contextual narrative of the report on the part of the preparations for the genocide which attempted to mobilize action against Tutsi women and, therefore, served to justify violence against them. The report refers to the newspaper *Kangura*, which was actively supported by powerful government and military personalities and, on 10 December 1990, published the Hutu "Ten Commandments". Among other things, these "commandments" declared that: any "Muhutu" who married, befriended, or employed a Tutsi woman as a secretary or concubine would be considered a traitor; Hutu daughters were more suitable and conscientious in their role as woman, wife and mother of the family, more beautiful, better secretaries and more honest than Tutsi women; and Bahutu women should be vigilant and try to bring their husbands, brothers, and sons "back to reason". The report comments that the sexual construction of Tutsi women as seductive spies is found in all Hutu militant literature, which also emphasized that Tutsi women were considered arrogant and thought they were more beautiful than Hutu women. When the killings and the mass rapes took place, this propaganda served its purposes in that many Tutsi

women were violated and humiliated and told that they were too proud.

The report identifies the status of women within Rwandan society generally as an exacerbating factor in the violence inflicted against women on such a large scale. Elements in this area include that: at least one in five women is subjected to domestic violence by her male partner; with regard to maternal mortality, 63 per cent of deaths among women in 1993 were due to inadequate health care related to reproductive matters; women's participation in the National Assembly has never risen above 17 per cent; women constitute only 5.26 per cent of the government executive and 3.2 per cent of local government officials; women in Rwanda cannot inherit land, nor are they eligible for credits and loans; and a wife may not engage in commercial activity or employment without the express authorization of her husband.

In the section of the report dealing with the genocide and women victims of violence, the report reviews elements in the testimonies of sexual violence committed against women during the genocide and notes that the types of sexual violence recounted in these stories were rape and gang rape, sexual slavery, torture, mutilation, murder, and forced marriage. The report also notes that survivors continue to experience health problems, including: the effects of major injuries to reproductive organs; psychological trauma and depression; and psychosomatic disorders such as palpitations, nausea, insomnia, and frigidity. The SR stated that the women appear to have suffered a loss of identity with no memory, no rules to guide them and no standards to live by, and harbor enormous feelings of hatred and revenge. The SR also stated that while these women talk freely about the rape, they will not risk going to the courts of law.

The section of the report dealing with impunity and punishment of the perpetrators of the genocide recalls that it was not until August 1997 that the first indictment on the grounds of sexual violence was issued at the ICTR and that there were no cases of sexual violence before the national courts in Rwanda.

Among the points highlighted in the report related to the ICTR are: article 2 of the ICTR statute calls for the prosecution of persons who are suspected of having committed genocide, but does not imply that rape could be considered a measure of genocidal intent; article 3 of the statute specifically mentions rape as a crime against humanity and specifies that for rape to be considered a crime against humanity, it must be a widespread or systematic attack against any civilian population on national, political, ethnic, racial or religious grounds; the same article refers to "torture" and "enslavement"; while prosecutors and judges had begun to address rape as a crime against humanity they had not begun to interpret rape as constituting torture and enslavement; and article 4 of the statute outlines the elements which may constitute a war crime under common article 3 of the Geneva Conventions addressing internal conflicts. The SR notes that — in recognition that the Office of the Prosecutor (OTP) had not been pro-active on the question of rape —

a number of measures were taken to address crimes of sexual violence, including the holding of two workshops with international experts to sensitize OTP staff on the issue of sexual violence, its investigation and its prosecution, and the establishment of a special task force — the Sexual Assault Team (SAT) for the purpose of charging and investigating sexual violence.

The report acknowledges the remedial measures taken by the OTP but suggests that there are three substantial reasons as to why so few prosecutions for sexual violence had actually been initiated.

First, the report states that the OTP is not pro-active, noting that the SAT does not go out and investigate or search for cases of sexual violence; rather, women victims or potential witnesses must approach the OTP. The SAT only pursues leads on its own initiative if, in the investigation of other offences, sexual violence emerges as an issue.

Second, women seem hesitant to come forward with their testimonies. This was explained as a reflection of their "culture" and traditional upbringing which are said to prevent women from speaking openly about private matters. The report notes, however, that the SR had no problem eliciting information and testimonies from victims and witnesses. Consequently, there was the impression that when encouraged and supported by women's organizations, women victims of violence seemed to believe that speaking is cathartic and may in fact lead to justice. Following on this, the report notes that individuals with whom the SR met during the visit suggested that the investigation strategy employed by the OTP is culturally insensitive, as are many of the investigators. The SR stated that there seemed to be a cultural wall between the victims and witnesses, and the investigators. Reference is also made to the fact that for some time all of the OTP investigators were male and, according to non-governmental and women's organizations, the exact words to describe some sexual acts do not exist in Kinyarwanda so that concepts and ideas are difficult for victims to express.

The third reason set out in the report for the small number of sexual violence cases before the ICTR was that many women were frightened of repercussions and reprisals. The report notes that the Victims and Witness Protection Programme of the ICTR was strongly criticized by non-governmental and women's groups, as well as by some victims who had testified before the Tribunal, partly in response to the killing of two witnesses who had testified in Arusha. Critics of the programme also noted that the main problem with witness protection was not in Arusha but in Rwanda, upon the witnesses' return.

The section of the report dealing with national trials notes that the Genocide Act of August 1996 characterizes "sexual torture" as a category 1 offence which carries a mandatory death penalty. The report notes that the Genocide Act also: permits confessions to be introduced as part of a controversial provision allowing for plea-bargaining; limits the scope of judicial review to issues of law

and flagrant errors of fact; and raises disturbing human rights issues related to the use of the death penalty, the limited possibilities for appeal, and retroactive provisions that create the impression of strong legislation. The report notes that within this legal context, not one case of sexual violence had been charged before the courts and, when questioned on this point, both the Prosecutor and the Minister of Justice replied that women do not come forward because of Rwandan culture, a belief widely shared among male prosecutors and investigators. The report also refers to problems in the administration of justice similar to those mentioned in the Special Representative's report (see "Commission on Human Rights").

The description of the situation of women in Rwanda at the time of the visit covers a number of points, including that: only recently, three years after the genocide and with the realization that their testimonies are needed in order to secure justice, have women started to tell their stories; in addition to the social stigma attached to being a victim of rape or sexual violence, many women bear permanent physical scars, deformities and health problems, including HIV/AIDS; the Ministry of Interior, Communal Development and Resettlement has made an effort to overcome these barriers by trying to convince local authorities — through information and awareness-raising campaigns as part of the reconciliation process — to involve women actively in rebuilding society by participating in income-generating projects; another project of the Ministry consists of constructing houses in a new communal setting on shared land, called *habitat regroupé*, especially for children and women heads of households, a style of living that has raised questions since it is contrary to Rwandan culture in which each house has its own land; the Ministry of Commerce is helping women survivors to participate in cooperative ventures to become financially self-sustaining; and one of the major obstacles to women's economic and social empowerment is that, particularly in urban areas, the widows of the genocide have only their husbands' house and property, the ownership of which is subject to the claims of the husbands' families. The SR notes that in the post-conflict period everyone — irrespective of race, ethnicity or sex — suffers the consequences of the genocide and is riddled with insecurities and mutual suspicions, a condition which generates fear of being killed or confronted with one's persecutors and of reprisals; and such fear, in particular in women, leads to severe depression which manifests itself in various forms, including sadness, lack of energy and courage, feelings of uselessness and contemplation of suicide. The reports also notes that: suppressed feelings of hatred are another consequence that genocide survivors face; the situation of women in the post-conflict period is especially difficult because of the great responsibility most of them bear for other survivors, such as their children and relatives, and the fact that the burdens of the wounds caused by the genocide are mainly carried by women, most of whom were raped or sexually humiliated and must live with their traumatic memories.

The report refers to a decision in 1996 by the Ministries of Health and Gender, Women and Social Affairs — with

support from the WHO and Italy — to initiate a comprehensive health project. The objectives of the project are to: improve the access of women victims to medical services; create national networks of women victims of violence; increase the technical capacity of the health personnel; encourage women to make use of the health services available to them; raise funds in support of women victims of violence; and, increase the availability of medical equipment and medication, especially for women victims of violence. While commending the project, the SR cited comments by doctors in Rwanda who expressed disappointment at the delayed intervention of the international community in the aftermath of the conflict, and remarked that the WHO should have started such a project in Rwanda more than three years earlier. Other services set up by the government are noted as including a National Trauma Centre in Kigali and an HIV/AIDS Counselling Centre where free testing and counselling are available and the right to privacy respected.

In the section concerning women in prison or detention centres, the report sets the context by stating that the genocide was characterized by a phenomenon which had not been observed in any armed conflict in history, namely the massive involvement of women as perpetrators of the violence. The report notes that survivors testify that not only did women take part in the general violence and fighting during the conflict, but were also actively involved in committing violence against other women, including acts of sexual violence. As a consequence of this phenomenon, there are a number of women being held in prisons and in detention centres awaiting trial (3.4 to 3.7 per cent of those being held in prisons, communal *cachots* — local lock-ups originally intended as temporary facilities, or detention centres around the country).

The conditions of imprisonment or detention in Butare Central Prison were noted as including: detention of up to three years, in substandard conditions, without any official charges brought against the majority of those being held; permission for a total of 30 of the 240 women being held to work outside on the prison grounds during the day; the absence of any other occupational activities for women prisoners; permission for women detainees to have only one outing per week of five or six minutes in the courtyard; officials or local health authorities who did not monitor the sanitary conditions, and an irregular supply of soap and sanitary napkins; and, the detention of approximately 60 to 70 mentally ill persons in the same facility as other prisoners, without any special medical attention and in violation of international standards which stipulate that persons who are found insane shall not be detained in prisons and are to be moved to mental institutions.

Conditions in Kigali Central Prison were described as including: 576 women in detention, with 572 having been charged under the Genocide Act and awaiting trial; prisoners given unregulated access to a courtyard within their compound; general medical services and social assistance available to women prisoners but no gynaecologist assigned; women sometimes giving birth without

any medical attention; discontinuation by the International Committee of the Red Cross (ICRC) of deliveries of sanitary napkins and failure to take action to address the situation; the fact that all the guards in the women's section were female; occupational activities, such as sewing classes, were offered to prisoners; and, no reported incidents of sexual or physical violence in the women's compound although women detainees spoke of the widespread and regular physical and sexual violence which they had suffered in cachots or detention centres before coming to Kigali Central Prison, an assertion confirmed by HRFOR officers.

While recognizing the difficult circumstances under which the government is operating, the report refers to the need for authorities to ensure compliance with at least some of the key principles set out in international standards related to conditions of imprisonment or detention, including: the full registration of all prisoners upon arrival at prison; an individual place to sleep for each prisoner; adequate and clean sanitary installations, baths and showers; regular supply of toilet articles, including soap, toothpaste, and sanitary napkins; availability of drinking water at all times; daily access to the open air for at least one hour; regular access to the services of health professionals, including gynaecologists; and, adequate medical treatment, if necessary.

In commentary on the activities of UN agencies and organs, the report notes, *inter alia*, that: HRFOR monitors had not received any training in monitoring, recognizing, and reporting gender-based violations of human rights and it appeared that there was not one human rights officer with gender expertise at HRFOR; the HRFOR periodic reports did not reflect any gender-disaggregated data in their findings, and none of the ongoing projects of HRFOR addressed the issue of violence against women or women victims of violence specifically; the activities of the Genocide and Vulnerable Groups Unit, established within HRFOR, had been suspended because of lack of resources; and these shortfalls were due not the least to the logistical difficulties and lack of support received from OHCHR in Geneva. The SR noted that the UNDP had increased its efforts to mainstream a gender perspective in its programmes and had, *inter alia*, focussed on women survivors in its reintegration programmes, involved women in income-generating activities, and planned to assist in the dissemination of the revised laws relating to rights of women when they are enacted. Efforts by UNDP and UNIFEM had also included initiation of a project for training trainers for trauma counselling of women survivors. The UNDP also launched a justice programme which, in 1996/97, addressed the need to improve prison conditions for women detainees and, in 1998, was designed to focus on providing free legal services for both women victims and perpetrators, train prosecutors and sensitize judges on human rights for women. Reference was also made to the Office of the United Nations High Commissioner for Refugees (UNHCR) and such points as: the appointment of a Regional Adviser for Refugee Women, with priority to be given to ensuring that psychological help and coun-

selling would be available to all refugee women victims of violence; the provision of gender training for UNHCR staff and the effective involvement of women in the implementation of programmes; and the long-term benefits of UNHCR resettlement projects for women being dependent on legal reform of outdated ownership and property rights, in particular relating to women, as well as on land reforms.

The recommendations in the report respond to conditions at the international and national levels and also address non-governmental organizations.

The report recommends, at the international level, *inter alia*, that:

- ♦ the General Assembly appropriate long-term financing for the ICTR, ensure that qualified personnel are given the opportunity to work there with adequate incentives, and address the secondment of specialists and experts for long-term contracts as a high priority;
- ♦ all states cooperate with the Tribunal, and assist in gathering evidence and in arresting and transferring all individuals indicted by the ICTR;
- ♦ the Victims and Witness Protection Programme of the ICTR be reviewed by a team of international experts, and appropriate action taken to ensure that witnesses feel confident enough to testify, and the international community consider relocating prime witnesses outside Rwanda;
- ♦ the ICTR consider using the witness incognito provisions of the rules of procedure and evidence to enable witnesses to testify without fear of reprisals;
- ♦ the OTP be more proactive in the area of investigations of sexual violence and more creative in its indictments with regard to sexual violence, along the lines pursued by the Tribunal on the former Yugoslavia;
- ♦ a combined task force of individuals from all the donor agencies be established on an urgent basis to deal with the issue of sexual violence and its consequences for health, economic empowerment, educational opportunity and training; and
- ♦ all UN agencies initiate programmes and support local organizations working for the psychological and social rehabilitation of women victims of violence, and design programmes specifically aimed at providing economic and social support for these women, including income-generating activities, scholarships for their children, medical care, social assistance, and food distribution.

At the national level, the report recommends, *inter alia*, that the government:

- ♦ implement the Arusha Accords and move speedily in the direction of democracy and power-sharing; stop all arbitrary arrests, release unconditionally

detainees against whom no case has been filed, and take measures to alleviate prison overcrowding, especially in the cachots, through, for example, the building of prisons;

- ♦ ensure that the process of investigation and prosecution with regard to the perpetrators of genocide are conducted according to international human rights standards, including by informing detainees of their right to fair trial;
- ♦ amend the Genocide Act to meet international standards, including the right of the court to consider mitigating circumstances and to allow a full right of appeal;
- ♦ recognize rape as a form of torture and ratify the Convention against Torture;
- ♦ ensure that the Ministry of Justice and the national prosecutors prosecute cases of sexual violence;
- ♦ establish an inter-ministerial task force to focus on sexual violence during the genocide and develop programmes to address the consequences of sexual violence, for example, by creating a mobile health unit to tour the country and treat affected persons; and
- ♦ continue, with the international community, special programmes aimed at empowering women economically and enact on an urgent basis the draft legislation giving women equal rights with regard to land and other assets.

In terms of non-governmental organizations, the report recommends, *inter alia*, that NGOs:

- ♦ work to sensitize women victims on the need to speak out in order to bring perpetrators to justice, and coach women witnesses in legal procedures and in giving testimonies before courts;
- ♦ monitor conditions of women in detention and provide free legal assistance for women accused of having participated in the genocide; and
- ♦ involve women from all ethnic groups in their local and community organizations.

GENERAL ASSEMBLY

Special Representative of the Commission on Human Rights

The Special Representative's interim report to the 1998 General Assembly (A/53/402) contains information on, *inter alia*: the closure of the Human Rights Field Operation; effective functioning of an independent national human rights commission; security conditions and their effects on the situation of human rights; the status of the judicial and penitentiary systems; and economic and social factors.

The Special Representative (SRep) undertook two missions to Rwanda, from 8 to 15 June and from 31 August

to 7 September 1998. He was particularly interested in reviewing with the Government of Rwanda the progress achieved in the establishment and functioning of the National Human Rights Commission and in following up on developments affecting the Human Rights Field Operation in Rwanda, with a view to determining whether some initiatives could be considered to maintain a presence of the Field Operation to the satisfaction of the Government of Rwanda and of the High Commissioner. Concerning the latter, the report notes that the monitoring activities of the Operation had resulted in a tense relationship with the government and the authorities' statements that the intention had not been to bring a UN human rights operation to "police" the government. The government wished to place more emphasis on capacity-building, technical cooperation, training and education, in particular with the establishment of national institutions responsible for promoting and protecting human rights. The report notes that the government did not accept a revised mandate in which there was still a monitoring function. As a result, the Field Operation withdrew from Rwanda on 28 July.

Commentary related to the effective functioning of an independent national human rights commission notes: that it was established by Presidential Decree on 11 November 1997; the process of establishing the list of 10 candidates for membership on the Commission, to be submitted to the National Assembly, was continuing; and the government is aware of the need to move forward in order to enable the National Human Rights Commission to become operational on an independent basis.

With regard to security conditions in Rwanda and their effects on the situation of human rights, the SRep stated that deteriorating conditions in some neighbouring countries had had direct implications for the security of Rwanda. In this context the report notes, *inter alia*: in the past year, armed groups have committed the majority of reported incidents in Rwanda; these incidents were reported to have occurred primarily in the northwest but also, more recently, in central Rwanda; attacks have been carried out with alarming impunity; surviving victims of attacks have often been left destitute; principal targets were communal offices, schools, public transportation vehicles, and detention centres; most attacks were targeted on settlements where the primary victims were mainly returned 1959 refugees (old case-load returnees) from the former Zaire or Uganda, but also survivors of genocide; and to a lesser degree, local authorities or persons believed to inform and collaborate with the Rwandan Patriotic Army (RPA) were also targets. The report refers to the widely held belief that the armed groups comprise Interahamwe militia, elements of the former army (Forces armées rwandaises) and possibly recruits from the former Zairian army. Members of the local population are also believed to have joined the insurgency, sometimes through coercion or force.

According to the SRep, the majority of the right to life violations committed by state agents have occurred during the counter-insurgency operations of the

Rwandan Patriotic Army, resulting in the deaths of unarmed civilians. The report notes that in some cases the killings appear to have been perpetrated in order to punish elements of the population for collaboration with the armed groups or to deter such collaboration. Other counter-insurgency measures have resulted in the deprivation of liberty, arbitrary arrest and detention, and possible disappearances. The SRep commended the efforts by the Rwandan military to correct, redress and prevent the recurrence of such violations.

The report described a continuing crisis situation in the justice sector characterized by inadequate resources and the tendency to commit almost all available efforts to prosecutions for participation in the 1994 genocide, to the detriment of other aspects of criminal and civil justice. Steps taken to improve the situation are noted as including: use of the Confession and Guilty Plea procedure which allows eligible accused persons to confess and plead guilty in exchange for a reduced sentence, noting however that detainees who plead guilty may implicate others, requiring investigation and a closer examination of evidence; the training and deployment of 400 judicial police inspectors throughout the country, noting the need for additional training on human rights standards and investigative methodology; improvements in the functioning of the Public Prosecutor's office and in its capacity to establish case files; with regard to the genocide trials, use of the process of group trials in an attempt to alleviate the burden on the judicial system; and the establishment of a Bureau de consultation et de défense by the Rwandan Bar, to ensure legal representation to parties in criminal and civil cases.

References to the penitentiary system note, *inter alia*: as at September 1998, an estimated 125,000 persons were being held in detention centres throughout the country, representing a slight decrease from the end of 1997; the rate of new arrests has significantly decreased compared to 1997; an increase in the number of persons released on humanitarian grounds (the elderly, the seriously ill, and minors) and on the basis of insufficient evidence to sustain a prosecution; overall prison capacity is less than half the actual population in detention, leading to severe overcrowding; and there is a lack of adequate food and water, poor ventilation and lighting, a lack of sanitary facilities, an increase in diseases (such as tuberculosis), and an increase in the overall prison mortality rates.

The report addresses economic and social factors and states that the needs are gradually shifting from immediate emergency assistance in coping with the aftermath of the 1994 genocide to more long-term capacity-building and development cooperation. The genocide has had a persistent and negative effect on social indicators, such as a drop in life expectancy by 4.5 years since 1991, a rise in infant deaths per thousand and a nearly fourfold increase in maternal deaths during childbirth.

The SRep stated that the situation of women remains particularly precarious. Traditional inequalities between men and women have been exacerbated by the repercussions of the genocide in almost all sectors. Women head

more than 40 per cent of all households, their literacy rate is less than 50 per cent, most female heads of household have virtually no schooling, and only 25 per cent of all students in higher education are female. The report also notes that: a large number of women continue to suffer from the traumatic consequences of sexual violence committed during the genocide; rape victims are ostracized from their community and face extreme prejudice when seeking help; victims of sexual violence are often victims of non-sexual violence as well; and many rape victims from the genocide have lost husbands and other family members and find themselves without social support structures.

Note is also taken of the vulnerable status of children in a post-genocide society. Reference is made to cooperation between the government and UNICEF: to give priority to the cases of minors, currently in detention, accused of genocide; provision of specialized training in processing those cases for judicial investigators and judges; and efforts to ensure a separation of minors from adults in the prisons, implement release on parole or transfer to re-education centres. Incidents of sexual violence and prostitution involving young detainees were also reported.

The SRep stated that the strength of civil society will be a key indicator in the promotion and respect for human rights and noted: national NGOs are in continued need of assistance in capacity-building, particularly basic training, logistics and material assistance; many of these organizations suffer from a lack of effective mechanisms for collective cooperation, and are divided by their respective positioning in relation to different societal groups and political affiliations; the withdrawal of the UN Field Operation also meant the loss of an important partner for civil society organizations in the field of human rights; the cooperation of these organizations with international partners should continue to be encompassed under a comprehensive program; and the development of civil society groups, and the cooperation of these groups with the National Human Rights Commission, once it becomes operational, will form a crucial part of the process of reconstruction currently under way in Rwanda.

The report recommends, *inter alia*, that:

- ♦ the government and the National Assembly take appropriate action to enable the National Human Rights Commission to be fully established and to begin functioning effectively and independently in accordance with the fundamental law of Rwanda;
- ♦ the High Commissioner for Human Rights provide all the necessary support for the organization of a public workshop on the newly established National Human Rights Commission once the members of the Commission have been chosen; include among the participants in the workshop the newly appointed members of the Commission, members of the National Assembly, members of Rwandan civil society, and regional and international experts; take steps to

ensure that the findings of the workshop are submitted to the National Assembly for a parliamentary debate that could lead to the adoption of a law to further strengthen the functioning, terms of reference and independence of the National Human Rights Commission;

- ♦ the international community provide all necessary technical cooperation and appropriate resources to support the effective functioning of the National Human Rights Commission;
- ♦ better training of police inspectors in human rights standards and investigation techniques be provided and further training and deployment of judges and court officials be undertaken;
- ♦ the government and the international community continue efforts to improve conditions of detention and quickly seek an appropriate solution to reduce the number of persons in detention;
- ♦ the international community establish as a priority programmes to address the problems of genocide survivors and continue to support and cooperate with the International Criminal Tribunal for Rwanda;
- ♦ the international community condemn forcefully and unequivocally the insurgent forces which have shown themselves bent on resuming the programme of genocide, thereby destabilizing efforts to bring peace and security to Rwanda and sabotaging the efforts of the government to foster national reconciliation;
- ♦ the government continue efforts to prosecute violations committed by some elements of its armed forces;
- ♦ the courts take concrete steps to ensure adequate prevention, investigation and criminal and civil redress, including compensation of victims in cases of violence against women; social assistance programmes for women victims of violence, including income-generating activities, education grants and medical care be provided on a widespread basis;
- ♦ the international community provide assistance to ensure that all children survivors of the genocide receive appropriate trauma counselling and all children have access to education;
- ♦ partners of Rwanda provide Rwandan human rights groups and organizations with financial support and technical assistance;
- ♦ the international community heed alarming developments, in particular those pertaining to the escalation of violence in the region and make a determined effort to ensure the protection of victims and to condemn incitement to racial hatred; and
- ♦ partners of Rwanda initiate an integrated and comprehensive programme of assistance to support the efforts of the government to promote and protect fundamental human rights and provide for the well-

being of the people in conditions of peace and security.

Resolution of the General Assembly

The 1998 session of the General Assembly adopted by consensus a resolution on the situation of human rights in Rwanda (A/C.3/53/L.29/Rev.1). The GA, *inter alia*: reaffirmed that effective action to prevent further violations of human rights and fundamental freedoms must be a central and integral element of the overall Rwandan and UN responses to the situation, and that a strengthened human rights component is indispensable to national reconciliation and reconstruction in Rwanda; reiterated its strong condemnation of the crime of genocide and crimes against humanity committed in Rwanda in 1994; expressed deep concern at the continuing serious violations of human rights and international humanitarian law in the country, and in regard to conditions of detention and the trial process of those accused of genocide and crimes against humanity; urged all states to cooperate fully, without delay, with the International Criminal Tribunal for Rwanda (ICTR) and encouraged the Secretary-General to facilitate the activities of the ICTR to the greatest extent possible; urged the ICTR to find further ways to expedite its proceedings; regretted that no agreement could be reached on a new mandate for the Human Rights Field Operation in Rwanda and the subsequent withdrawal of the Operation on 28 July 1998; welcomed the government's decision to create a National Human Rights Commission, and urged the government to take appropriate action to enable the Commission to be fully established and to begin functioning independently; encouraged further efforts to undertake a broad public debate aimed at further strengthening the functioning and independence of the National Human Rights Commission, urged the government to work with the High Commissioner for Human Rights to facilitate the debate, and encouraged the High Commissioner to continue to provide appropriate assistance; supported and encouraged continued government efforts to prosecute violations committed by some elements of its armed forces; noted the reinforcement of the Military Prosecutors Department, aimed at increasing the capacity of the Rwandan Patriotic Army to conduct internal investigations and bring accused persons to trial; urged the government to give the utmost priority to the prosecution and punishment of crimes of sexual violence committed against women; and encouraged the government to further ensure the independence of the judiciary and, with the support of the international community, strengthen the capacity of the judicial system, particularly taking additional steps to ensure full respect of fair trial guarantees.

The GA: welcomed the continuation of trials of those suspected of genocide and crimes against humanity and the improvements that have been made in the trial process, particularly the expedition of the initial stages of prosecution; welcomed and encouraged the release of minors, elderly prisoners, prisoners suffering from terminal illnesses, and suspects with incomplete files who were detained for their alleged involvement in genocide and

other abuses of human rights; urged the government to establish adequate measures to facilitate the reintegration of released persons into society; and reiterated its concern at the conditions in most communal detention centres and prisons and emphasized the need for greater attention and resources to be directed to that problem. The GA noted the five-point plan of the government giving priority to: first, training national human rights monitors; second, initiating human rights education programmes in formal and informal education; third, providing the National Human Rights Commission with the necessary financial and technical assistance; fourth, initiating a human rights public-awareness campaign using media resources; and fifth, establishing a national centre for human rights as an information clearing house and training centre.

SECURITY COUNCIL

Report of the International Criminal Tribunal for Rwanda

A note of the Secretary-General (S/1998/857, September 1998) transmitted to the Security Council the third annual report of the International Criminal Tribunal for Rwanda (ICTR). The report includes information on, *inter alia*: the activities of the Chambers, the Office of the Prosecutor and the Registry; regulatory and judicial activities; cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY); cooperation with states; and considerations related to enforcement of sentences.

The ICTR noted that, as of the date of preparation of the report, 43 individuals had been indicted and 31 individuals had been apprehended by various states and handed over to the Tribunal for detention in its Detention Facility. The first judgement was handed down in the case *The Prosecutor v. Jean-Paul Akayesu* and two other trials were in progress (*The Prosecutor v. Clément Kayishema and Obed Ruzindana* and *The Prosecutor v. Georges Rutaganda*). As well, in May 1998, the Tribunal recorded the first guilty plea by an accused (*Jean Kambanda*, Prime Minister of the Interim Government established in Rwanda after the 6 April 1994 air crash in which President Habyarimana was killed).

With these important developments in mind, the report notes: judges are still encountering many difficulties in their work, including inadequate technical resources and staff; with regard to the arrest of indictees, problems organizing the judicial calendar in respect of the right of everyone charged with an offence to be tried without undue delay; there remains a need to improve courtroom audio-visual equipment, computerize judicial files and strengthen the human resources assigned to the translation section. In response to criticisms of the slow pace of trials, the report notes that the slowness may be attributable to two factors: the desire of the judges, given the seriousness of the crimes attributed to the accused, to dispense a justice which is beyond reproach and which is based on full respect for their rights and, the fact that the

Tribunal's procedures themselves do not always allow justice to be dispensed promptly.

The Rules by which the Tribunal works were amended with a view to: clarifying the procedure for requests for deferral submitted to the national authorities by the ICTR in respect of investigations and criminal proceedings; allowing a judge who ordered the transfer and provisional detention of an accused to sit on the Trial Chamber hearing the case against the accused; providing long-term arrangements for the protection of witnesses called before the ICTR; authorizing the Registrar to replace assigned counsel in exceptional cases and in cases of breaches of the rules of ethics; indicating to the Prosecutor the deadlines for communicating to the defence supporting material and witness statements, and bringing provisions governing items not to be communicated into line with the corresponding Rules of the ICTY; indicating to the two sides the procedure and deadlines for filing preliminary motions and other applications; and clarifying the procedure for prosecuting and trying witnesses accused of giving false evidence. Rules were also amended to expedite proceedings before the ICTR.

Summary comments on investigations include the following: with regard to genocide, the investigations have revealed the existence of a nationwide plot in which the state authorities and elements of civil society, in particular members of the militia (*sic*), were implicated; determination of the components of the application and execution of this conspiracy remains a major objective of the investigations; with regard to sex crimes, the investigations are continuing to seek to shed light on the extent of these crimes, noting that a total of 85 statements by witnesses has been compiled and stating the probability of a larger number of victims potentially prepared to testify about these crimes and their perpetrators; and, the results of the investigations continue to reveal the linkages among all the crimes committed in Rwanda.

The report notes that, over and above court functions, the Office of the Prosecutor also helped to organize, and participated in, a seminar on sex crimes/aggression during which the legal and social aspects of these crimes were discussed. Reference is also made to the Victims and Witnesses Support Unit which is responsible for providing protection and support for both prosecution and defence witnesses. The support takes the form of financial, medical or other assistance and includes organizing the travel of witnesses to and from Arusha. The report states that, between June 1997 and late 1998, no potential or actual witnesses has lost her or his life as a result of their real or presumed relationship to the Tribunal.

Other considerations addressed in the report include: the ICTR system of legal assistance (defence counsel), including offices and facilities at ICTR headquarters; the Tribunal's detention facility (52 cells, six of which are reserved for women detainees as necessary) and conditions of detention; and information and communication activities undertaken by the Press and Information Section, including facilitation of press coverage and the presence of Rwandan as well as foreign media.

The report recalls that in 1997 the ICTR set up the Group on Gender Issues to provide advisory services on questions related to gender issues within the Tribunal and to victims and witnesses. The Group was also given responsibility for developing strategies for improving the necessary support for victims and witnesses. Among the issues addressed were: distribution of staff positions between women and men; revisions to the ICTR recruitment policy; and the marginalization of women, sexual harassment, and family problems of female staff. The report notes that the Group represented the Tribunal at various regional and international meetings on questions relating to women, including: equality issues arising from the genocide in Rwanda and the trials in Arusha; a second workshop on crimes of sexual violence; questions of equality and persecution; women, land ownership and property rights; and women, war and justice. The Group has reviewed the problems which arise for women, as described by the victims and the witnesses, and will take up these problems in the context of the project entitled "Programme of assistance for justice and reconciliation".

With regard to cooperation with the International Criminal Tribunal for the former Yugoslavia, the report notes that improvements were made in such areas as legal cooperation, exchange of information and experience, a sharing of public information services, institutionalization of meetings between senior officials of the two Registries, and cooperation in key areas related to witnesses and victims, including the protection of witnesses. On cooperation with states, commentary is provided related to, *inter alia*: arrests, the travel and safety of witnesses, receipt of amicus curiae, and the need for cooperation in the enforcement of prison sentences. Information is also provided on the support provided to the ICTR by various organizations, for example, the UN High Commissioner for Refugees.

Resolutions of the Security Council

In the resolutions related to the ICTR (S/RES/1165, April 1998; S/RES/1200, September 1998) the Council, *inter alia*: stated that the prosecution of persons responsible for serious violations of international humanitarian law will contribute to the process of national reconciliation and to the restoration and maintenance of peace in Rwanda and in the region; stressed the need for international cooperation to strengthen the courts and judicial system of Rwanda; noted the necessity for national courts to deal with a large number of accused awaiting trial; acknowledged the need to increase the number of judges and Trial Chambers to enable the ICTR to try without delay the large number of accused awaiting trial; established a third Trial Chamber of the ICTR; authorized exceptional measures to enable the third Trial Chamber to begin to function at the earliest possible date; urged all states to cooperate fully with the ICTR; urged the ICTR to continue efforts to increase further the efficiency of the work of the Tribunal; and forwarded to the General Assembly a list of nominations for Judges of the ICTR.

In another resolution, adopted in April 1998, (S/RES/1161) the Council, *inter alia*: condemned the continuing violence in Rwanda, especially the massacre of civilians, including refugees, at Mudende in December 1997; expressed grave concern at reports of the sale and supply of arms and related matériel to the former Rwandan government forces and militias, in violation of the embargo imposed under Security Council resolutions 918 (1994), 997 (1995) and 1011 (1995); underlined the need for governments to take action to ensure the effective implementation of the embargo, and recognized the need for a renewed investigation of the illegal flow of arms to Rwanda; reaffirmed the importance of countering radio broadcasts and pamphlets which spread hate and fear in the region; emphasized the need for states to assist countries in the region to counter such broadcasts and publications; requested the Secretary-General to reactivate the International Commission of Inquiry, with a mandate to: (a) collect information and investigate reports relating to the sale, supply and shipment of arms and related matériel to former Rwandan government forces and militias in the Great Lakes region of central Africa, (b) identify parties aiding and abetting the illegal sale to, or acquisition of arms by, former Rwandan government forces and militias, and (c) make recommendations relating to the illegal flow of arms in the Great Lakes region; called on all states in the Great Lakes region to ensure that their territory is not used as a base for armed groups to launch incursions or attacks against any other state; and urged all states and relevant organizations to cooperate in countering radio broadcasts and publications that incite acts of genocide, hatred and violence in the region.

FIELD OPERATIONS

The Human Rights Field Operation in Rwanda (HRFOR) was established in 1994. Its headquarters were in Kigali. Head: Gerard Fischer, Chief of Mission, Room A-523, OHCHR, Palais des Nations, Geneva; Phone: (41-22) 917-6861; Voice-mail: (41-22) 917-2251; Fax: (41-22) 776-2409; e-mail: gfischer.hchr@unog.ch

The objectives and functions of HRFOR are defined as: carrying out investigations into violations of human rights and humanitarian law, including possible acts of genocide; monitoring the ongoing human rights situation and helping prevent possible violations through the presence of human rights field officers; cooperating with other international agencies to re-establish confidence and facilitate the return of refugees and IDPs and the rebuilding of civil society; implementing programmes of technical cooperation in the field of human rights, particularly in the area of the administration of justice; and reporting to the High Commissioner.

The report of the High Commissioner for Human Rights (E/CN.4/1998/61) contains information on, *inter alia*: the human rights situation in North-Western Rwanda; the human rights situation since March 1997, related to detention, the genocide trials, and the military justice system; the structure and state of operations of HRFOR;

technical cooperation projects related to human rights; and the HRFOR response to the genocide and vulnerable groups.

The report notes that HRFOR has carried out three main types of activities: (a) conducting the initial investigations into genocide and other serious violations of human rights and humanitarian law that took place during the armed conflict in Rwanda from April to July 1994; (b) monitoring and reporting on the ongoing human rights situation; and (c) implementing a broad-based programme of technical assistance and human rights promotional activities, ranging from projects for the rebuilding of the Rwandan justice system to human rights education and promotion.

Commentary on the situation in the past year notes, *inter alia*, that: the human rights situation has been closely linked to increasingly deteriorating security conditions, particularly in the northwestern region of the country; attacks against both civilian and military targets carried out by armed groups — made up of elements of the former Rwandese Armed Forces (ex-FAR) and former Interahamwe militia who participated in the genocide — escalated in number and scale during 1997. Attacks by armed groups further intensified as of October 1997; among the victims were genocide survivors, returnees who had taken refuge in neighbouring countries in 1959 and Congolese Tutsi refugees. The report notes that the large-scale counter-insurgency operations by the Rwandese Patriotic Army (RPA) resulted in the killing of a significant number of persons, including unarmed civilians, and the conflict in the northwest had led to the displacement of large numbers of civilians. The report states that the detention situation — a result of the challenge of bringing to justice the great number of Rwandan citizens presumed to have participated in the genocide — remained a most serious human rights problem, characterized by severe overcrowding, poor sanitation and lack of sufficient food and health care, and ill-treatment of detainees by RPA, communal police and judicial personnel, particularly during interrogations. By December 1997 a greater proportion of arrests appeared to have been carried out by legally mandated officials with provisional arrest warrants as specified under law. Since 1996, RPA officers implicated in three separate military operations, which resulted in the killing of civilians and eight RPA soldiers, and officers accused of killing a national gendarmerie commander have been prosecuted before military courts. The report also notes that the establishment of the Military Prosecutor's Department (Auditorat Militaire) in 1997 was expected to increase the capacity of the RPA to carry out internal investigations and bring accused persons to trial.

Commentary on the human rights situation in northwestern Rwanda notes that the area is mainly populated by Hutus and is perceived by the government as a bastion of genocidal forces. The report specifically refers to the prefectures of Gisenyi and Ruhengeri, noting that: attacks by armed groups comprising elements of the ex-FAR (Forces armées rwandaise) and Interahamwe militia have escalated; the deterioration in the security

situation has been exacerbated by the apparent ease with which armed groups have gained access to weapons, despite the imposition of a Security Council embargo on the supply of arms in the region; and the RPA has responded to such attacks with large-scale counter-insurgency operations in which violations of the right to life have been reported to HRFOR. The report states that the local civilian population has often been caught between the armed groups and the RPA and suffers regularly from intimidation and threats by members of armed groups who exhort the population to join them and, at times, abduct or kill alleged RPA informants. The same population lives under strict control by local military authorities determined to prevent any collaboration with the armed groups; during evenings, members of armed groups have often gone to local houses throughout the region and demanded money or other goods from the inhabitants; killings have sometimes occurred during these "visits", many of which are not reported because the survivors are afraid of further attack; the climate of fear and tension, in addition to the actual fighting, has resulted in the displacement of several thousand people; at times, local civilians appear to be used as shields by the armed groups and at other times are encouraged or forced to kill Tutsis in a settlement, while the armed groups carry out an attack on a nearby military post. The report states that in certain cases RPA soldiers have carried out revenge attacks, with or without the approval of their superiors, in response to, for example, a high incidence of casualties or attacks on RPA members' families. RPA killings also appear to be used to punish and/or deter the population from collaborating with the armed groups. The report also refers to information received by HRFOR related to Tutsi civilians carrying out retaliatory attacks following attacks by members of armed groups or local civilians.

The key points contained in the description of the human rights situation since March 1997 include that: the vast majority of incidents reported to HRFOR are possible right-to-life violations under human rights and international humanitarian law; from January through December 1997, HRFOR documented the killings of at least 5,952 persons, compared with 1,575 reported killings from January through December 1996; armed groups carried out numerous attacks targeting genocide survivors and those associated with them, and persons who returned to Rwanda from exile in 1959 ("old-case-load returnees"); communal offices and detention centres, in most cases situated adjacent to each other, have also been the targets of attacks by armed groups; a significant number of the persons killed during RPA cordon-and-search operations included unarmed civilians, such as elderly persons, women and children. The report notes that the detainee population in the 19 central prisons totalled 77,349 as of 31 December 1997, compared with around 72,000 in August. As well, reference is made to the work of itinerant judicial investigative personnel (Groupes mobiles) who were deployed by the Ministry of Justice to carry out preliminary investigations into genocide cases and open case files for detainees who did not have them. In some cases this work led to the provisional release of those against whom there was

insufficient evidence or who fell into certain "vulnerable" categories (e.g. elderly persons and minors). Reference is also made to the fact that, as of late October 1997, an increased use of *chambres du conseil* (pre-trial detention hearings in front of a judge) had led to the provisional release of some persons against whom there was insufficient evidence as to "serious indications of guilt". The report notes that in the genocide trial proceedings, between 3 January and 5 December 1997, 321 trials had been completed in which the court sentenced 111 persons to death, 109 persons to life imprisonment, 26 persons to imprisonment of more than 12 years, 32 persons to imprisonment of between 7 and 11 years, and 24 persons to imprisonment of 6 years or less; 19 of the accused were acquitted and 57 confessed. At the time the HRFOR report was prepared: no executions had been carried out; lack of full respect for fair trial guarantees continued to be a problem as evidenced by, for example, the general lack of opportunity for defendants without lawyers to question witnesses and, because of security and logistical constraints, limited representation of persons in certain outlying areas; and, while the number of persons accused of crimes of sexual violence had increased slightly, in general very few defendants had been charged with such crimes, although their occurrence during the genocide is well documented.

Changes to the HRFOR profile and make-up are noted as having led to a structure involving: the Operations and Documentation Unit — reporting and analysis on the current human rights situation based on information and reports provided principally by the Operation's field teams; the Special Investigations Sub-Unit — supporting field teams through its investigation of particularly serious incidents and providing training on investigative techniques for human rights field officers; the Legal Unit — concentrating on improvements in the administration of justice and in the status and condition of genocide survivors, undertaking genocide trial monitoring, promoting improvements in penal administration, training of the national gendarmerie and the communal police and supporting the development of the Rwandan National Human Rights Commission and the Parliamentary Human Rights Commission; the Education and Promotion Unit — focussing on raising public awareness of specific human rights concerns, organizing information campaigns on fair trial guarantees, arrest and detention procedures, independence of the judiciary and popular access to effective remedies for human rights violations, attempting to improve the position of vulnerable groups, such as women and children, increasing the capacity of local human rights non-governmental organizations to promote and protect human rights and fostering a human rights culture within the school system and the public administration; and the Security and Communications Unit — focussing on the safe and secure functioning of the Field Operation. As of January 1998, field teams operating out of five regional suboffices and one smaller field office.

During 1997 the technical cooperation projects undertaken by HRFOR are noted as focussing on the principal

elements of the administration of justice and legal reform, penitentiary administration, training and institutional support, and assistance to genocide survivors and vulnerable groups. The overall approach to secure improvements in these areas included: human rights education and training for the judiciary, the military, the national gendarmerie, the police, prison administration personnel, other civil servants and members of local human rights non-governmental organizations; capacity-building in the sectors of civilian and military justice; capacity support for human rights non-governmental organizations; and the popularization of human rights through formal and informal education and promotion activities. In terms of the plight of the survivors of the 1994 genocide and of certain particularly vulnerable groups, the report notes that HRFOR focussed its activities on three main areas: providing assistance to certain local communities wishing to document and publish the history of the genocide in their communes; increasing awareness of the legal system among genocide survivors; and monitoring and reporting on the current human rights situation of genocide survivors and vulnerable groups.

While not in the form of recommendations per se, the report refers to a number of specific needs and issues and, *inter alia*:

- ♦ called upon the international community to strengthen its multilateral and bilateral efforts in assisting the government to protect the civilian population in the northwest and put an end to the ongoing violence which was marked by an increase in frequency, intensity and extent;
- ♦ encouraged the government to take steps to prevent the excessive use of force by the security forces, including the RPA, gendarmerie and communal police;
- ♦ noted the need to provide training to all members of the security forces in the relevant international standards on the use of force and firearms, and ensure that RPA soldiers and gendarmes receive instruction in international humanitarian law;
- ♦ called on the government to investigate and take appropriate disciplinary and legal action regarding all credible allegations that members of the security forces and other state agents have violated domestic law and international human rights or humanitarian standards, particularly with regard to the right to life;
- ♦ encouraged the government to take further steps to ensure full respect of fair trial guarantees, including the right to legal representation and the right of the accused to cross examine witnesses;
- ♦ urged the government to impose a moratorium on the use of the death penalty in conformity with Commission resolution 1997/12 on the question of the death penalty;

- ♦ suggested that the government, with the assistance of the international community, consider alternatives to detention and recommended efforts to encourage the voluntary use, in appropriate cases, of the Confession and Guilty Plea Procedure provided for in the Basic Law No. 08/96 of 30 August 1996 ("Genocide Law");
- ♦ noted that human rights are most effectively realized when pursued in their totality and that sustained respect for civil and political rights in Rwanda is best fostered alongside the comprehensive promotion of economic, social and cultural rights; and
- ♦ encouraged the government to continue to work closely with the UN Special Representative to ensure that the creation and functions of the National Human Rights Commission are in line with the relevant international human rights standards.

Report of the High Commissioner for Human Rights

The report (A/53/367) includes information on, *inter alia*: activities of the Human Rights Field Operation; terms of reference; the closure of the Field Operation on 28 July 1998 and future cooperation with the government; monitoring and reporting; technical cooperation and human rights promotion; and the human rights situation in Rwanda.

The report notes that there were different views concerning the mandate of the Human Rights Field Operation between the government and the OHCHR. The government wanted the mandate to focus exclusively on technical assistance; the OHCHR stated that there was also a need to maintain a monitoring function in order to identify shortcomings in the human rights situation. Failure to reach agreement with the government on a new mandate led to the termination of the Human Rights Field Operation.

The High Commissioner regretted the failure to reach a new agreement and acknowledged the progress made by the government in strengthening the rule of law and improving the human rights situation at both local and national levels. The OHCHR expressed its willingness to assist the government and the Special Representative of the Commission on Human Rights to ensure the effective and independent functioning of the National Commission. The OHCHR also offered to assist the government in capacity building and implementing programmes of technical assistance within an overall strategy for sustainable development, consolidation of the rule of law and democracy.

The conclusions and recommendations in the report referred to, *inter alia*:

- ♦ concern related to the insecurity and human rights situation in the north-western prefectures in view of the escalating armed conflict in the region; the ease with which armed groups appear to have access to weapons despite a Security Council-imposed

embargo on arms supply to the region; the need for the international community to take appropriate measures to enforce the embargo and to bring to justice individuals and organizations that supply arms illegally within the region;

- ♦ concern related to reports of military operations carried out in response to attacks, leading to numerous civilian casualties, including significant numbers of the elderly, women and children, in circumstances strongly suggesting the occurrence of violations of human rights and international humanitarian law; an acknowledgement of the right and duty of the government to protect its citizens and others present on its territory from attacks by armed groups and of the security threat posed by those armed groups; the need to ensure that military operations conform with human rights and international humanitarian law and the requirement that all those who take no active part in hostilities must be treated in accordance with international humanitarian law in all circumstances;
- ♦ concern arising from the increasing number of alleged disappearances reported to the Field Operation and the need for the government to assist families in locating persons believed to be missing by improving the system of registers at all detention centres and by implementing a system of informing families of those persons who are detained, particularly in military detention centres;
- ♦ the need for the government to continue to strengthen the capacity of the judicial system, particularly taking additional steps to ensure full respect of fair trial guarantees; the need for the government and the international community to continue to examine ways in which to address the problem of severe overcrowding in detention centres;
- ♦ concern arising from use of the death penalty and the recommendation that a moratorium on its use be implemented; or, in the alternative, that imposition of the death penalty be applied with considerable constraint and occur only in strict compliance with article 6 of the International Covenant on Civil and Political Rights; in no circumstances should death sentences be carried out on persons under the age of 18 years.



SÃO TOMÉ AND PRÍNCIPE

Date of admission to UN: 16 September 1975.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: São Tomé and Príncipe has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Signed: 31 October 1995.

Civil and Political Rights

Signed: 31 October 1995.

Discrimination against Women

Signed: 31 October 1995.

Rights of the Child

Acceded: 14 May 1991.

The initial and second periodic reports of Sao Tomé and Príncipe were due 12 June 1993 and 1998 respectively.



SENEGAL

Date of admission to UN: 28 September 1960.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Senegal has submitted a core document (HRI/CORE/1/Add. 51/Rev.1) for use by the treaty bodies. The report prepared by the government contains demographic and statistical data as well as information on the general structure of government and the framework within which human rights are protected.

The guarantee of basic rights lies chiefly with the courts and, at the administrative level, the guarantee is provided by the Ombudsman whose task is to remind the Executive of its duty to respect its own legislation and fundamental human rights. International human rights instruments are an integral part of the country's positive law and international commitments are placed above national laws. All international instruments to which Senegal is a party may be invoked before judicial bodies and courts which apply them as the law of the country. The report notes that human rights are also guaranteed through the monitoring of the actions of authorities by non-governmental organizations. As well, the Senegalese Human Rights Committee, which was established in 1965 and is an inter-ministerial body, has been entrusted with the task of assisting the government in formulating and coordinating its policy in the field of human rights. The Committee may also draw the attention of the authorities to cases of violations of human rights.

Economic, Social and Cultural Rights

Signed: 6 July 1970; ratified: 13 February 1978.
Senegal's second periodic report was due 30 June 1995.

Civil and Political Rights

Signed: 6 July 1970; ratified: 13 February 1978.
Senegal's fifth periodic report is due 4 April 2000.
Reservations and Declarations: Declaration under article 41.

Optional Protocol: Signed: 6 July 1970; ratified: 13 February 1978.

Racial Discrimination

Signed: 22 July 1968; ratified: 19 April 1972.
Senegal's 11th through 13th periodic reports were due 19 May 1993, 1995 and 1997 respectively.
Reservations and Declarations: Declaration under article 14

Discrimination against Women

Signed: 29 July 1980; ratified: 5 February 1985.
Senegal's third and fourth periodic reports were due 7 March 1994 and 1998 respectively.

Torture

Signed: 4 February 1985; ratified: 21 August 1986.
Senegal's third periodic report was due 25 June 1996.
Reservations and Declarations: Declarations under articles 21 and 22.

Rights of the Child

Signed: 26 January 1990; ratified: 31 July 1990.
Senegal's second periodic report was due 1 September 1997.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 17, 48; E/CN.4/1998/68/Add.1, paras. 358–360)

The Special Rapporteur (SR) expressed concern over reports indicating that mobs had killed people, particularly foreigners, who were accused of "stealing a person's sexual organs" through the most simple physical contact (i.e., shaking hands).

The government replied to allegations that were transmitted in 1996, stating that: the death of a political officer of the Casamance Democratic Forces Movement (MFDC) was due to illness and not the result of arrest followed by torture by soldiers; the death reported to have resulted from torture by soldiers was not confirmed and, if confirmed, could only have been the result of clashes between members of the army and members of the independence movement; in the case of a female supporter of MFDC, information indicated that she was arrested in 1992, amnestied, and had taken refuge in Gambia.

The SR expressed concern about the escalation of violence in the Casamance region, and the danger to the civilian population created by the increase in armed clashes and the laying of anti-personnel mines. The authorities were requested to carry out impartial and in-depth inquiries to shed light on all allegations of violations of the right to life committed in Casamance.

Torture, Special Rapporteur on: (E/CN.4/1998/38, paras. 172–173; E/CN.4/1998/38/Add.1, paras. 382–386)
The Special Rapporteur (SR) noted that in August 1996 the government took the necessary steps, under the Convention against Torture, to recognize the competence of the Committee against Torture to consider communications from individuals. The government also indicated that there were plans to allow counsel to be present during detention in custody, the National Assembly had passed a law defining and explicitly making any act of torture a criminal offence under the Criminal Code, and fresh instructions had been issued to the Ministry of Justice, the armed forces, and all law enforcement authorities to prosecute perpetrators of violations of human rights.

The government's reply to cases previously transmitted stated: an autopsy showed that the person died as a result of a heart attack brought on by a hereditary condition, and not torture; the police officers involved had been charged and the case was before the First Examining Magistrate's Office in Dakar; with regard to the three persons named, none had been arrested — one had gone to Guinea-Bissau where he died of illness, the second had moved to Gambia, and the third had joined the underground and might have been killed in an incident between the army and freedom fighters; and the person named had made an official statement asserting that he had never been tortured and had not lodged a complaint.



SEYCHELLES

Date of admission to UN: 21 September 1976.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Seychelles has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Acceded: 5 May 1992.

Seychelles' initial report was due 30 June 1994.

Civil and Political Rights

Acceded: 5 May 1992.

Seychelles' initial and second periodic reports were due 4 August 1993 and 1998 respectively.

Optional Protocol: Acceded: 5 May 1992.

Second Optional Protocol: Acceded: 15 December 1994.

Racial Discrimination

Acceded: 7 March 1978.

Seychelles' sixth through 10th periodic reports were due 6 April 1989, 1991, 1993, 1995 and 1997 respectively.

Discrimination against Women

Acceded: 5 May 1992.

Seychelles' initial report was due 4 June 1993; the second periodic report was due 4 June 1997.

Torture

Acceded: 5 May 1992.

Seychelles' initial report was due 3 June 1993; the second periodic report was due 3 June 1997.

Rights of the Child

Acceded: 7 September 1990.

Seychelles' initial and second periodic reports were due 6 October 1992 and 1997 respectively.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 336–338, 417)

During the period under review no new cases of disappearance were transmitted to the government. The three previously reported cases of disappearance allegedly occurred on the main island of Mahé in the years 1977 and 1984. All three persons are said to have been abducted by persons believed to belong to the security forces, shortly after the individuals had left their homes. At least two of the persons were reportedly known opponents of the government. The report notes that the government has never responded to any requests from the Working Group for information.

FIELD OPERATIONS

Seychelles is a member of the Southern Africa Development Community (SADC) and, therefore, a beneficiary of and participant in the Regional Human Rights Programme Office for Southern Africa, a joint project of OHCHR and UNDP, which is based in Pretoria (see profile under "South Africa").



SIERRA LEONE

Date of admission to UN: 27 September 1961.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Sierra Leone has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Acceded: 23 August 1996.

Sierra Leone's initial report was due 30 June 1998.

Civil and Political Rights

Acceded: 23 August 1996.

Sierra Leone's initial report was due 22 November 1997.

Optional Protocol: Acceded: 23 August 1996.

Racial Discrimination

Signed: 17 November 1996; ratified: 2 August 1967.

Sierra Leone's fourth through 15th periodic reports have not been submitted (1976-1998); the 15th periodic report was due 4 January 1998.

Discrimination against Women

Signed: 21 September 1988; ratified: 11 November 1988.

Sierra Leone's initial and second and third periodic reports were due 11 December 1989, 1993 and 1997 respectively.

Torture

Signed: 18 March 1985.

Rights of the Child

Signed: 13 February 1990; ratified: 18 June 1990.

Sierra Leone's initial report (CRC/C/3/Add.43) has been submitted and is scheduled for consideration at the Committee's May/June 1999 session; the second periodic report was due 1 September 1997.

COMMISSION ON HUMAN RIGHTS

Since 1996, Sierra Leone has been considered by the Commission on Human Rights under the 1503 confidential procedure. At the 1998 session, the Commission decided to continue consideration under 1503 at the 1999 session.

THEMATIC REPORTS**Mechanisms of the Commission on Human Rights****Arbitrary Detention, Working Group on:**

(E/CN.4/1998/44, para. 19)

The report notes that an urgent appeal was sent on behalf of one person but no details of the case were provided.

Mercenaries, Special Rapporteur on the use of:

(E/CN.4/1998/31, paras. 29-38)

The report reviews political events in the country dating from the 1996 elections and the signing of a peace agreement between the elected government and the leader of the Revolutionary United Front (RUF). The Special Rapporteur (SR) noted that, for much of the population, there was no difference between the war of earlier months and the proclaimed peace, as they were subjected not only to the continuing exactions of armed rebels but also to those imposed by members of the regular armed forces. The SR stated that it was probably widespread insecurity which caused the elected government to decide not to cancel the contract of Executive Outcomes, a private security company that works with mercenaries to

perform a variety of services. Instead, the government rewrote the contract, making the mercenaries principally responsible for the protection of the region of Kovo against the attacks of rebel forces, despite the provision in the peace agreement reflecting the rebels' request that Executive Outcomes should leave the country.

The report notes that the governments of the region condemned the coup of May 1997, isolated the rebels, and demanded the return of the democratic government. [The democratically elected government returned to power in March 1998.]

The SR hypothesized that the presence of Executive Outcomes, which was partly responsible for the security of Sierra Leone, created an illusion of governability but left untouched some substantive problems which could never be solved by a service company. The SR recalled statements in the report to the 1996 General Assembly (A/51/392, para. 33) warning about the precarious situation and pointing out that the presence of a company that worked in security matters with such personnel as mercenaries was a debilitating factor that at some point would impair the stability of the legal government. The report then cautions against approaches that do nothing to cure the structural ills suffered by the people, and states that the right to life, the political and legal institutions of state, security, peace and maintenance of the rule of law and democracy, are not matters to be turned over to private companies which claim to perform advisory and military training services. The SR stated that such companies stand to gain by selling their competence as security agents, but they cannot replace bodies which have been entrusted with the responsibility of protecting life and maintaining security as an obligation vested in the state.

OTHER REPORTS**Children affected by armed conflict, Special Representative:**

(A/53/482, paras. 43, 52-60)

The Special Representative (SRep) visited Sierra Leone on 10 and 11 March 1998 and undertook a second, more extended, visit to Sierra Leone on 26 to 29 May 1998. The SRep travelled to the eastern region of Sierra Leone, close to the areas where active fighting was ongoing, and had the opportunity to witness the plight of internally displaced people, including hundreds of unaccompanied children who had recently emerged from the bush. The report notes that there are many serious manifestations of the impact of the prolonged conflict on children, such as street children, child combatants, displaced children, unaccompanied children, and victims of atrocities, as well as the collapse of health and education services. Many people expressed their alarm at the rapid erosion of local value systems within the society, especially among the youth.

The SRep identified five areas requiring urgent action by the international community: demobilization and reintegration of child combatants; resettlement of internally displaced persons; tracing of families of unaccompanied

children; rehabilitation and support of victims without limbs; and provision and rehabilitation of medical and educational services. Discussions between the SRep and government leaders, the leadership of ECOMOG and the leadership of CDF (Kamajors) resulted in a number of important commitments, including: recruitment and demobilization of children, noting CDF agreed to stop the recruitment and initiation of children under the age of 18, and to begin the process of demobilization of child combatants currently within their ranks; treatment of Armed Forces Revolutionary Council (AFRC) and Revolutionary United Front (RUF) child combatants, noting both ECOMOG and CDF agreed to provide special protection to AFRC and RUF child combatants who came into their custody through surrender, capture or escape; establishment of a joint task force for demobilization and reintegration of child combatants; recruitment and training of a new national army, noting the government's agreement not to recruit children under the age of 18 and to receive assistance from UN agencies in providing training materials on humanitarian and human rights standards concerning the protection of civilians, particularly women and children; establishment of a coordination group in order to realize a more coordinated and effective national response to the needs of children affected by conflict; and establishment of an all-party parliamentary caucus for children to serve as parliamentary advocates for the rights, protection and welfare of children affected by conflict in Sierra Leone.

The SRep stated that while the challenge of children in Sierra Leone was serious, it was not overwhelming and the situation could be turned around with carefully organized and targeted assistance.

SECURITY COUNCIL

Reports of the Secretary-General

The reports of the Secretary-General (S/1998/103, S/1998/112, S/1998/112/Add.1, February 1998; S/1998/249, March 1998; S/1998/750, August 1998; S/1998/960, October 1998) recall that in December 1997 the Security Council approved the dispatch of a technical survey team to, and the reopening of a small liaison office in, Sierra Leone. In January 1998 a technical survey team went to Sierra Leone to: (a) assess the political, military and security situation; (b) discuss with the junta the implementation of the peace agreement signed in Conakry on 23 October 1997; (c) consult with the Economic Community of West African States (ECOWAS); and (d) examine installations and infrastructure in the subregion, including airports and seaports, medical facilities, engineering works and the availability and reliability of equipment, supplies and services that might be used by a future UN military presence, should the Security Council decide to deploy one.

The humanitarian situation was described as deteriorating, marked by, *inter alia*: an absence of new supplies of food aid; an increasing scarcity and the cost of commercial food in urban areas; difficulties in food distribu-

tion in the southern and eastern provinces because of the deteriorating security situation resulting from intensified conflict between the Kamajors and the AFRC/RUF, now known as the People's Army; looting and more frequent incidence of rural "food taxes" imposed on civilians by armed elements; hoarding by farmers rather than risking transporting their harvests to market; and a shortage of supplies impeding a much-needed child immunization campaign.

Subsequent assessments of the humanitarian situation found that: the primary health care system had been devastated by lack of supplies, looting and the exodus of medical personnel at all levels; there was widespread neglect of water and sanitation facilities, which increased the exposure of hundreds of thousands to disease; the normal distribution of food to vulnerable groups had been disrupted, affecting children in particular; many children had also suffered exposure to acts of violence by being sent into battle as combatants; the public education system had collapsed, and all schools had been closed since the coup d'état in May 1997; the combination of fighting and looting had led to extensive damage to housing and infrastructure in the provincial towns; the number of internally displaced people had increased, and the welfare of some 14,000 Liberian refugees remained a matter of concern.

The UN office in Freetown was reopened in March 1998. The report notes that over time the office will be staffed by civilian political and humanitarian officers, a military adviser and human rights and civilian police advisers as well as public information personnel. The function of the office is to liaise with the government, the ECOWAS, the Economic Community of West African States Monitoring Group (ECOMOG), UN agencies, and non-governmental organizations, and to act as the overall authority for all UN activities in the country.

The August 1998 report is the first one related to the deployment and activities of UN Observer Mission in Sierra Leone (UNOMSIL). On human rights abuses, the report refers to: atrocities committed both during and after the period of junta rule; evidence of the systematic and widespread perpetration of multiple forms of human rights abuses against the civilian population, including rape; continued shelling of population centres such as Koidu and Daru by elements of the former junta and the use of civilians as human shields in their military operations; numerous instances of arbitrary execution, including of women and children, followed in some cases by mutilation of the bodies; hundreds of war-related civilian deaths and war-related injuries in at least nine of Sierra Leone's 150 chiefdoms, noting that a significant percentage of the dead were women and children; evidence indicating that the rebels were holding several thousand civilian captives, including women and children, and using them as porters, human shields and for forced sexual activity; continued abductions in the north; destruction of property and homes by rebel forces; and, as a result of the rebel campaign of terror, the displacement of at least 350,000 people since February 1998.

Commentary is also provided on prosecution by the state of more than 50 persons in the regular courts on a range of charges including treason, murder and arson. If found guilty all defendants faced the possibility of the death penalty. The report notes that the trials were proceeding against a background of widespread public anger and a desire for quick justice. Reference is also made to the court martial of 38 soldiers before a judicial panel comprising army officers and presided over by a Judge Advocate who is an ECOMOG officer. The government conceded that the judicial system is entirely inadequate and the report notes that, outside Freetown, the courts were not functioning at all and the traditional court system had collapsed. With regard to prisons, the conditions were described as overcrowded and unsanitary, with food and medical care inadequate. Reliable reports were being regularly received of poor discipline within the Civil Defence Force, marked by harassment of the local population and extortion.

In light of these conditions, UNOMSIL had commenced a human rights technical cooperation needs assessment and established that there was an urgent need for human rights education for government officials, traditional leaders, police officers, teachers of civic education, lawyers, journalists and NGO personnel. Technical support to the government was also needed for the National Commission for Democracy and Human Rights. The report notes that UN military observers were to receive training in aspects of international humanitarian law relevant to their duties.

The October 1998 report summarizes findings related to human rights abuses by rebel forces, including: an escalating number of reports of mutilations, amputations, summary executions, abductions, house burnings; detention of elderly or incapacitated men in huts which were then set on fire; the carving of slogans, such as "AFRC", into the flesh of victims; multiple rape of women held captive, summary executions and slave labour; continuing armed deployment of under-age boys and, in some locations, their continued initiation into the Civil Defence Forces (CDF); interference by some CDF elements with the delivery of humanitarian supplies and acts of harassment against the civilian population; and, a prevalence of child prostitution in some heavily militarized areas of the countryside. Commentary is also provided on initial efforts aimed at reform of the civilian police. The report further notes the development of a serious humanitarian crisis in isolated areas of the country because of a deterioration in the security situation and an increased number of displaced persons as a result of ongoing fighting.

Statements by the President of the Security Council

In the statements by the President (S/PRST/1998/5, February 1998; S/PRST/1998/13 May 1998) the Security Council, *inter alia*: expressed deep regret at the violence, loss of life and property and immense suffering undergone by the people of Sierra Leone since the coup and

grave concern at the continued violence in the country; called for an urgent end to the fighting; welcomed the end to the rule of the military junta and stressed the need for the immediate restoration of the democratically elected government and a return to constitutional order; condemned all reprisal killings and related violence and called for an immediate end to such acts; expressed concern about the serious and fragile humanitarian situation as well as the safety of all humanitarian personnel; condemned the taking of hostages by former members of the deposed junta and called for the immediate release of all international personnel and others who have been detained or held hostage; condemned gross violations of international humanitarian law and the recent atrocities carried out against the civilian population, particularly women and children, by members of the Revolutionary United Front and the deposed military junta — including widespread rape, mutilation, and slaughter — and called for an immediate end to all violence against civilians; called on all rebels to cease their resistance, lay down their arms, and surrender to forces of the ECOMOG immediately; expressed deep concern for the plight of all those affected by the continuing insecurity, including the tens of thousands of refugees and displaced persons; and, welcomed the efforts made by the democratically elected government, since its return in March 1998, to restore peace and stability and to reestablish effective administration and the democratic process in Sierra Leone.

Resolutions of the Security Council

In the resolutions adopted (S/RES/1156, March 1998; S/RES/1162, April 1998; S/RES/1171, June 1998; S/RES/1181, June 1998), the Security Council, *inter alia*: welcomed the return of the democratically elected President and terminated the prohibitions on the sale or supply of petroleum and petroleum products; welcomed efforts made by the government to restore peaceful and secure conditions, re-establish effective administration and the democratic process, and embark on the task of reconstruction and rehabilitation; emphasized the need to promote national reconciliation; authorized the deployment of up to ten UN military liaison and security advisory personnel; deplored the continued resistance to the authority of the legitimate government by ousted junta and members of the Revolutionary United Front (RUF) and stressed the urgency for all rebels to put an end to the atrocities, cease their resistance and lay down their arms; lifted remaining sanctions vis-à-vis the government but decided that all states should prevent the sale and supply of arms and related matériel to non-governmental forces in Sierra Leone and should impose limits on the freedom of movement of leading members of the former military junta. The resolutions also: welcomed the Secretary-General's proposal on the establishment of the UN Observer Mission in Sierra Leone (UNOMSIL); established UNOMSIL for an initial period of six months until 13 January 1999; defined the UNOMSIL mandate as being: (a) to monitor the military and security situation in the country as a whole, as security conditions permit; (b) to monitor the disarmament and demobilization of former combatants concentrated

in secure areas of the country, including monitoring of the role of ECOMOG in the provision of security and in the collection and destruction of arms in those secure areas; (c) to assist in monitoring respect for international humanitarian law, and, (d) to monitor the voluntary disarmament and demobilization of members of the Civil Defence Forces (CDF); decided that UNOMSIL would be led by the Special Envoy of the Secretary-General, with the tasks of (a) advising on the reform and restructuring of the police force, and (b) reporting on violations of international humanitarian law and human rights, as well as assisting the government in its efforts to address the country's human rights needs. The resolutions also demanded that all factions and forces in Sierra Leone strictly respect the status of UNOMSIL personnel, as well as organizations and agencies delivering humanitarian assistance throughout the country, and that they respect human rights and abide by applicable rules of international humanitarian law; expressed serious concern at the reports of cross-border arms flows and support to the rebels in Sierra Leone; and, welcomed the efforts of the government to coordinate an effective national response to the needs of children affected by armed conflict.

FIELD OPERATIONS

Security Council resolution 1181 (1998) of 13 July 1998 established the UN Observer Mission in Sierra Leone (UNOMSIL). As well as establishing a military/CIVPOL observer peace-keeping mission, the resolution mandates the monitoring of human rights and the provision of assistance to the government in addressing its human rights obligations. The resolution also gives the UN military observers a mandate to monitor respect of humanitarian law in the context of a demobilization process. The headquarters is located in Freetown. Michael O'Flaherty, Chief, Human Rights, UNOMSIL, 116 Pademba Road, Freetown, Sierra Leone; Phone: (232-22) 223-914; 229-406; Fax: (232-22) 227-612; e-mail: oflaherty@un.org.

The functions of the UNOMSIL human rights unit include to: monitor the situation of human rights, both directly and by developing and supporting monitoring networks of local and international NGOs and others; report, through the Special Representative of the Secretary General (SRSG), to the Secretary-General and the OHCHR; draft inputs for reports to the Security Council and other public reporting vehicles; under the guidance of the SRSG, devise and implement strategies of intervention with the government to address human rights issues; facilitate the coordination and implementation of human rights technical co-operation programmes of UN agencies; and, through training and technical assistance, assist the UN military observers and CIVPOL in addressing the human rights components of their mandates.

The main activities carried out as of August 1998 included: ongoing human rights monitoring and reporting; development of background papers for the UN Special Conference on Sierra Leone; development of a preliminary human rights needs assessment; participa-

tion in secretariat activities associated with the creation of UNOMSIL; development of a human rights monitoring network comprising, *inter alia*, local NGOs, international humanitarian NGOs, and others; close observation and intervention with regard to the post-junta ongoing treason trials and courts-martial; the development of projects to contribute to the process of healing society following the period of junta rule; and provision of guidance on human rights reporting to UN military advisers.



SOMALIA

Date of admission to UN: 20 September 1960.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Somalia has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Acceded: 24 January 1990.

Somalia's initial and second periodic reports were due 30 June 1992 and 29 June 1997 respectively.

Civil and Political Rights

Acceded: 24 January 1990.

Somalia's initial and second periodic reports were due 23 April 1991 and 1996 respectively.

Optional Protocol: Acceded: 24 January 1990.

Racial Discrimination

Signed: 26 January 1967; ratified: 26 August 1975.

Somalia's fifth through 12th periodic reports have not been submitted (covering the period 1984-1998); the 12th periodic report was due 25 September 1998.

Torture

Acceded: 24 January 1990.

Somalia's initial and second periodic reports were due 22 February 1991 and 1995 respectively.

COMMISSION ON HUMAN RIGHTS

Report of the Independent Expert

The Independent Expert (IE) on the situation of human rights in Somalia was appointed by the Secretary-General in accordance with Commission resolution 1993/86 of 10 March 1993. The main task of the Expert was defined as assisting the Secretary-General's Representative on Somalia to establish a long-term program of advisory services focused on the re-establishment of human rights and rule of law as well as the holding of periodic and genuine elections conducted on the basis of universal suffrage. The Independent Expert for 1998 was Ms. Mona Rishmawi.

The Expert's report to the Commission (E/CN.4/1998/96) includes information on, *inter alia*: attacks against humanitarian workers; landmines; refugees and internally displaced persons; the impact of the conflict on the rights of the child; the status of women; the justice system; conditions in Hargeisa following the discovery of mass graves; conditions in Bosasso; support for Somali human rights defenders; programmes for women and law enforcement agencies; and allegations against Belgian, Canadian and Italian troops dating from the 1992 UN combined emergency relief and peacekeeping mission.

The report states that there were no significant political changes in Somalia in the period reviewed and that the country remains a complex emergency situation with no central government and numerous clan-based factions involved in fighting. The problems identified include: violence against life, in particular murder, mutilation, cruel treatment and torture; cases of hostage-taking; irregular judiciary that pass and carry out sentences without guarantees of fair trial; a fragile and unpredictable political balance in the country; the lack of an international presence because of kidnappings, banditry, looting and murder or assassination; the presence of some one million land mines around main towns, along commercial routes, and on strategic farmland and grazing areas; the fact that most Somalis are either refugees in neighbouring countries or internally displaced; the use of child soldiers; and the disintegration of essential services such as health and education, particularly for children.

In considering the situation and status of women and girls, the Expert noted that: girls continue to be affected by the widespread practice of female genital mutilation; the jobs taken by women to support their families are considered demeaning by men, which means that this new role assumed by women has not radically changed their status in society; women are excluded from political discussions concerning the future of Somalia; during the first elections in "Somaliland" women were not allowed to stand as candidates and were not given the right to vote; women play a major role in maintaining the traditions that have adverse impacts on them, such as accepting and defending polygamy and female circumcision.

Regarding the justice system, the Expert noted that: there are no uniform rules governing private, social or economic behaviour; the legal, judicial and law enforcement systems collapsed with the disintegration of the government; various communities apply different rules, based on either the traditional system, Sharia law, Somali law as it stood during the former regime, law that was applied prior to the Barre regime, or a mixture of all or some of these approaches; and the law is enforced either by clan elders, the militias, or the militias of the Sharia courts.

The report notes that the Expert visited Hargeisa, in northwest Somalia in November 1997 where, in May 1997, a mass grave was discovered next to a military

camp that had been used by Barre's troops. The grave contained the bodies of at least 250 individuals who were buried in full civilian clothes with their shoes on, contrary to Islamic custom. The pictures and witnesses confirmed that the victims had been bound by the wrist in groups of 10 and 15 but the identity of the victims remained at issue. The report notes that evidence suggested that the victims were civilians and others were members of the Somali National Movement (SNM) captured and killed by Siad Barre's Force in 1998. The Expert stated that the claim that the victims were Ethiopian refugees and were killed by the SNM, was not credible. The report underlines the need to establish the truth about what happened in Hargeisa but also notes that the security situation in the country will make it difficult to collect testimonies about the incident. The Expert emphasized the need to preserve the evidence for possible use at a later date.

The report also comments on the conduct of foreign troops, including acts of summary execution, torture and ill treatment, and violence against Somali civilians. Referring to allegations against Belgian, Canadian and Italian troops who served in Somalia from 1992, the report cites information provided by these three governments, notably by the Canadian Commission of Inquiry and the Commission of Inquiry established by the Italian government.

The report concludes with a number of recommendations, including that:

- ♦ the political effort to find a durable solution to the conflict be strengthened and that human rights be placed on the agenda of the political talks regarding the future of Somalia;
- ♦ all Somali warring factions respect human rights and humanitarian law;
- ♦ allegations of abuses committed by international troops be fully investigated and those responsible for wrongful acts be held accountable;
- ♦ a programme of technical cooperation be established to support human rights advocacy groups;
- ♦ the OHCHR assist UNDP Somalia to implement its project on legal awareness and the judiciary;
- ♦ the OHCHR provide practical assistance to various UN agencies to assist them in integrating human rights into their work;
- ♦ efforts to rehabilitate the militias and create law and order be fully supported;
- ♦ the OHCHR find ways to support the law enforcement training that is taking place in Somalia and introduce human rights concepts into that training;
- ♦ the UN strengthen system-wide coordination in order to establish a strategy for creation of an infrastructure to promote and protect human rights in Somalia;

- ♦ a permanent UN human rights officer be posted in Somalia with the appropriate financial and logistical support; and
- ♦ the Commission on Human Rights continue its consideration of the human rights situation in Somalia with a view to rendering technical assistance to the country.

Resolution of the Commission on Human Rights

At the 1998 session, the Commission adopted a resolution by consensus (1998/59) in which it, *inter alia*: noted with concern that the breakdown of governmental authority has exacerbated the grave situation of human rights; recognized that human rights should be placed on the agenda of talks regarding the future of Somalia; expressed deep concern at reports of arbitrary and summary executions, torture and ill-treatment, violence against women and children and the absence of an effective judicial system; urged all parties to respect human rights and international humanitarian law related to internal armed conflict; urged all parties to support the re-establishment of rule of law throughout the country, in particular by applying internationally accepted criminal justice standards; urged all parties to protect UN personnel, humanitarian relief workers and NGO representatives as well as representatives of the international media; called on all parties to work towards a peaceful solution to the crisis; called on regional and subregional organizations to continue and intensify coordinated efforts aimed at facilitating the national reconciliation process in Somalia; called on individual donor countries and others to incorporate human rights principles and objectives into humanitarian and development work; requested the Expert to report to the 1999 session of the Commission; and welcomed the decision of the High Commissioner for Human Rights to appoint a human rights officer within the framework of the Office of the UN Resident and Humanitarian Coordinator for Somalia.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Religious intolerance, Special Rapporteur on: (E/CN.4/1998/6, paras. 48, 50, 58, 63, 94)

The report refers to violations against freedom of religion and belief, noting that non-Muslims are reportedly subjected to restrictions in religious matters, including a prohibition on any proselytizing of Muslims by non-Muslims.

Violence against women, Special Rapporteur on: (E/CN.4/1998/54, Section III.C)

In commentary on violence against refugee and internally displaced women, the report refers to the case of a Somali mother who feared returning to Somalia and losing custody of her two children, a daughter, aged 10,

and a son, aged 7. According to documentary evidence, the children belonged to the clan of their father, and for this reason, a divorced woman would not be awarded custody of her children. The woman also feared that she would be powerless to prevent her daughter from being subjected to female genital mutilation against her wishes, and described her own experience of female genital mutilation and the resulting health problems she experienced on reaching adulthood. The report notes that, with respect to the refugee claim of the 10-year-old girl, the panel considering the evidence found that her rights to personal security would be grossly infringed if she were forced to undergo female genital mutilation. The panel cited article 3 of the Universal Declaration and provisions in the Convention on the Rights of the Child — which explicitly protects children from acts of cruelty and torture and requires states to take steps to abolish traditional practices prejudicial to the health of children — to support their finding.



SOUTH AFRICA

Date of admission to UN: 7 November 1945.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: South Africa has submitted a core document (HRI/CORE/1/Add.92) for use by the treaty bodies. The report prepared by the government contains demographic and statistical data and provides a brief history of the pre- and post-apartheid eras and information on the structure of government. The 1996 Constitution provides for the separation of powers and requires the establishment of various independent bodies to promote democracy and human rights. These include the Human Rights Commission, the Commission on Gender Equality, the Office of the Public Protector, the Judicial Service Commission, the Truth and Reconciliation Commission, and the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities. The Constitutional Court was created as the guardian of the Constitution.

Economic, Social and Cultural Rights
Signed: 3 October 1994.

Civil and Political Rights
Signed: 3 October 1994.

Racial Discrimination
Signed: 3 October 1994.

Discrimination against Women
Signed: 29 January 1993; ratified: 15 December 1995. South Africa's initial report (CEDAW/C/ZAF/1) was considered at the Committee's June 1998 session.

Torture

Signed: 29 January 1993.

Rights of the Child

Signed: 29 January 1993; ratified: 16 June 1995.

South Africa's initial report (CRC/C/51/Add.2) has been submitted and is pending for consideration at the Committee's January 2000 session; the second periodic report is due 15 July 2002.

REPORTS TO TREATY BODIES**Committee on the Elimination of Discrimination against Women**

South Africa's initial report (CEDAW/C/ZAF/1, February 1998) was considered by the Committee at its June 1998 session. The report prepared by the government quotes a statement by a Judge of the Constitutional Court who said: "It is a sad fact that one of the few profoundly non-racial institutions of South Africa is patriarchy." The report also includes general information on land and people and the political structure, as well as examples from relevant case law. Commentary is provided related to, *inter alia*: the Women's Charter for Effective Equality (1994); provisions in the 1996 Constitution on equality and non-discrimination; legislative and administrative procedures to support the development and advancement of women; the Commission on Gender Equality, established in 1997, the Human Rights Commission, the Public Service Commission and the Commission for Restitution of Land Rights; the National Women's Empowerment's Policy and the National Women's Justice Programme; participation in political and public life, the public service; sex roles and stereotyping, custom, tradition and religion, portrayal of women in the media; exploitation of women and the Sexual Offences Act 1957; three bodies established in the Parliament — the Ad Hoc Joint Committee on Improvement of Quality of Life and Status of Women, the Women's Empowerment Unit, and the Parliamentary Women's Group; nationality, citizenship, immigration, refugees; education and access to education, the Gender Equity Task Team of the Department of Education; employment, equal rights and protection at work, the Labour Relations Act 1995, The Basic Conditions of Employment Act 1993, occupational health and safety; health and health care, major health problems, reproductive health; social security and economic benefits, the work of the Lund Committee on Child and Family Support; the situation of rural women, the Land Reform Programme, access to finance and credit, development programmes; equality before the law in civil matters; equality in marriage and family law; and domestic and sexual violence, the Prevention of Family Violence Act 1993, the national Campaign on Preventing Violence against Women.

The Committee's concluding observations and comments (CEDAW/C/1998/II/L.1/Add.3) welcomed, *inter alia*: efforts made by the government to redress the effects left on women by apartheid and to achieve gender equality;

the establishment of national machinery, as well as other bodies, for achieving the goal of gender equality; the government's active partnership with NGOs and the existence of a vibrant women's movement; and, while noting that health workers are not forced to participate in the provision of legal abortions, the provision prohibiting their obstruction of access to services for termination of pregnancy.

Factors hindering the implementation of the Convention were noted as including, for women, the legacy of apartheid, which includes widespread discrimination and underdevelopment, and the continuing existence of conflicts between the Constitution and religious and customary laws.

The principal subjects of concern identified by the Committee included, *inter alia*: the absence of a definition of gender discrimination in the Constitution; that de facto implementation of laws and policies in support of women has yet to be achieved in many areas; the continuing recognition of customary and religious laws and their adverse effects on the inheritance and land rights of women and women's rights in family relations; inadequate resources for the national machinery and the Commission on Gender Equality; the high rate of violence against women, including the high incidence of rape, particularly of young girls; noting the persistent overall high rates of crime and violence in the country, the danger that efforts to address violence against women may become submerged in the larger struggle against violence in society; that women are under-represented in the judiciary, women have problems of access to high judicial office and, in the appointment process, there is an emphasis on factors which generally favour male candidates.

The Committee expressed concern over: the chronic high rate of women's unemployment; the level of protection given — including through insurance or social security schemes — to self-employed women and women domestic/household workers; the move towards regulated flexibility in employment legislation; the uneven distribution of health care services in the country; insufficient data disaggregated by sex with regard to birth rates and disease; and the failure to give attention to the practice of female genital mutilation. The Committee also noted the need for specific measures aimed at vulnerable groups of women, especially rural women, to enable them to overcome the constraints of poverty, low levels of education and literacy, high unemployment and high fertility rates; and the need for rural women's participation in land reform programmes.

The Committee recommended that the government, *inter alia*:

- ♦ adopt a definition of discrimination in the Constitution and other legislation which reflects the definition contained in article 1 of the Convention and can be easily applied by courts in cases of discrimination based on sex;

- ♦ complete, as a matter of priority, the adoption of legislation and ensure its effective implementation in order that women's *de jure* and *de facto* equality will be guaranteed; prepare a uniform family code, in conformity with the Convention, addressing unequal inheritance rights, land rights and polygamy, with the aim of abolishing them;
- ♦ continue to give priority attention to efforts to prevent and combat violence against women; take steps to confront stereotypical attitudes that are among the root causes of violence against women and to emphasize the unacceptability of such violence; reinforce the existing strong collaboration with civil society and NGOs on violence against women with budgetary allocations commensurate with the priority attached to combatting such violence; emphasize the seriousness of rape, including marital rape, and fully enforce the law; undertake research into the causes of the high numbers of rape so that effective preventive measures can be developed;
- ♦ address both the legal situation and the reality with regard to trafficking in women and provide information on this in the next report;
- ♦ continue to use temporary special measures, including quota systems in upcoming elections; assess ways of extending quota systems to other governmental or governmentally appointed bodies to increase women's participation in them; pay particular attention to public bodies dealing with business and economic matters to facilitate women's gaining decision-making positions in those fields; ensure that supportive mechanisms are in place for beneficiaries of temporary special measures;
- ♦ use temporary special measures to remedy the low number of women in the judiciary;
- ♦ create income generating activities for women as a matter of priority; expand existing efforts, including the use of quotas in job creation schemes in areas where the number of unemployed women workers is particularly high;
- ♦ continue efforts to ensure equal access to health services throughout the country and ensure women, particularly poor women, access to family planning programmes and related information; undertake further research into the prevalence of female genital mutilation and other harmful practices, such as witch burning, and ensure the prohibition and eradication of such practices; and
- ♦ implement special programmes for vulnerable groups of women in rural areas, including education and employment; and work actively on matters of land reform policy and problems of rural women to ensure their active participation in those areas.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 339–340)

During the period under review, no new cases of disappearance were transmitted to the government. The majority of the 11 cases of disappearance reported to the Working Group (WG) occurred between 1976 and 1982 in Namibia. Since, at that time, Namibia was under South African jurisdiction and responsibility for the disappearances was imputed to agents of South Africa, the cases were retained on the South Africa country file.

The government informed the WG that, in one case, the person concerned was the subject of a hearing of the Amnesty Committee of the Truth and Reconciliation Commission in September 1997, and four former members of the South African Police Service were applying for amnesty regarding his death. With regard to six other cases, the government replied that the South African Police Service has no records or information pertaining to them and no information on them has been registered on the population register of South African citizens.

As a result of the above, the WG decided to discontinue consideration of these six cases on the basis that: the WG no longer has a useful role to play in trying to clarify the whereabouts of the persons concerned; the source of information is no longer in contact with the families and no follow-up can be given to the cases; numerous attempts have been made over the years to try to establish the fate and whereabouts of the persons reported as missing — both through communications with the source, as well as with the governments of South Africa and Namibia; and, these attempts had been to no avail.

Independence of judges and lawyers, Special Rapporteur on the: (E/CN.4/1998/39, paras. 153–156)

The report refers to the Truth and Reconciliation Commission and information indicating that judges were invited to appear before the Commission during inquiries into a wide range of issues pertaining to the legal system during the apartheid era and how the legal system, including individual judges, had contributed to the violations and abuses of human rights. Several judges — including the Chief Justice, the former Chief Justice and the President of the Constitutional Court — refrained from appearing before the Commission, but many judges submitted written representations either separately or jointly.

As a result of the judges' failure to appear in person before the Commission, a representative of the Commission consulted the Special Rapporteur (SR) on the propriety of issuing subpoenas to the judges to compel them to appear. The report notes that the SR advised: it would not be proper to compel the judges to appear before the Commission as this would amount to reopening cases

decided by them, examining the evidence, and generally reviewing the correctness of the decisions; though judges are accountable, their accountability does not extend to their having to account to another institution for their judgements; compelling appearances would seriously erode not only the independence of the judges concerned but also the institutional independence of the judiciary; such compulsion could violate the immunity conferred on judges; and, finally, if judges are subjected to public examination in the glare of the media, public confidence in the judiciary could be undermined, bearing in mind that prior to 1994 there was no written constitution in South Africa with an entrenched bill of rights for judges to apply, and on the basis of which to rule on the legality of legislation.

Racism and racial discrimination, Special Rapporteur on: (E/CN.4/1998/79, paras. 16, 41)

The report refers to information related to the legacy of apartheid, inter-ethnic conflicts and problems related to massive immigration. Reference is made to the imposition of restrictions on immigration which are considered by some to be discriminatory towards foreigners. Information was also received related to anti-Semitic acts of violence, particularly in Cape Town, in July 1997 when approximately 2,500 persons claiming membership of an organization called Muslims against Global Oppression (MAGO) are said to have demonstrated in front of the premises of the Israeli Embassy, shouting anti-Semitic slogans, and displaying notices insulting the Jews. In another incident, a Jewish study centre and library were allegedly set on fire.

The Special Rapporteur (SR) visited South Africa from 24 February to 5 March 1998. The interim report to the 1998 General Assembly (A/53/269, paras. 6–10) refers to the South African television slogan “Simunye – We Are One” and the unifying concept “The Rainbow Nation”. The SR noted that the effects of change are already seen in the reorganization of the army and the police, which have developed affirmative action and equal opportunity programmes. Other points noted include: that leadership teams at the ministries and of the provincial and municipal administrations increasingly reflect the racial and ethnic composition of the country; the educational system is in the process of being reformed; with the adoption of Curriculum 2000 the falsehoods proclaimed by apartheid are to be eradicated from teaching tools; and the Employment and Equity Act is under preparation.

The report acknowledges that resistance remains on the part of some administrative sectors that still support racist views, and notes: opposition to the presence of Blacks at some institutions, even public ones; resistance in the private sector to the integration of members of previously disadvantaged groups, which is hampering the emergence of African economic operators; the fact that the press remains largely in the hands of the supporters of the old regime who disparage the action taken by the government; plans to remedy the lack of legislation punishing racist acts and racial discrimination; the increase in xenophobia, directed particularly against Africans

from countries bordering on South Africa and from further afield; and that this xenophobia is the result of both the long isolation of South Africans from the rest of Africa and the fear that the migrants (both legal and illegal) and refugees will come and take advantage of the dividends of liberation before South Africans themselves have benefited from them. The SR stated that the attraction that South Africa’s relative prosperity exerts on migrants from countries experiencing social or economic crises, combined with liberal legislation on the right of asylum, may mean that there is a possibility that the development plan introduced by the government will meet with failure. The government indicated that it is aware of these problems and is seeking appropriate solutions.

Toxic wastes and products, Special Rapporteur on: (E/CN.4/1998/10/Add.1, “Comments received from States”)

The addendum to the main report contains the response of the government to information included in the Special Rapporteur’s (SR) report to the 1997 session of the Commission on Human Rights (E/CN.4/1997/19). With regard to “poor household practice” within a factory operated by Thor Chemicals SA (Pty.) Ltd. the government stated: all charges of homicide against three employees were dropped by the State Prosecutor; the company was found guilty of contravening the Machinery and Occupational Safety Act of 1983; the import of spent mercury catalyst by Thor Chemicals was known and permitted and there was no illicit dumping or trafficking; the imports were terminated in 1992; the majority of imported material remains stockpiled on the company’s premises, and the future treatment of this material was the subject of a Commission of Inquiry that was appointed in March 1995; the Commission was to recommend the best practical environmental option to deal with the problem of mercury containing catalyst and/or waste currently present on Thor’s premises; and, the Commission was also to investigate regulation and enforcement relating to the monitoring and control of mercury processing, and recommend the best option to minimize risks and to protect workers’ health and environment. The government noted that the first phase of the Commission’s work had been concluded and a report would be submitted to the President. (See below for more information on the Thor Chemicals case.)

The Special Rapporteur visited Pretoria, Johannesburg, and Cape Town from 10 to 16 August 1997, followed by visits to Kenya and Ethiopia. The section of the report concerning the visit to South Africa (E/CN.4/1998/10/Add.2, paras. 8–33) notes that a ban on the importation of hazardous wastes was implemented after 1989 and refers to a number of points contained in the five-volume study Hazardous Waste in South Africa which was published in 1992. Problems associated with waste management set out in the study included, *inter alia*, that: few industries had waste management strategies or planned for waste management before start-up; awareness of hazards was low, but there was an awareness that facilities and practices were inadequate; there were sig-

nificant levels of recycling of paper, glass, plastics and metal; few companies practised waste avoidance; no annual statistics or databases were available; waste disposal facilities and transporters often lacked detailed information on the make-up of the wastes they handled; there was inadequate control over the transport of waste; and, there was a lack of sites for disposal of hazardous waste and a lack of adequate controls over existing sites.

The report then refers to several incidents in which environmental contamination was a main concern and which, in their effect, prompted the government to look at the issue of toxic wastes and products, and regulation of their handling and management more closely. Measures taken by the government are noted as having included: preparation of a White Paper on Environmental Management Policy, a draft framework policy on waste management; establishment of a process to develop new environmental legislation, the Consultative National Environmental Policy Process (CONNEPP), to which all stakeholders were given the opportunity to contribute; publication in May 1997 of a discussion paper "Towards a White Paper on integrated pollution control and waste management" (Department of Environmental Affairs and Tourism in collaboration with the Department of Water Affairs and Forestry), with a workshop later convened to elicit comments and suggestions from NGOs; and ratification of the Basel Convention in 1994.

The report cites information related to an attempt, in 1995, by a Finnish Company, Kikkola Chemicals OY, to export a consignment of cupric arsenite to a South African company, JAD Metal Concentrators (Pty.) Ltd. In response to an outcry from "green movements" the government established a commission of inquiry, in consultation with all the parties involved — including NGOs and with the process advertised in newspapers to ensure transparency. The Commission of Inquiry was empowered to call and cross-examine witnesses, and its terms of reference were to investigate: all legal, financial, and administrative matters relating to the approval of the importation of a consignment of material containing cupric arsenite and whether it complied with the requirements of the Basel Convention; all matters pertaining to the history, conclusion, and the terms and conditions of the contracts between the Department of Environmental Affairs and Tourism and the consultant, Daan Malan and Associates; all matters pertaining to decisions taken by, and within, the Department since 27 April 1994 to delegate — including delegations by way of contract — any of the Department's powers, duties or functions to any other person, consultant, company or legal person; and to report to the President, as soon as possible, the results of the inquiry. The report notes that by the end of January 1997, a 2,000-page report, reflecting all the contributions received, had been prepared and, by February 1997, the parties were prepared to argue their position in front of the magistrate. A final report reflecting discussions and recommendations was scheduled to be submitted to the President at a later date.

The report notes that a similar commission was appointed in March 1995 to inquire into the Thor Chemicals mercury-recycling operations at its plant, and cites information indicating that the company had exploited loopholes in legislation in order to import and stockpile more than 3,000 tons of toxic waste which it could not handle. The Commission established to investigate this matter was granted juridical powers, viz. it could call witnesses, who had the right to legal representation. NGOs were granted the right to represent the workers and provide legal assistance to those in need. The report notes that the government was not obliged to implement the Commission's recommendations but, if it accepted the report, it automatically committed itself to enforcing them.

The results of the Commission's first phase of work are noted as having included a decision by the Commission that the handling and transporting of the waste to a site for disposal was in itself a hazardous operation to which enormous costs were attached. The Commission also decided that the only viable option was to treat the mercury waste in an environmentally sound manner by recycling via incineration or roasting, decommission the plant upon completion of the recycling, request the company to bear the costs of the operations of the plant in the disposal of the waste, and assign all other costs incurred in the disposal of the waste, including costs in terms of expertise, to the government. The Commission also: stated that the tenacity of the non-governmental sector caused the problem to surface publicly more quickly than it might otherwise have done and expressed the opinion that the non-governmental sector, however vigilant, should not be seen as a substitute for government; recommended that pollution control legislation in force for different departments be integrated; noted that a wider awareness on the part of the public has caused many companies to keep their "backyards" in order; noted continued opposition by NGOs to any substandard disposal methods which could threaten human health and the environment; and noted that the proposed standards would be illegal in those countries in which most of the waste originates.

The SR referred to the recognition by the Department of Environmental Affairs that the accident involving Thor Chemicals had occurred because of the dilution of responsibilities between numerous departments involved. The SR noted that the Commission had identified contributing factors such as a substantial lack of manpower to enforce legislation fully, the fragmentation of competences and laws, the existence of loopholes in the legislation, and the fact that exemptions were granted with a lack of transparency during the previous regime. The SR referred to a decision by the Department of Mines and Energy to focus on neutralizing, or at least mitigating, environmental impacts from the mining sector, with more stringent regulations approved and implemented. The SR also noted a decision by the Department of Health to organize an international conference on health and environment in Africa in September 1997 with

the aim of finding ways to respond to the challenges of health and the environment in the context of sustainable development. Acknowledgement was also given to the preparation, by the Department of Health at the national level, of an environmental health policy with the following priorities: the classification, at the local level, of the hazardous waste that entered the country; identification of the people at risk as well as the risks involved; and the training of officers and capacity-building of local institutions dealing with the waste. The SR also referred to decisions by the Department of Health to elaborate a regulatory mechanism which might include the prosecution of the responsible entities, and to focus on how to identify who was responsible. Among the sanctions foreseen were not renewing permits or withdrawing licences.

FIELD OPERATIONS

OHCHR South Africa

The OHCHR South Africa Office is responsible for carrying out the activities provided for in the Human Rights Institutional Strengthening Project for South Africa (SAF/96/AH/16), which began in 1997/1998. The headquarters is located in Pretoria. Russell Ally, National Project Manager, c/o South African Human Rights Commission, 351 Schoeman Street, P.O. Box 6541, Pretoria 0001, South Africa; Phone: (27-11) 484-8300; Fax: (27-11) 484-8403; e-mail: rally@jhb.sahrc.org.za.

The project is managed and implemented by a nationally-recruited project team consisting of the National Project Manager and two national officers. A National Project Coordinator was designated by the Minister of Justice to ensure effective coordination between the Project Team and the government. A Project Steering Committee, consisting of the major project counterparts, was established to review developments and make recommendations on the timing and content of project activities.

In order to assist in building the capacity of the project's major counterparts, the National Project Manager is physically located on the premises of the South African Human Rights Commission; the National Project Officer is located in the Justice College of the Ministry of Justice; and the Land Rights Community Liaison Officer is based at the Land Rights Restitution Commission. The arrangement facilitates the integration of project personnel into these institutions for the purpose of providing on-going advice and assistance.

The project focusses on all human rights, including economic, social and cultural rights, and provides:

- ♦ expertise to key institutions (Human Rights Commission, Justice College, Ministry of Justice, the Commission on Restitution of Land Rights, Ministry of Safety and Security) to assist them in developing an institutional capacity for planning, implementing, managing and evaluating policies, strategies and training programs for the promotion and protection of human rights; and coordination of external assistance and development of policies and plans of action in the area of affirmative action;
- ♦ assistance in the development of human rights training capacities, through the training of trainers in key sectors including the magistracy, police, military and correctional services;
- ♦ training and assistance to government departments in order to strengthen their capacity to fulfil their obligations under newly ratified human rights treaties;
- ♦ assistance to the South African Human Rights Commission to develop, in consultation with civil society and NGOs, a national human rights plan of action; and support for the Human Rights Commission to fulfil its broad mandate better, particularly with respect to the monitoring of economic, social and cultural rights;
- ♦ support for the Land Affairs Department in implementing a rights-oriented approach to land reform, and strengthen the existing capacity to implement the land restitution policy; and
- ♦ expertise to and support for the initiative of Fort Hare University — one of the nation's leading historically black universities — to develop a human rights resource centre to serve one of the most disadvantaged provinces in the country and to provide services to government in the field of human rights training.

The main activities as of August 1998 included: provision of advisory services to finalize the human rights training package developed by the South African Police Service (SAPS); joint publication with the SAPS of a pocket guide for police on human rights standards and practice; ongoing advice and assistance to the South Africa Human Rights Commission (SAHRC) on developing a National Plan of Action in the Field of Human Rights, to be adopted by the government on Human Rights Day, 10 December 1998; support to SAHRC for a workshop on the draft human rights National Plan of Action; ongoing advice and assistance to the Justice College of the Ministry of Justice in integrating human rights into the training curriculum for magistrates, prosecutors and other officials concerned with the administration of justice; assisting Fort Hare University to develop the capacity to hold human rights training workshops; and support for the documentation collection of the Human Rights Centre of Fort Hare University.

Regional Human Rights Programme Office

In addition to the OHCHR South Africa Office, the Regional Human Rights Programme Office for Southern Africa is based in Pretoria. David Johnson, Regional Programme Adviser, c/o UNDP, 351 Schoeman Street, P.O. Box 6541, Pretoria 0001, South Africa; Phone: (27-12) 338-5300; Fax: (27-12) 320-4353/4; e-mail: djohnson@un.org.za. This is a joint project of OHCHR and UNDP, administered by UN Office for Project Services (UNOPS). The programme is aimed at mobilizing

and coordinating increased UN system-wide assistance in the area of human rights, democracy and the rule of law. The Programme covers the countries in the Southern Africa Development Community (SADC)/Indian Ocean Group of UNDP's Regional Bureau for Africa.

Under the joint supervision of OHCHR and the UN Resident Coordinators of the participating countries, the Office is mandated to perform the following functions: provide advice, assistance and information to governments in the sub-region, as well as the SADC Secretariat, on human rights, democracy and rule of law issues; provide technical backstopping to UN Resident Coordinators in the region on human rights, democracy and rule of law issues; ensure access to human rights information and documentation for UN Country Teams and develop and facilitate human rights briefings and training sessions for concerned UN field staff; develop joint initiatives with UNDP and other UN programmes and agencies, and coordinate OHCHR technical cooperation activities with them and other multi- and bi-lateral actors, including donor governments and NGOs; facilitate and coordinate the formulation and monitoring of human rights technical cooperation projects at the national and sub-regional levels; and, develop and carry out activities at the sub-regional level with a view to strengthening sub-regional networks in support of human rights, democracy and the rule of law.

The Regional Human Rights Programme Office was provisionally established in July 1998 and formally launched in August 1998.



SUDAN

Date of admission to UN: 12 November 1956.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Sudan has submitted a core document (HRI/CORE/1/Add.99) for use by the treaty bodies. The report prepared by the government contains information on the structure of the political system and the judicial system. Within the context of human rights education, a national plan of action has been formulated aimed at eliminating the obstacles to human rights awareness. Some of the measures in the plan of action are to: protect the strengthening of human rights and fundamental freedoms and disseminate the human rights instruments; eliminate the present gap between the existence and the realization of fundamental rights, and compile and publish reports and statistics on the subject; and encourage the pursuit of a clear and active policy on gender mainstreaming in all policies and programmes with a view to guaranteeing and declaring the full realization of human rights by women. The national machinery related to human rights includes the Sudan Advisory Council for Human Rights.

Economic, Social and Cultural Rights

Acceded: 18 March 1986.

Sudan's initial report (E/1990/5/Add.41) has been submitted and is scheduled for consideration by the Committee at its November 2000 session; the second periodic report was due 30 June 1995.

Civil and Political Rights

Acceded: 18 March 1986.

Sudan's third periodic report is due 7 November 2001.

Racial Discrimination

Acceded: 21 March 1977.

Sudan's ninth, tenth and eleventh periodic reports were due 20 April 1994, 1996 and 1998 respectively.

Torture

Signed: 4 June 1986.

Rights of the Child

Signed: 24 July 1990; ratified: 3 August 1990.

Sudan's second periodic report was due 1 September 1997.

COMMISSION ON HUMAN RIGHTS

Special Rapporteur on the situation of human rights in Sudan

The Special Rapporteur (SR) on the situation in Sudan was appointed by the Commission at its 1993 session. In 1998 Gáspár Biró was the SR.

The report to the 1998 Commission (E/CN.4/1998/66) was based, in part, on a mission to Khartoum between 2 and 10 September 1997. In addition to the traditional tasks of investigation, verification and discussion with authorities of reports of violations, the mission had two main objectives: first, to discuss with officials and other interested parties the human rights dimensions and implications of the peace agreement signed between the government and representatives of several southern political organizations and rebel groups on 21 April 1997 (the Khartoum Agreement); and second, to receive first-hand information on the latest measures taken by the government — through its Consultative Council for Human Rights (also known as the Advisory Council for Human Rights) — to improve both the situation of human rights in Sudan and communication between the government, the Commission on Human Rights and the Office of the High Commissioner for Human Rights.

The subject areas covered in the report to the 1998 Commission include, *inter alia*: extrajudicial killings and summary executions, torture and ill treatment, arbitrary arrest and lack of due process of law, slavery and servitude, the slave trade, forced labour and similar institutions and practices, freedom of religion, the rights of the child, the rights of women, the independent verification of reports, an assessment of possibilities for technical assistance and cooperation in the field of human rights, and reprisals.

The report reviews circumstances and events related to the fighting that occurred in June/July 1992 between the Sudanese Army and the Sudanese People's Liberation Army (SPLA) in Juba. Reports indicated that following the cessation of fighting the security services arrested hundreds of military and civilian personnel, including Sudanese nationals working with international aid agencies. Subsequent reports referred to executions following trials before military courts in which the defendants were reportedly found guilty of treason. The report summarizes the findings of the May 1997 report of the Sudanese Advisory Council for Human Rights, entitled Publication of the results of the investigation carried out by the Judicial Commission about the Juba event of 1992 (the Juba Report). The Judicial Commission found, *inter alia*, that of the 240 persons whose fate was at issue 94 were convicted by tribunals set up according to the law, with sentences ranging from execution to imprisonment and 11 persons were acquitted. The Judicial Commission concluded that the remaining persons had either been killed in the bombardment and exchange of fire or during the battles and armed skirmishes, defected from the service of the various regular forces, voluntarily joined the insurgent movement, were forcibly taken away by the insurgents after the attack, boarded the relief aircraft used to bring supplies to Juba and return empty to Khartoum, or chose to disappear and were arrested during and after the events. The Advisory Council for Human Rights affirmed that its declaration of the results of the investigation came within the responsibility of the government to protect and develop human rights, in compliance with the international instruments adopted in this respect and within the framework of its cooperation with the international community and its competent mechanisms.

Despite this conclusion and the information contained in the Juba Report, the SR concluded that the Juba Report contained a series of self-contradictions and, as a result, should not be regarded by the Commission on Human Rights and the international community as clarifying in a satisfactory manner the question of the summary executions and reported extrajudicial killings, torture and arbitrary arrests which took place in Juba.

The commentary on violations other than summary or arbitrary executions, notes, *inter alia*, that: torture and ill treatment of detainees by security forces were reported continuously during 1997 by such with methods as the use of beatings, electric shocks, exposure to the sun for hours, pouring of cold water on the naked body, rape in custody and threatening with rape, sleep deprivation, refusal of food and medical treatment and forcing some detainees to witness the torture of others. The SR noted that: arrests of hundreds of people had taken place — including of university lecturers, businessmen, lawyers, students, engineers, medical doctors and individuals known for their affiliations with banned political parties who were suspected of "collaboration with the enemy" or political opposition to the regime and therefore part of a larger conspiracy against the state; reports continued to be received related to slavery and slavery-like practices,

including the abduction of people from southern Sudan by armed groups of the Popular Defence Forces (PDF) and mujahedin fighting together with the Sudanese Army against the SPLA; and, numerous allegations continued to be received related to freedom of religion and the demolition of Catholic centres by government authorities.

The report refers to the abduction of thousands of children from northern Uganda and their placement in camps in southern Sudan by the Lord's Resistance Army (LRA) — which is dedicated to overthrowing the Ugandan government, allegedly with support from the Sudanese government in exchange for LRA assistance in fighting the SPLA — as well as abductions carried out in 1995 and 1996 by another group called the West Nile Bank Front. The report notes that: most of the children abducted by the LRA, girls and boys, range in age from 8 to 16 years; these children are forced to serve the rebels, with smaller children made to run errands or do small chores; girls are given to commanders as "wives"; all of the children are trained as soldiers and forced to fight, both in Uganda and the Sudan; discipline is maintained through a combination of violence and threats, including beatings and killings with the children themselves at times forced to kill other abducted children; and failed escape attempts are punishable by death and successful attempts result in retaliation against the relatives of the escapee.

Concerning the status of women and rights of women, the report refers to a Public Order Act that was supposedly enacted in October 1996 and summarized in the report to the 1997 session of the Commission on Human Rights (E/CN.4/1997/58). Of particular concern were elements in the Act restricting freedom of movement for women living in Khartoum and the surrounding area. In an effort to clarify whether the Act had, in fact, been adopted, the report notes that the SR met with representatives of the General Federation of Sudanese Women, in Khartoum on 4 September 1997. The Federation representatives stated that the offending provisions previously cited by the SR had been part of a proposal made during debate in the local council, but had not been incorporated in the Act. A copy of a Public Order Act, apparently adopted in March 1996 rather than October, was provided. The Act stipulates that, *inter alia*: one of the doors and 10 seats on public buses on state routes shall be assigned for women; men are categorically prevented from sitting in places assigned to women, while women are not allowed to sit in places assigned to men; in the case of other public vehicles, 25 per cent of the seats shall be assigned to women; no one shall practise the hairdressing profession without obtaining a licence from the authorized locality on the recommendation of the authorized People's Committee and the application for the licence shall be made on the form prepared by the locality, after acquiring the commercial and health licences; women's hairdressing salons shall not employ men, men shall not enter women's hairdressing salons, a sign shall be put in front of the salon stating these provisions, the salon shall have one door opening to the road

(except salons located in multi-floor buildings), and the director or the owner of the salon shall comply with the required health terms and safety measures; men may own a women's hairdressing salon in accordance with the conditions and regulations issued by the authorized locality but the salon must be administered by a woman; owners and directors of salons shall not employ any woman to work at the salon, except after getting assurances that she is of good conduct; the woman hired shall be technically qualified and hold a certificate from an authorized body; the age of the woman director of the salon shall not be less than 35 years; the licensing authority and public order police may enter hairdressing salons at any time for the purpose of inspection of the application of the provisions of the Act, provided that the inspection is made by women. Further, the Act states that any business whose dealing requires citizens to stand in queues shall separate men and women and the public shall comply with this practice; and anyone violating provisions of the Act shall be punished by one or more of the following punishments — imprisonment of not more than five years and/or a fine, flogging, confiscation of items used in the violation, or withdrawal of licence or permission or closing the business for a period of not more than two years.

The report recalls that the Human Rights Committee, following consideration of Sudan's second periodic report in 1997, stated that flogging, amputation and stoning, which are recognized as penalties for criminal offences, are not compatible with the ICCPR and must be abolished. The Committee also expressed concern about the practice of female genital mutilation and stated that it constituted cruel, inhuman and degrading treatment. Further, the Committee considered that such practices as customary arrangements through which a woman's consent to marriage is mediated by a guardian, and that recourse has to be made to the courts to override any prohibition within the family on a woman's choice of a husband, are incompatible with several articles of the International Covenant and should be repealed. The Committee also recommended that a minimum age for marriage be established in law. And finally, the Committee expressed concern at official enforcement of strict dress requirements for women in public places — under the guise of public order and morality, the inhuman punishment imposed for breaches of these requirements, and the restrictions on the liberty of women under the Personal Status of Muslims Act, 1992.

The report also summarizes an incident which took place in December 1997, in front of the UNDP office in Khartoum. The incident involved actions by the security forces and other uniformed individuals who disrupted a peaceful demonstration by a group of approximately 50 women who wanted to transmit, through the UNDP office, a letter of protest to the UN Secretary-General against the forced conscription of their sons and brothers into the Popular Defence Forces. The report states that according to information received from UNDP Khartoum, the police physically dispersed the group with force by aggressively beating the women, including elderly women, with sticks and rubber hoses and drag-

ging them into police cars. Reports later indicated that 36 women received 10 lashes each following a summary trial at which they were convicted for public order offences and one woman received 40 lashes, the additional lashes were allegedly inflicted because she was wearing trousers and a T-shirt.

On the issue of improving the flow of information between the government, the OHCHR and the SR and the independent verification of reports on the human rights situation the report notes that there should be: a direct and accelerated exchange of information between the Consultative Council on Human Rights and the OHCHR and the SR; a more timely transmission of replies to the communications received by the Consultative Council from the SR and the OHCHR, including provision of legal documents, statistics and other relevant documentation; the creation of the conditions necessary for impartial, professional, rapid and objective verification of the information and reports received regarding cases of violations of human rights; regular contacts between representatives of the OHCHR and the Consultative Council; and improved coordination between the OHCHR and other UN organs and agencies addressing, within their mandates, specific aspects of the situation of human rights in the Sudan.

Two approaches are offered as the means to achieve a better flow of information and verification: one, the establishment of periodic direct contacts in Khartoum between representatives of the OHCHR and the government in order to assess the possibilities for, and at a later stage to ensure the instant communication and verification of, any information or reports regarding the situation of human rights in the Sudan; and two, the placement, without delay and in cooperation with all parties concerned, of human rights field officers to monitor the situation of human rights in the Sudan with regard to the conflict zones, in the locations, under the modalities, and with the objectives suggested by the SR in earlier reports.

The section of the report describing conclusions notes that in April 1997 the Consultative Council for Human Rights established subcommittees to deal with human rights violations and abuses in a number of areas, including: detentions without trial, arrests, torture, lack of due process of law, religious persecution, forced displacement and bombardments, extrajudicial killings, access for relief organizations, humanitarian law, slavery, disappearances, the rights of women, the rights of the child, freedom of expression and peaceful assembly, and the report of the Juba Commission.

Referring to the April 1997 Khartoum Agreement on fundamental human rights and freedoms, the report states that implementation of this Agreement, as well as constitutional decree No. 14/1997, is key to the success of the peace process and essential to achieve a significant improvement in the human rights situation. Concluding comments are also provided on the reports of the Special Committee on Allegations of Enforced or Involuntary Disappearances and Reported Cases of Slavery and the Juba Report.

The report states that the recommendations in the report to the 1997 session of the Commission remain valid and reiterates some of the recommendations from the report to the 1997 General Assembly, namely that the government:

- ♦ ensure wide publicity of the activities and findings of the Special Committee on Allegations of Enforced or Involuntary Disappearances and Reported Cases of Slavery, including through the use of public radio and television broadcasts;
- ♦ give free and unimpeded access to international human rights and humanitarian organizations and independent observers to all areas where enforced or involuntary disappearances or cases of slavery, slave trade and similar institutions and practices — especially the sale of, and trafficking in, children and women — have been reported; and
- ♦ consider the possibility of international participation in the process of addressing reported cases of enforced or involuntary disappearances in the Nuba Mountains area and in contacting representatives of parties to the armed conflict other than the government in areas under their control.

The report also recommends that:

- ♦ a field office of the OHCHR be established in Khartoum to ensure prompt communication, exchange and verification of information or reports regarding the situation of human rights in the Sudan and to provide advice and technical cooperation to the government; and
- ♦ the placement of human rights field officers to monitor the human rights situation be implemented without delay.

Resolution of the Commission on Human Rights

At the 1998 session the Commission adopted by roll call vote a resolution on Sudan (1998/67). The Commission, *inter alia*: urged the government to release all remaining political detainees, cease all acts of torture and ill treatment, close down all clandestine or unacknowledged detention centres and ensure due process of law consistent with international standards; called on the government to bring national legislation into conformity with international human rights instruments to which Sudan is a state party; called on the government and all parties to the conflict to ensure that their forces act in compliance with international humanitarian law and those responsible for violations are brought to justice; urged the government to investigate reports related to the abduction, sale of or trafficking in children, and forced internment and indoctrination of children; welcomed the assistance of the government in the return of 17 abducted Ugandan children to their home country and urged the government to continue cooperation with UNICEF and the UNHCR in this area; called on the government to cooperate fully with the Special Committee on Allega-

tions of Enforced or Involuntary Disappearances and Reported Cases of Slavery; expressed the hope that the Special Committee will independently and actively pursue investigations into cases of slavery, the slave trade, forced labour and similar institutions and practices throughout the country; urged the government to end without delay all violations of human rights against women and girls; called on the government to cease immediately deliberate and indiscriminate aerial bombardment of civilian targets and relief operations; urged all parties to the conflict to cooperate fully with the peace efforts of the Intergovernmental Authority on Drought and Development; expressed the hope that the dialogue between non-governmental organizations and religious minorities will continue with a view to improving relations between those minorities and the government; extended the mandate of the SR for a further year; and recommended that priority be given, within existing resources, to the placement of human rights field officers to monitor the human rights situation in Sudan, as previously described by the SR.

The resolution was adopted by vote of 31 in favour, 6 opposed, 16 abstentions.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 351–356)

During the period under review, no new cases of disappearance were transmitted to the government. The majority of the 257 outstanding cases concern 249 villagers who were allegedly abducted from the village of Toror in the Nuba Mountains in 1995 by the armed forces. It is suspected that the villagers have been taken to one of the government-controlled "peace camps".

The Working Group (WG) welcomed the release of the report on the results of the investigation carried out by the Judicial Commission concerning the 1992 events in Juba [see the section summarizing the report of the Special Rapporteur on the situation in Sudan]. Recalling that most of those arrested have disappeared, the WG stated the report: does not address the question of the treatment of the detainees during detention and investigation; does not address in a convincing manner allegations of extrajudicial and summary killings and summary executions; and fails to provide information to the families on the location of the bodies for those who were reported to have been executed following trial, or for those who were reported to have been killed in the attacks against Juba.

The government submitted to the WG the final report of the Special Committee which investigated disappearances alleged to have occurred between February 1996 and July 1997. Based upon its investigations in the field and personal interviews, the Committee reported that: it had obtained the addresses of about 180 alleged victims

of enforced or involuntary disappearance in southern Kordofan; other alleged victims were said to have travelled voluntarily to various other Sudanese provinces in search of employment and stability; and, four persons had died. In the light of the testimonies and statements of those citizens and the statements of other persons interviewed, the Committee found that none of them had been abducted by the armed forces or government agencies.

The WG informed the government that the information contained in the report of the Special Committee was insufficient to consider the cases clarified under the WG's methods of work. This was due to the fact that more detailed information needed to be provided, including the current address of the alleged victim or a death certificate in those cases where the individual was reported to have died.

Freedom of opinion and expression, Special Rapporteur on: (E/CN.4/1998/40, paras. 8, 55, 94–97)

The report notes that the Special Rapporteur (SR) has a standing invitation to visit Sudan. In commentary on women and freedom of expression, the report notes that an urgent appeal was sent by the SR jointly with the Special Rapporteurs on the situation in Sudan and on violence against women, concerning an incident on 1 December 1997 in front of the UNDP offices in Khartoum. According to the information received, a group of approximately 50 women had arrived outside the gate of the UNDP compound to present a statement to the UN Secretary-General through the UN Resident Coordinator in Sudan. The statement was in protest against the compulsory military conscription of the women's sons and brothers to fight the civil war in southern part of the country. Information indicated that the women were: peacefully demonstrating, carrying banners denouncing the deployment of their sons and brothers; assaulted and beaten with sticks and rubber hoses and slapped by police and security officers; and arrested and dragged into police vehicles. It was further reported that approximately 34 of these women were tried the same day, convicted of public order offences, fined 10,000 Sudanese pounds, flogged with 10 strokes each, and then released. Further, it has been reported that some of the women were hospitalized as a result of the injuries suffered.

The government replied that the demonstration was carried out in violation of the law which requires a licence from local authorities of Khartoum State. The licence, which is routinely issued within 48 hours upon request, then assures protection by police. The government stated that since the gathering was illegal, the authorities were, in accordance with the law, bound to prevent any act that intended or was likely to cause a breach of public peace or tranquillity in a public place, and referred to its obligation to protect the UN office in Khartoum under the Convention on the Privileges and Immunities of the United Nations and other relevant instruments.

Racism and racial discrimination, Special Rapporteur on: (E/CN.4/1998/79, paras. 35, 53)

The Special Rapporteur referred to information related

to the persistence of black slavery, indicating that such practices are said to be increasingly inflicted on Blacks made prisoners in the war which has raged in Sudan since 1983.

Religious intolerance, Special Rapporteur on:

(E/CN.4/1998/6, paras. 17, 19, 29, 48, 50, 64)

The report refers to violations of freedom of religion and belief against Christianity, and notes reports indicating that Christian schools have reportedly been bulldozed.

Torture, Special Rapporteur on:

(E/CN.4/1998/38, paras. 177–180;

E/CN.4/1998/38/Add.1, paras. 396–410)

Eight urgent appeals were transmitted to the government, all in conjunction with the Special Rapporteur (SR) on the situation of human rights in the Sudan. Two appeals were individual cases, and six were collective on behalf of a total of 163 named individuals and one group of 775 unidentified children reportedly held at Al Huda camp at Abu Dum, a facility for street children. The SR also sent a communication to the government in response to the arrest and treatment of the 50 women demonstrating in front of the UNDP office in Khartoum (see the summary under "Freedom of opinion and expression").

The cases transmitted referred to, *inter alia*, the arrest and incommunicado detention of 90 persons — including several members of the Umma Party and of the Ansar religious order, some former government officials and lawyers, a former member of the Sudan Doctor's Union, a member of the Democratic Union Party, a member of the Communist Party, trade unionists, an imam, and a journalist. The report notes the government statement that the named persons had been legally detained on suspicion of involvement in a foreign invasion on Sudanese territory, and their right to physical and mental integrity was fully protected as well as their humane treatment while in detention. Information was provided on the detention of approximately 775 boys between the ages of 7 and 16 at the Al Huda camp. Some were said to have been taken to the camp forcibly, despite the fact that they were not homeless, many were said to be suffering from serious medical neglect, sometimes life-threatening, and a number had been subjected to torture or ill-treatment for attempting to escape or other infringements. The government referred to its undertaking to work with UNICEF on family reunification for these children, denied that conditions in the camp were harsh, and noted its decision to close down the camp and replace it with reception and reunification centres in which children would spend a maximum of six months during which their cases could be studied with a view to their rehabilitation and reunification.

The SR also transmitted information related to: the arrest of 76 persons, among whom were four members of the Ba'ath Arab Socialist Party; the arrest and alleged torture during a previous detention of a 64-year-old labour union leader; the arrest of 13 university students said to be political activists who were allegedly being held

without charge or trial in the security wing of Kober prison; the arrest and beating of a university graduate who was allegedly ordered for further interrogation, noting the government statement that the person named had been arrested and released immediately after interrogation; and, the arrest of four persons on the accusation of having links with the opposition, noting that the government confirmed the arrest of three persons, but denied the arrest of the fourth.

In response to cases previously transmitted the government indicated: the persons named had been arrested on the accusation of involvement in bombardments of some strategic areas but had been released after investigation; the persons named had not been detained; the person named had been summoned to the security services but had been immediately released; the persons involved in a demonstration had not been arrested; and the persons named who were reportedly arrested, some of whom were said to have died as a result, had never been detained.

Mechanisms and Reports of the Sub-Commission

Systematic rape, sexual slavery and slavery-like practices during armed conflict, Special Rapporteur on: (E/CN.4/Sub.2/1998/13, para. 67)

The report notes that the majority of the world's contemporary armed conflicts are non-international, or internal, in character and cites information indicating that sexual violence is a common feature in the ongoing hostilities in Sudan.

Traditional practices affecting the health of women and girls, Special Rapporteur on: (E/CN.4/Sub.2/1998/11, para. 97)

The report refers to actions taken by the government to eradicate harmful traditional practices. The objective of the Sudanese National Committee on traditional practices affecting the health of women and children is to eradicate or modify undesirable traditions, customs and behaviour in rural and urban areas by the year 2000. The question of the eradication of female genital mutilation has been incorporated in the basic education curriculum and teaching on the subject began in 1997.

OTHER REPORTS

Children affected by armed conflict, Special Representative: (A/53/482, paras. 43, 71–83)

The Special Representative (SRep) visited the Sudan from 14 to 17 June 1998 with two objectives: first, to assess first-hand the impact on children of the protracted conflict in the Sudan; and second, to seek the support of the government in locating and facilitating the release of children abducted from northern Uganda. On the second point, the report notes that the government made a pledge to assist with the ongoing efforts of the SRep to obtain the release of children who have been abducted from northern Uganda and was requested by the SRep to use its influence to help trace and secure the release of

schoolgirls abducted by the Lord's Resistance Army from St. Mary's College, Aboke.

Concerning the first objective, the government made a number of commitments, namely: access to the Nuba mountains — promising to facilitate the work of the UN team investigating the attack on a UN convoy in the area of the Nuba mountains; recruitment and participation of children in hostilities — undertaking to correct any deviation from its policy not to recruit or deploy children under the age of 18 years; use of landmines — indicating that it would do everything to avoid deploying landmines while insisting that this was a difficult issue because of the continuing use of landmines by other parties to the conflict and also the fact that several neighbouring countries had not signed the Ottawa Convention on the ban of landmines; collaboration with the Southern States Coordinating Council — agreeing to set up a contact group between the Council and relevant UN agencies to develop programmes to build greater awareness within groups under the authority of the Council on humanitarian and human rights standards relating to the protection of children; and observing the Convention on the Rights of the Child — noting that a national charter based on the Convention, in Arabic and English, was being translated into other local languages to ensure wider dissemination in the country.

The report notes that the SRep was not able to visit the SPLA-controlled areas of the Sudan, but did meet with the Sudan People's Liberation Movement's leadership in Nairobi. A visit to SPLA-controlled areas was planned for the near future.

GENERAL ASSEMBLY

Special Rapporteur of the Commission on Human Rights

The note by the Secretary-General (A/53/504) recalls that in March 1998 Gáspár Bíró resigned as Special Rapporteur. Mr. Leonardo Franco of Argentina was appointed to succeed Mr. Bíró but because of the lateness of the appointment an interim report was not prepared for the 1998 General Assembly. Those interested in the situation in Sudan were requested to refer to the report prepared for the 1998 session of the Commission (as above).



SWAZILAND

Date of admission to UN: 24 September 1968.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Swaziland has not submitted a core document for use by the treaty bodies.

Racial Discrimination

Acceded: 7 April 1969.

Swaziland's 15th periodic report was due 6 May 1998.

Rights of the Child

Signed: 22 August 1990; ratified: 7 September 1995.

Swaziland's initial report was due 5 October 1997.

Reservations and Declarations: Article 4.

THEMATIC REPORTS**Mechanisms of the Commission on Human Rights****Arbitrary detention, Working Group on:**

(E/CN.4/1998/44, para. 19)

The report notes that one urgent appeal on behalf of four persons was transmitted to the government. No details of the case were provided.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 13, 37, 69; E/CN.4/1998/68/Add.1, para. 307)

An urgent appeal was sent to the government on behalf of officials of the Swaziland Federation of Trade Unions (SFTU), and other trade union activists. The case arose in the context of a national strike led by trade unions in February 1997 which led to at least 23 executive and ordinary members of the SFTU being severely assaulted by police and military officers when they were leaving a trade union meeting. In the light of this incident, and an alleged announcement by the Prime Minister that he had ordered the police to "shoot to kill" to maintain law and order during the strike, fears had been expressed for the right to life and physical integrity of SFTU officials and other trade union activists.

Torture, Special Rapporteur on: (E/CN.4/1998/38, para. 181; E/CN.4/1998/38/Add.1, para. 411)

An urgent appeal was sent to the government on behalf of the Secretary of the Human Rights Association of Swaziland (HUMARAS) and Chair of the Swaziland Democratic Alliance, who was reportedly arrested without a warrant by police in February 1997 and held at Manzini police headquarters. In its reply, the government confirmed the arrest but stated that he had been allowed to contact his attorney, had not been harmed in any way while in police custody, and had been released the following day.

FIELD OPERATIONS

Swaziland is a member of the Southern Africa Development Community (SADC) and, therefore, a beneficiary of and participant in the Regional Human Rights Programme Office for Southern Africa, a joint project of OHCHR and UNDP, which is based in Pretoria (see profile under "South Africa").

**TANZANIA,
UNITED REPUBLIC OF**

Date of admission to UN: 14 December 1961 (incorporating Tanganyika and Zanzibar).

**TREATIES: RATIFICATIONS AND
RESERVATIONS**

Land and People: Tanzania has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Acceded: 11 June 1976.

Tanzania's initial and second reports were due 30 June 1990 and 1995 respectively.

Civil and Political Rights

Acceded: 11 June 1976.

Tanzania's third periodic report (CCPR/C/83/Add.2) was considered at the Committee's July 1998 session; the fourth periodic report was due 11 April 1996.

Racial Discrimination

Acceded: 27 October 1972.

Tanzania's eighth through 13th periodic reports (covering the period 1987-1997) have not been submitted; the 13th periodic report was due 26 November 1997.

Discrimination Against Women

Signed: 17 July 1980; ratified: 20 August 1985.

Tanzania's second and third periodic reports were submitted as one document (CEDAW/C/TZA/2-3), which was considered by the Committee at its July 1998 session; the fourth periodic report was due 19 September 1998.

Rights of the Child

Signed: 1 June 1990; ratified: 10 June 1991.

Tanzania's second periodic report was due 9 July 1998.

REPORTS TO TREATY BODIES**Committee on the Elimination of
Discrimination against Women**

Tanzania's 2nd and 3rd periodic reports were submitted as one document (CEDAW/C/TZA/2-3, September 1996) which was considered by the Committee at its July 1998 session. The report prepared by the government covers the period from 1990 to 1996 and contains information on, *inter alia*: the Women's Development Fund, established in 1992; the Training Fund for Tanzanian Women (1990-1995); reform of laws related to, for example, succession, marriage, children; legal literacy and legal education; violence against women; participation in political and public life; citizenship and nationality; access to education; employment and health; the National Plan of Action for Child Survival, Protection and Development;

access to family planning services; the National AIDS Control Programme; social security and pensions; the situation of rural women; and equality before the law in civil matters.

The Committee's concluding observations and comments (CEDAW/C/1998/II/L.1/Add.5) welcomed, *inter alia*: the upgrading of national machinery from departmental to ministry status and the policy which supports women's rights; the enactment of a new law which criminalizes female genital mutilation; and the active involvement of NGOs and women's groups in advancing the status of women. The economic situation and the burden posed by servicing the foreign debt were noted as hindrances to implementation of the Convention, as were traditional practices and problems associated with stereotypical roles of women and men.

The principal subjects of concern identified by the Committee included, *inter alia*: failure in the Constitution to define explicitly gender discrimination; that the report did not sufficiently examine obstacles to the elimination of discrimination against women and the advancement of the status of women in society; the discriminatory elements in prevailing customary and religious laws which sometimes supersede the Constitution, noting that several groups are entitled to practise polygamy, and customary laws and religious laws continue to govern private life; that despite some special measures which were introduced to ensure the participation of women in policy-making, the representation of women in local authorities and in Parliament remains low; and the fact that more women than men are confined to low-paid, insecure jobs with no legal protection.

The Committee expressed concern about: the problem faced by women with regard to violence against women, especially domestic violence, which is condoned by customary laws; the disadvantaged situation of rural women who comprise the majority of the rural population and the majority of workers in rural areas; the fact that customary and religious laws are practised and accepted more widely in rural areas and, *inter alia*, often prevent women from inheriting and owning land and property; the existence of food taboos, more prevalent in rural than in urban areas, which are harmful to the health of women, including mothers; and continuing high rates of infant and maternal mortality. The Committee also expressed concern about the lack of information related to such issues as: the exact types of punishments for offenders of violence against women; the content of the new, expanded definition of rape; forms of female genital mutilation that are practised in the country; the situation of trafficking in women and girls; revisions made to educational materials in order to include a gender perspective; and the situation of HIV/AIDS and women.

The Committee recommended that the government, *inter alia*:

- ♦ consider, as a matter of priority, incorporating into the Constitution a definition of gender discrimination in accordance with article 1 of the Convention as a ground of discrimination;

- ♦ take immediate action to modify customary and religious laws to comply with the Constitution and the Convention; organize awareness-raising campaigns for the general public, as well as training courses to sensitize policy makers, judiciary and law enforcement officers;
- ♦ criminalize violence against women in all its forms; develop and effectively enforce law and practice to achieve this objective; establish and adequately resourced shelters for women who have been subjected to violence;
- ♦ formulate laws of inheritance and succession so as to guarantee rural women their rights of inheritance and ownership of land and property; introduce a programme to educate rural women about their rights; take steps to remove all traditional practices, including food taboos, which are harmful to the health of women;
- ♦ provide, in the next report, detailed information on the mandates, budget and projects of the Women's Development Fund (WDF); and
- ♦ provide in the next report further information on the situation of refugee women and any government programmes in place to address their needs.

Human Rights Committee

Tanzania's 3rd periodic report (CCPR/C/83/Add.2, February 1997) was considered by the Committee at its July 1998 session. The report prepared by the government notes the multi-party elections in 1995 and contains information on, *inter alia*: constitutional protections of rights and freedoms, the Bill of Rights; plans to establish within the Ministry of Justice a section to deal with matters related to human rights; findings by the Land Commission and the Law Reform Commission of Tanzania related to laws and practices depriving women of their basic rights (e.g., inheritance and land rights), noting that some of the legislation was strongly influenced by traditional or customary rights which generally favour men at the expense of women; and the formation of Baraza la Wanawake wa Tanzania, or BAWATA, an inter-party women's organization. The report contains numerous references to the work of the Presidential Commission established in 1991 (the Nyalali Commission) and proposals for reform or repeal of legislation. The periodic report also provides information on: provisions related to a declaration of a state of emergency; the right to life, instances of mob justice, application of the death penalty; the prohibition of torture and ill treatment, the Evidence Act No. 6 of 1967; the Preventive Detention Act and proposals for its repeal; corporal punishment, the Human Resources Deployment Act No. 6 of 1983 ("Nguvu Kazi Act"), criticisms that it encourages forced labour and the proposal that it be repealed; liberty and security of person; the rights of aliens, deportation procedures; the organization of the judiciary; the right to a fair and public hearing; provisions in the Criminal Procedures Act 1985; protection of the family and protection of privacy; freedom of religion, freedom of

opinion and expression, the right to information; the prohibition on propaganda for war and incitement to hatred, provisions in the Penal Code; the freedoms of peaceful assembly and association, trade unions, the Permanent Labour Tribunal; protection of children, the definition of the child, minimum age levels; and the right to vote and be elected.

The Committee's concluding observations and comments (CCPR/C/79/Add.97) welcomed: the restoration of political pluralism; the demonstrated willingness of the courts to examine the actions of government and its agencies for compliance with the Constitution, as exemplified in the interim injunction suspending the deregistration of Baraza la Wanawake wa Tanzania (BAWATA); the easing of limitations on freedom of expression on the mainland for the press, radio and television; the large reduction in the employment of children in the gemstone industry; and the proposal to establish a Constitutional Court to oversee, among other things, full respect for human rights.

The subjects of concern identified by the Committee included the fact that the recommendations of the Nyalali Commission for repeal or amendment have not been acted upon. As a consequence, numerous acts and ordinances remain in force — for example, the Emergency Powers Act 1986, certain aspects of the Human Resources Deployment Act 1983, the Preventive Detention Act 1962, and the Witchcraft Ordinance 1928.

With regard to the situation of women and girls, the Committee expressed concern over: traditional customs that inhibit complaints about rape between separated spouses and the practice of female genital mutilation; the failure to recognize marital rape as a criminal offence; the application of personal laws which discriminate against women with respect to, for example, marriage, divorce, land and inheritance; the fact that customary attitudes discourage women from pursuing their full educational rights and that, as a result, they tend to lack the qualifications needed to reach higher levels of achievement in all aspects of activity, such as the senior judiciary, and are under-represented in political spheres; provisions in the Law of Marriage Act that discriminate against women with regard to the minimum age for marriage; and stipulations in section 138 (6) of the Penal Code that allow any person of African or Asiatic descent to marry, or permit the marriage of, a girl under the age of 12, provided that there is no intention to consummate the marriage until she attains that age.

Concern was also raised over: the law in force in Zanzibar which allows for the imprisonment of both mother and father in the event of an unmarried woman becoming pregnant; the absence of training for the police in human rights and in the proper use of riot equipment, such as "rubber bullets"; the fact that actions by the police have resulted in homicide; the fact that investigation of complaints against the police is carried out by the police themselves; reports of armed groups ("sungu-sungu") which act as vigilantes and may commit abuses of human rights; the deterioration in prison conditions and over-

crowding, rape and other sexual abuse of female prisoners.

The Committee noted its concerns related to: the large number of election petitions before the High Court and the backlog this has caused, leading to delays of other proceedings including trials for homicide; the fact that, approximately two and a half years after an election, adjudication on the right of a person to sit in Parliament is still awaited; the fact that case conferences convened by the courts have failed to expedite proceedings and have offered no solution to the backlog of cases; the high level of domestic violence; and the employment of children in industrial and agricultural activities.

The Committee recommended that the government, *inter alia*:

- ♦ give priority to the implementation of reforms proposed by the Nyalali Commission and give formal recognition to, and applicability of, the Covenant in domestic law;
- ♦ disseminate information about legal remedies in such cases as those involving rape between separated spouses, female genital mutilation and marital rape, and support women who are entitled to take advantage of legal remedies;
- ♦ put an end to discriminatory laws and practices against women; take action to increase the number of girls' schools; exert persuasion on society to insist on girls' attendance at school; give support to young women who wish to pursue higher education; eliminate from law discriminatory features related to marriage and the age of marriage for women and girls;
- ♦ publish details on death penalty sentences, on the mainland and in Zanzibar; abolish the death penalty;
- ♦ abolish the law in Zanzibar which allows for the imprisonment of both mother and father in the event of an unmarried woman becoming pregnant;
- ♦ conduct a national review on abortions, noting that illegal abortion is a major cause of maternal mortality;
- ♦ abolish corporal punishment as a judicial sentence, preclude such a penalty for offences against prison regulations and prohibit corporal punishment of children in schools;
- ♦ ensure that no refugees are returned to another state unless it is certain that, once there, they will not be executed or subjected to torture or other forms of inhuman treatment;
- ♦ provide thorough training for the police and establish an independent mechanism for investigating complaints against the police;
- ♦ prohibit the operations of militias without specific legislative approval and, in any event, ensure that any such militia is properly trained and its activities subject to full supervision by the courts;

- ♦ make available resources to remedy the poor conditions in prisons; provide human rights training to prison officers; recruit a sufficient number of female officers to ensure that only such officers are in charge of female prisoners; make alternatives to a sentence of imprisonment more widely available to the courts; encourage the judiciary to use these alternatives, in appropriate cases, when passing sentence;
- ♦ abolish imprisonment for inability to pay a debt and carry out a study of alternative means of enforcing judgement debts;
- ♦ take suitable measures to eliminate the backlog of pending cases before the High Court and adopt a more expeditious procedure to determine electoral disputes;
- ♦ bring laws into conformity with article 17 of the Covenant in order to ensure the freedom of an adult individual's sexual conduct;
- ♦ introduce legislation to provide civil and criminal remedies in cases of domestic violence;
- ♦ take further steps to eliminate the employment of children in industrial and agricultural activities; and
- ♦ establish an independent body to oversee respect for, and to disseminate knowledge of, human rights.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 13, 14, 17, 44, 45, 64; E/CN.4/1998/68/Add.1, paras. 409–412)

Two urgent appeals were sent to the government. The first was sent on behalf of Burundi refugees in Tanzania when fears for their life were expressed if they were to be repatriated. Information received indicated: 48 refugees, reportedly forcibly returned to Burundi in January 1997, were arrested upon their arrival in Burundi and extrajudicially executed the following day; also in January 1997, 126 Burundi refugees were reportedly forcibly returned from Tanzania to Burundi and 122 of them were allegedly shot and killed the same day by members of the Burundi armed forces. The second appeal was sent on behalf of approximately 100 Zairian nationals when fears were expressed that their life and physical integrity might be at risk if they were to be returned to DR Congo (Zaire). Some of them were reported to be prominent members of President Mobutu's political party and others were reportedly known as political opponents or critics of the Alliance of Democratic Forces for the Liberation of Congo (AFDL). In both urgent appeals, the Special Rapporteur (SR) requested the government to refrain from returning these persons.

The government replied that no Zairians had been repatriated and approximately 4,000 Zairians — believed to be mostly members of militias — had voluntarily requested to be repatriated.

Torture, Special Rapporteur on: (E/CN.4/1998/38, para. 197; E/CN.4/1998/38/Add.1, para. 449)

Referring to a case included in the Special Rapporteur's (SR) report to the 1997 Commission on Human Rights (E/CN.4/1997/7/Add.1, para. 540), the SR transmitted, in response to a request by the government, copies of the medical reports in a case that had involved torture at the camp of the anti-smuggling squad (KMKM). The government submitted its observations on the medical reports, stating: the medical officer who had filled in the medical examination report was not the one who had treated the person named; not all injuries described in the medical reports corresponded with each other; the person named had been treated and discharged from hospital at his own request; despite a referral for further examination at another hospital, he had delayed going there; the type of medical treatment given to him was only given in cases of minor injuries, suggesting that he was not seriously hurt, nor could he have sustained brain damage. On that basis, the government stated the allegations of torture were unreliable.

Violence against women, Special Rapporteur on: (E/CN.4/1998/54, Section III.E)

In the section on projects to protect women refugees from gender-based violence, the report refers to crisis intervention teams in Ngara camp and notes, *inter alia*: in view of the extreme sensitivity of the topic of sexual violence, UNHCR considered it crucial to involve refugees themselves in identifying an appropriate response mechanism to sexual violence and rape; participatory discussions indicated that during the first few months a degree of security against assault was offered due to extreme overcrowding in the camps and lack of privacy; and, in subsequent months sexual violence increased. The crisis intervention teams (CITs) were established in March 1995. The Special Rapporteur (SR) noted: the CITs were composed of refugees and supported by NGOs, to provide community service in each camp; implementation of the programme was motivated by the belief that victims would be more willing to report an assault to someone who shared the same language and culture and understood the social ramifications and significance of the event; CIT members, who were constantly present in the community, could offer more sustained support for victims; CIT members could act as advocates for the victims during the process of gathering relevant information, thereby sparing them the ordeal of answering the same questions from many different professionals.

The SR also referred to the Refugee Information Network (RIN) which was created in late 1994 after it became apparent that the existing channels of communication between humanitarian organizations and the refugees were too narrow. RIN consisted of newsletters, radio

broadcasts, bulletin boards, posters, videos, and discussion sessions. Information systems were used for an awareness campaign on sexual violence and concrete measures for increasing safety were introduced, including through: water points being open only during daylight hours; organization by refugees of a timetable for different groups using the same taps; dismissal of security guardians at water points caught blackmailing refugees; and, provision of wood fuel to the most vulnerable individuals in the camps by humanitarian agencies. The SR noted that after a short period of time the arrangement had to cease for financial reasons.

FIELD OPERATIONS

Tanzania is a member of the Southern Africa Development Community (SADC) and, therefore, a beneficiary of and participant in the Regional Human Rights Programme Office for Southern Africa, a joint project of OHCHR and UNDP, which is based in Pretoria (see profile under "South Africa").



TOGO

Date of admission to UN: 20 September 1960.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Togo has submitted a core document (HRI/CORE/1/Add.38/Rev.1) for use by the treaty bodies. The report prepared by the government includes demographic and statistical data as well as information on political history and the general legal framework for the protection of human rights.

The Constitution establishes the framework for rights and contains provisions related to the Constitutional Court, the Court of Audit, the High Authority for Communications and Broadcasting, the Economic and Social Council, the High Court of Justice, and the National Human Rights Commission. The national Commission is a civil law institution which has four objectives: to protect the rights of citizens; to consider and recommend to the authorities any bills concerning human rights with a view to their adoption; to organize seminars and symposia on human rights; and to express opinions on human rights issues. The Commission also considers applications from any individual, or a third party or non-governmental organization acting on behalf of an individual, seeking remedy for a violation of human rights. The Ministry of Human Rights was established in 1992 and has responsibility for implementing the government's human rights policy and coordinating initiatives in this area. The provisions of international human rights instruments have been incorporated into the Constitution and may be invoked before the courts.

Economic, Social and Cultural Rights

Acceded: 24 May 1984.

Togo's initial and second periodic reports were due 30 June 1990 and 1995 respectively.

Civil and Political Rights

Acceded: 24 May 1984.

Togo's third periodic report was due 31 December 1995.

Optional Protocol: Acceded: 30 March 1988.

Racial Discrimination

Acceded: 1 September 1972.

Togo's 11th through 13th periodic reports have been submitted as one document (CERD/C/319/Add.3) which is not yet scheduled for consideration by the Committee; the 14th periodic report is due 1 October 1999.

Discrimination against Women

Acceded: 26 September 1983.

Togo's initial and second through fourth periodic reports were due 26 October 1984, 1988, 1992 and 1996 respectively.

Torture

Signed: 25 March 1987; ratified: 18 November 1987.

Togo's initial, second and third periodic reports were due 17 December 1988, 1992 and 1996 respectively.

Reservations and Declarations: Declaration under articles 21 and 22.

Rights of the Child

Signed: 26 January 1990; ratified: 1 August 1990.

Togo's second periodic report was due 1 September 1997.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Disappearances, Working Group on:

(E/CN.4/1998/43, para. 364)

No new cases of disappearance were transmitted to the government. Six of the 10 outstanding cases concerned persons who were reportedly detained in 1994 by members of the armed forces at Adetikope. Another case concerned a civil servant who was reportedly the adviser to the President of the High Council between 1991 and 1993, and who is said to have been abducted from his car in the Lomé suburb of Aguényié and taken to an unknown destination by three men in a minibus, followed by a military vehicle. The other victims were a man arrested by the police and taken to the Central Commissariat in Lomé, from where he disappeared a few days later; a farmer abducted from his home by armed men and taken to an unknown destination; and a businessman abducted from his home by five men in military fatigues.

No new information was received from the government with regard to the outstanding cases. As a consequence,

the Working Group was unable to report on the whereabouts of the disappeared persons.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 14, 39; E/CN.4/1998/68/Add.1, paras. 377-378)

Cases were transmitted to the government concerning the deaths of a gendarmerie captain who was reportedly shot in the back by several bullets fired by members of the Togolese armed forces, and the Counsellor of the German Embassy in Togo who was shot by soldiers at a checkpoint when he refused, as a diplomat, to allow his car to be searched. The report notes that no reply was received from the government on these two cases. The Special Rapporteur expressed concern about the allegations of summary executions that continue to be made against soldiers, and the impunity which appears to protect them.

FIELD OPERATIONS

The national project on Togo is based at the Ministry of Human Rights and Justice and has responsibility to coordinate activities derived from the technical cooperation agreement signed between the High Commissioner for Human Rights and the government. The headquarters is located in Lomé. Yves BoukpeSSI Bakobasso, Gestionnaire national du projet, B.P. 271, Lomé, Togo; Phone: (228) 21-85-59; Fax: (228) 21-19-73; 22-29-06.

The technical cooperation programme is aimed at consolidating a climate of peace and respect for human rights and focusses on training in human rights and the administration of justice and human rights education. Activities carried out under the project include: organization and conduct of seminars and workshops; arrangements to ensure the participation of experts in these and other educational activities; and provision of training materials, legal texts, and basic documents related to human rights.

The main activities up to August 1998 included:

- ♦ training for the National Human Rights Commission in such areas as the preparation and presentation of periodic reports and training for staff at the Ministry for Human Rights;
- ♦ training for army personnel, political parties, trade unions, parliamentarians, and personnel at the Ministries of Justice, Foreign Affairs, Interior and Human Rights; representatives of organizations working in areas affecting children and women as well as human rights NGOs; state-owned and private media; police officers, judges and lawyers;
- ♦ fellowships for further human rights study to members of governmental and non-governmental human rights bodies;
- ♦ providing human rights publications and documents to NGOs, the courts, the National Human Rights Commission and the Commission on the harmonization of national legislation; and

- ♦ purchase of office equipment and materials for a human rights Documentation Centre.



TUNISIA

Date of admission to UN: 12 November 1956.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Tunisia has submitted a core document (HRI/CORE/1/Add.46) for use by the treaty bodies. The report prepared by the government contains demographic and statistical data as well as information on overall political development, the constitutional and legal framework and the general legal framework for the protection of human rights.

The Constitution establishes fundamental rights and freedoms and a number of laws have been amended or enacted to give effect to specific rights, *inter alia*, the Press Code, a law on reform of the education system, the Personal Status Code, the Nationality Code, the Labour Code, and the Criminal Code. A number of political and administrative bodies have been established to ensure the protection of human rights. These include the Principal Advisor on Human Rights to the Head of State, human rights units in the Ministries of Foreign Affairs, the Interior, Justice and Social Affairs, and the Economic and Social Council. In addition to these bodies and the courts, other institutions have been set up to monitor respect for human rights and include the Higher Committee on Human Rights and Fundamental Freedoms, a consultative body under the aegis of the President which, in addition to advising the President may also receive complaints from individuals, and the office of the Ombudsman. International human rights treaties to which Tunisia is a party are more binding than internal legislation.

Economic, Social and Cultural Rights

Signed: 30 April 1968; ratified: 18 March 1969. Tunisia's second periodic report (E/1990/6/Add.14) has been submitted and is scheduled for consideration by the Committee at its April/May 1999 session; the third periodic report is due 30 June 2000.

Civil and Political Rights

Signed: 30 April 1968; ratified: 18 March 1969. Tunisia's fifth periodic report was due 4 February 1998. *Reservations and Declarations:* Declaration under article 41.

Racial Discrimination

Signed: 12 April 1966; ratified: 13 January 1967. Tunisia's 13th and 14th and 15th periodic reports were due 4 January 1994, 1996 and 1998 respectively.

Discrimination against Women

Signed: 24 July 1980; ratified: 20 September 1985. Tunisia's third and fourth periodic reports were due 20 October 1994 and 1998 respectively.

Reservations and Declarations: Paragraph 2 of article 9; paragraphs (c), (d), (f), (g) and (h) of article 16; paragraph 2 of article 29; paragraph 4 of article 15.

Torture

Signed: 26 August 1987; ratified: 23 September 1988. Tunisia's second periodic report (CAT/C/20/Add.7) was considered at the Committee's November 1998 session; the third periodic report was due 22 October 1997.

Reservations and Declarations: Declaration under articles 21 and 22.

Rights of the Child

Signed: 26 February 1990; ratified: 30 January 1992. Tunisia's second periodic report is due 28 February 1999.

Reservations and Declarations: Preamble; article 6; article 2; paragraph 2 (b) (v) of article 40; article 7.

REPORTS TO TREATY BODIES

Committee against Torture

Tunisia's 2nd periodic report (CAT/C/20/Add.7, November 1997) was considered by the Committee at its November 1998 session. The report prepared by the government covers the period 1990 to 1993 and contains information on, *inter alia*: the Higher Committee on Human Rights and Fundamental Freedoms, established in 1991; the establishment, in 1992, of human rights units within the Ministries of Justice, of the Interior and of Foreign Affairs; reform of the Code of Criminal Procedure; introduction of human rights training and teaching for the internal security forces and law enforcement officers; provisions in the Criminal Code; establishment of the independent Commission of Investigation to look into allegations of abuses by law enforcement officials against detainees following government actions against the illegal "Ennahdha" movement; extradition and political refugees; legal provisions related to abuse of authority by public officials; relevant provisions in the Penal Code; jurisdiction in cases of torture or ill treatment; human rights training for law enforcement officials, the internal security forces and persons working in the judicial system; provisions related to custody and detention and the protection of the rights of persons held; the juvenile justice system; complaint, remedy and compensation; evidentiary value of confessions; the National Agreement of 1988; the non-governmental Tunisian League for Human Rights (LTDH), created in May 1977; the principle of two hearings, intended to strengthen the guarantees afforded to the litigant; capital and corporal punishment; and incommunicado detention.

The Committee's concluding observations and comments (CAT/C/TUN) welcomed, *inter alia*: the establishment of a number of human rights posts, offices and units within

the executive branch and within the civil society; the efforts made to raise the level of awareness of the principles of human rights in the society; publication of a code of conduct for law enforcement officials; establishment of human rights departments in universities and establishment of human rights units in some key Ministries; the establishment, for the first time, of an independent commission of investigation to examine the allegation of abuses; and the constitutional provision stipulating that ratified treaties have a higher authority than laws.

Subjects of concern identified by the Committee included, *inter alia*: that the definition of torture under law does not conform with article 1 of the Convention; the wide gap that exists between law and practice with regard to the protection of human rights; the reported widespread practice of torture and other cruel and degrading treatment perpetrated by security forces and the police, that in certain cases resulted in death in custody; the pressure and intimidation used by officials to prevent the victims from lodging complaints; that many of the regulations existing for arrested persons are not adhered to in practice (e.g., pre-trial detention, notification of family, medical examinations with regard to allegations of torture, autopsies in all cases of deaths in custody); that arrests are very often made by plain clothes agents who refuse to show any identification or warrant; the abuses directed against women members of the families of detainees and exiled persons; and that the government does not accede to requests of extradition of political refugees but does not apply this practice to other kinds of cases.

The Committee recommended that the government, *inter alia*:

- ♦ ensure strict enforcement of the provisions of law and procedures of arrest and police custody;
- ♦ strictly enforce the procedures of registration including notification of families of persons taken into custody;
- ♦ ensure the right of victims of torture to lodge a complaint without the fear of being subjected to any kind of reprisal, harassment, harsh treatment or prosecution — even if the outcome of the investigation into the claim does not prove the allegation — and to seek and obtain redress if the allegations are proven correct;
- ♦ ensure that medical examinations are automatically provided following allegations of abuse and an autopsy is performed following any death in custody;
- ♦ ensure that the findings of all investigations concerning cases of torture are made public, and that this information include details of any offenses committed, the names of the offenders, the dates, places and circumstances of the incidents and the punishment received by those who were found guilty;
- ♦ reduce the police custody period to a maximum of 48 hours;

- ♦ bring the relevant articles of the Criminal Code into line with the definition of torture as contained in article 1 of the Convention; and
- ♦ amend relevant legislation to ensure that no evidence obtained through torture shall be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on:

(E/CN.4/1998/44, paras. 14, 15, 19;

E/CN.4/1998/44/Add.1, Opinion No. 13/1997)

The government informed the Working Group that the person named in decision 5/1996 had been released. Three urgent appeals on behalf of four persons were sent to the government during the period under review. The government responded that the persons named had either never been detained, or were released. No details of the cases were provided.

Opinion No. 13/1997 related to one person who was released at the end of December 1996 for humanitarian reasons. Having examined all the available information, and without prejudging the nature of the detention, the Working Group decided to file the case.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 14, 32, 68; E/CN.4/1998/68/Add.1, paras. 379–380)

The Special Rapporteur referred one case to the government involving a journalist and member of the An Nahda Movement, who was arrested in 1990 and died in prison in May 1997. Information indicated that he had been seriously ill and did not receive proper medical care.

Freedom of opinion and expression, Special

Rapporteur on: (E/CN.4/1998/40, paras. 8, 98–101)

The Special Rapporteur referred a case to the government involving the Vice President of the Ligue tunisienne pour la défense des droits de l'homme who was arrested in September 1997 at his home in Tunis by members of the security forces. The individual was arrested after having begun a hunger strike, which he had announced publicly the same day, in order to protest against the restrictions imposed on him by the Tunisian authorities and the human rights situation in the country. He was charged with undermining public order, spreading false information aimed at disturbing public order, and inciting people to break the law.

The government confirmed the arrest and stated that, on the basis of the accused's statements before the Court of First Instance in Tunis, the Government Procurator called for judicial proceedings to be instituted for commission of the offence of defamation against the public order, publication in bad faith of false news capable of disturbing the public order, and incitement of the popu-

lation to infringe the law of the country. The government noted that the individual had legal counsel, was being detained in civil imprisonment in Tunis, his situation was normal, and he was being treated in accordance with prison regulations. On that basis the government asserted that the arrest was consequent upon offences under the legislation in force and bore no relation to his membership of the Ligue tunisienne pour la défense des droits de l'homme, or to the views he holds, or the exercise of his right to freedom of opinion and expression.

Independence of judges and lawyers, Special Rapporteur on the: (E/CN.4/1998/39, paras. 14, 15, 18, 19, 164–167)

An urgent appeal was sent to the government on behalf of a lawyer who had reportedly been intimidated and harassed in April 1997 for reasons relating to her work in defence of victims of torture and other human rights violations. The lawyer's office was broken into, her computer stolen, her phone disconnected, and her files interfered with. It was further reported that she had been the victim of similar acts of intimidation in 1994 and in 1995. The government responded that: the robbery of the office was the subject of a judicial investigation based upon a complaint made before the competent authorities; the two thieves had been arrested and had admitted to their crimes; and, one of the convicted was sentenced to eight months' imprisonment, the other to four months. The government denied the allegations that the lawyer had suffered intimidation and harassment.

Torture, Special Rapporteur on: (E/CN.4/1998/38, para. 186; E/CN.4/1998/38/Add.1, paras. 419–422)

An urgent appeal on behalf of two persons was sent to the government. The first case related to the detention of one man in prison in Nadhor, where guards reportedly beat him with sticks on the soles of the feet and elsewhere, and stood on his chest. The government replied that the man had been taken to a doctor, and an inquiry into the allegations of ill treatment had established that they were not warranted. The second case involved a woman who was reportedly arrested with her two daughters in May 1997 in the Ben Guerdane district, as she was preparing to cross the Libyan border to join her husband, a refugee in the Netherlands. Information indicated that she was deprived of all contact with her family for some time until her father-in-law was allowed to take the children away. The government confirmed the arrest and stated that the woman had suffered no ill treatment, had been brought before the examining magistrate, the children had been placed in the care of her husband's family from the outset, and, contrary to reports, neither her father's nor husband's parents had been arrested.

The government's response to cases transmitted in 1996 stated: the person named was not being held in secret, had not been tortured, and had been released on parole; the person named had indeed been arrested, had received the requisite medical attention, was in good health, had been visited by her lawyer, and also visited several times by her brother who had never been arrested.

Violence against women, Special Rapporteur on: (E/CN.4/1998/54, Section II.D)

In the section dealing with custodial violence against women, the report refers to the case of a woman in Tunisia who was arrested in 1995, imprisoned for her alleged support of an "unauthorized political opposition party" — the al-Nahda, the illegal Islamist party — and had helped her husband seek political asylum in France. The report notes that, since her husband's departure in 1992, the woman was repeatedly taken into custody and interrogated. The Special Rapporteur stated that other women were also arrested solely on the basis of their alleged "association" with supporters or leaders of the Islamist movement, and that wives of exiled Islamist members cannot leave Tunisia to be with their husbands because their passports have been confiscated.



UGANDA

Date of admission to UN: 25 October 1962.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Uganda has submitted a core document (HRI/CORE/1/Add.69) for use by the treaty bodies. The report prepared by the government contains demographic and statistical data as well as information on the economy, political history, organization of the executive, legislative and judicial branches of government, and the legal framework for the protection of human rights.

Laws for the protection of human rights are upheld through the formal courts — the Supreme Court, the High Court and the Magistrates Courts — as well as informal courts mainly composed of Resistance Council courts. The Resistance Councils were established at the grass roots level to organize people and check the human rights abuses that were common in the country prior to 1986. The Resistance Council structure blends the traditional style of government with modern democratic principles. The rights set out in various human rights instruments are protected by the Constitution, supplemented by the Penal Code Act, Magistrates Court Act, the Trial and Indictment Decree and other statutes. The Inspector General of Government is mandated to protect and promote human rights and rule of law as well as deal with administrative abuses. The Human Rights Commission is empowered to hear human rights related cases but cannot try anyone implicated in violations. There is also a Human Rights desk at the Ministry of Justice. International human rights instruments are not directly enforceable by the courts or administrative authorities nor are they self-executing.

Economic, Social and Cultural Rights

Acceded: 21 January 1987.

Uganda's initial and second periodic report were due 30 June 1990 and 1995 respectively.

Civil and Political Rights

Acceded: 21 June 1995.

Uganda's initial report was due 20 September 1996.

Optional Protocol: Acceded: 14 November 1995.
Reservations and Declarations: Article 5.

Racial Discrimination

Acceded: 21 November 1980.

Uganda's second through ninth periodic reports (covering the period 1983-1997) have not been submitted; the ninth periodic report was due 21 December 1997.

Discrimination against Women

Signed: 30 July 1980; ratified: 22 July 1985.

Uganda's third and fourth periodic reports were due 21 August 1994 and 1998 respectively.

Torture

Acceded: 3 November 1986.

Uganda's initial, second and third periodic reports were due 25 June 1988, 1992 and 1996 respectively.

Rights of the Child

Signed: 17 August 1990; ratified: 17 August 1990.

Uganda's second periodic report was due 15 September 1997.

COMMISSION ON HUMAN RIGHTS

Resolution of the Commission on Human Rights

At the 1998 session of the Commission, under the agenda item dealing with the rights of the child, the government proposed a resolution on the issue of abduction of children from the northern part of the country (1998/75).

In the resolution, adopted by roll call vote, the Commission, *inter alia*: acknowledged the concern expressed in the concluding observations of the Committee on the Rights of the Child (CRC/C/15/Add.80) about the abduction, killing and torture of children, as well as the recruitment of children as child soldiers in northern Uganda; recognized the urgent need for the adoption of effective measures, nationally, regionally and internationally, to protect the civilian population in northern Uganda, especially women and children, from the effects of armed conflict; expressed concern over the continuing abduction, torture, detention, rape and forced recruitment of children from northern Uganda and condemned all parties involved in these practices, particularly the Lord's Resistance Army (LRA); demanded the immediate cessation of all abductions and attacks in northern Uganda by the LRA and called for the immediate and unconditional release and safe return of all abducted children currently

held by the LRA; requested that the UN Voluntary Fund for Victims of Torture provide assistance to the victims and their families suffering from the effects of torture inflicted by the LRA; demanded that all parties external to the conflict in northern Uganda supporting, directly or indirectly, the continuing abduction and detention of children by the LRA cease immediately all such assistance and collaboration; requested the Special Representative of the Secretary-General on children in armed conflict, and others, to address this situation as a matter of priority; and, decided to continue consideration of the question at the 1999 session.

The resolution was adopted by a vote of 24 in favour, 1 opposed, 27 abstentions.

On 19 June 1998 the UN issued a press release (AFR/77, HR/4371) announcing that three children had been released and handed over the care of the UNHCR and UNICEF in Khartoum, pending their return to Uganda within days. The press release also announced that the Sudanese government had pledged to assist efforts to obtain the release of the remaining children abducted from northern Uganda. The release of the three children occurred two days after the Secretary-General's Special Representative (SRep) on the question of children in situations of armed conflict completed a three-day visit to Sudan; during that visit, he made a specific appeal to the Sudanese government to use its influence to help trace and secure the release of girls abducted from St. Mary's College, Aboke, in northern Uganda, by the Lord's Resistance Army.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 379–381)

No new cases of disappearance were transmitted to the government. All of the 20 previously reported cases occurred between 1981 and 1985, before the present government took office. The reported arrests or abductions occurred throughout the country, and in one case the person was allegedly abducted while in exile in Kenya and taken to Kampala. One case concerned the 18-year-old daughter of an opposition member of the Ugandan Parliament. The arrests are said to have been made by policemen, soldiers, or officials of the National Security Agency. During the period under review, no new information was received from the government with regard to the outstanding cases.

Sale of children, child prostitution, child pornography, Special Rapporteur on the: (A/53/311, para. 66)

In the interim report to the 1998 General Assembly, the Special Rapporteur (SR) expressed concern about continuing abductions of children in northern Uganda. Estimates suggest that the Lord's Resistance Army has abducted between 8,000 and 10,000 children from

northern Uganda over the past 11 years, marching their child captives to rebel base camps in neighbouring southern Sudan. Many children die from exhaustion, starvation or disease during the march or are murdered because they try to escape or cannot keep up. The SR stated that, on arrival at the base camps, boys and girls are given military training and forced to take part in hostilities, carry heavy loads and act as personal servants to the rebels. Girls are often given as "wives" to the commanders.

Mechanisms and Reports of the Sub-Commission

Systematic rape, sexual slavery and slavery-like practices during armed conflict, Special Rapporteur on: (E/CN.4/Sub.2/1998/13, paras. 30, 67)

Noting that the term "sexual" is used as an adjective to describe a form of slavery and not to denote a separate crime, the report refers to the abduction of girls by the Lord's Resistance Army (LRA). The girls are "married off" to rebel leaders and, if the man dies, the girl is put aside for ritual cleansing and then married off to another rebel. The report notes that the LRA also uses boys and girls as soldiers and labourers.



ZAMBIA

Date of admission to UN: 1 December 1964.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Zambia has submitted a core document (HRI/CORE/1/Add.22/Rev.1) for use by the treaty bodies. The report prepared by the government includes demographic and statistical data as well as information on the multi-party system of government, the separation of powers and the general legal framework for the protection of human rights.

The 1991 Constitution expressly provides safeguards against violation of fundamental rights and freedoms of the individual by the state. Part III of the Constitution contains the Bill of Rights. In addition to the judicial courts through which remedies for violations may be sought, there are the following: an Industrial Relations Court; the Commission for Investigation, which is empowered to investigate and report to the President on complaints related to administrative action taken by government agencies; and the Investigator-General (Ombudsman), whose function is to determine whether there has been any fault in administration on the part of an agency that would justify the complaint, or whether the agency has acted improperly or wrongly. International human rights instruments are not self-executing and require legislative implementation. As such, they cannot be invoked directly in the courts although courts

have, in some cases, given judicial notice of international instruments to which Zambia is a state party even though not incorporated in domestic law and have accordingly given redress.

Economic, Social and Cultural Rights

Acceded: 10 April 1984.

Zambia's initial and second periodic reports were due 30 June 1990 and 1995 respectively.

Reservations and Declarations: Paragraph 2 (a) of article 13.

Civil and Political Rights

Accession: 10 April 1984.

Zambia's third periodic report was due 30 June 1998.

Optional Protocol: Accession: 10 April 1984.

Racial Discrimination

Signed: 11 October 1968; ratified: 4 February 1972.

Zambia's 12th and 13th periodic reports were due 5 March 1995 and 1997 respectively.

Discrimination against Women

Signed: 17 July 1980; ratified: 21 June 1985.

Zambia's third and fourth periodic reports were due 21 July 1994 and 1998 respectively.

Torture

Acceded: 7 October 1998.

Reservations: Article 20.

Rights of the Child

Signed: 30 September 1990; ratified: 6 December 1991.

Zambia's initial report was due 4 January 1994.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 3, 13, 406)

For the first time one case of disappearance was transmitted to the government. The case reportedly occurred in 1997 and concerned a Rwandan citizen, a former Minister of Justice and Commerce, said to have been living in Zambia since 1995. The case was clarified when the source reported that the woman had been found in Rwanda, detained in the Central prison of Kigali.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, para. 80)

The report notes that Zambia carried out its first execution since 1989 when, according to the information received in February 1997, eight men were secretly executed at Mukobeko maximum security prison.

Torture, Special Rapporteur on: (E/CN.4/1998/38, para. 218; E/CN.4/1998/38/Add.1, paras. 494–495)

In November 1997, an urgent appeal was sent on behalf of the president of the Zambia Democratic Congress and six military officers who were reported to have been arrested, along with 27 other people, following a coup attempt in October. Information indicated that they were detained in the Central Police Headquarters in Lusaka, where several of them were tortured. The alleged torture included use of such methods as "the swing" — consisting of beatings while suspended from a metal bar with the hands handcuffed and the legs tied, electric shocks, and continuous questioning for up to 18 hours.

Toxic wastes and products, Special Rapporteur on: (E/CN.4/1998/10, para. 33)

The summary of information provided by the government stated, *inter alia*: Zambia banned, through legislation, any importation of hazardous waste because it has no technological capacity to safely dispose of it; the Environmental Protection and Pollution Control Act (EPPCA) No. 12 of 1990 set up the autonomous Environmental Council as an environmental protection agency; an inventory of all locally generated hazardous wastes and dangerous products was being carried out to ascertain their types, quantities, and management practices to facilitate the development of regulations for the handling of hazardous wastes; preliminary investigations suggest that hazardous wastes in Zambia result from by-products in manufacturing and industrial engineering processes, as well as old technology used in the fields of energy and hydroelectricity; and the Revenue Authority (Customs) has been alerted to look for imports of dangerous materials and report to the Environmental Council of Zambia, as the competent authority, and the Ministry of Environment and Natural Resources as focal point.

FIELD OPERATIONS

Zambia is a member of the Southern Africa Development Community (SADC) and, therefore, a beneficiary of and participant in the Regional Human Rights Programme Office for Southern Africa, a joint project of OHCHR and UNDP, which is based in Pretoria (see profile under "South Africa").



ZIMBABWE

Date of admission to UN: 25 August 1980.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Zimbabwe has submitted a core document (HRI/CORE/1/Add.55) for use by the treaty bodies. The report prepared by the government contains demographic and statistical data as well as information

on the structure of government, the system of law and the framework for the protection of human rights.

In addition to legal provisions on human rights, the Office of the Ombudsman was established by Act of Parliament in 1982. The Ombudsman is empowered to investigate administrative actions taken by ministries, government departments and statutory authorities which are alleged to have caused injustice. Actions by the defence forces, police, prison services, the President and presidential staff, the Cabinet office, the Attorney-General and judicial officers, however, may not be investigated by the Office. Neither may the Office initiate an investigation in the absence of a complaint. The Constitution protects the rights to life, freedom from slavery and forced labour, freedom from inhuman treatment and others. Provisions also guarantee the rights of freedom of conscience, expression, assembly, association and movement. Any person who feels that rights set out in the Declaration of Rights have been violated may apply to the Supreme Court for redress. The Declaration of Rights may also be invoked in other courts and it is established practice that the rights contained in the Declaration are considered on the basis of the interpretation of equivalent rights in other jurisdictions and relevant international and regional human rights instruments.

Economic, Social and Cultural Rights

Acceded: 13 May 1991.

Zimbabwe's second periodic report was due 30 June 1998.

Civil and Political Rights

Acceded: 13 May 1991.

Zimbabwe's initial report (CCPR/C/74/Add.3) was considered at the Committee's March 1998 session; the second periodic report was due 1 August 1997.

Reservations and Declarations: Declaration under article 41.

Racial Discrimination

Acceded: 13 May 1991.

Zimbabwe's second, third and fourth periodic reports were due 12 June 1994, 1996 and 1998 respectively.

Discrimination against Women

Acceded: 13 May 1991.

Zimbabwe's initial report (CEDAW/C/ZWE/1) was considered at the Committee's May 1998 session; the second periodic report was due 12 June 1996.

Rights of the Child

Signed: 8 March 1990; ratified: 11 September 1990.

Zimbabwe's second periodic report was due 10 October 1997.

REPORTS TO TREATY BODIES

Human Rights Committee

Zimbabwe's initial report (CCPR/C/74/Add.3, November 1996) was considered by the Committee at its March

1998 session. The report prepared by the government includes references to case law relevant to certain Covenant rights and contains information on, *inter alia*: constitutional provisions and guarantees of rights; the organization and independence of the judiciary; the Office of the Ombudsman; laws on the status and situation of women, the need for progressive marriage and inheritance laws, institutions established to address women's concerns and problems; the death penalty and the right to life; the prohibition of torture, corporal punishment; medical and scientific research; the right to liberty and provisions in the Criminal Procedure and Evidence Act; treatment of prisoners; freedom of movement and choice of residence, refugees and deportation procedures, extradition; equality before the courts and due process; freedom of thought, conscience and religion; freedom of opinion and expression, the Privileges, Immunities and Powers of Parliament Act, the Law and Order Maintenance Act, freedom of the press, the Censorship and Entertainment Control Act; freedom of assembly and association, trade unions and workers' rights; social security, health care, social welfare assistance, the Poverty Alleviation Action Plan (1994); children's rights, the Child Labour Task Force; the right to vote and be elected, the electoral process, political parties.

In the section concerning the rights of minorities, the report states there are still pockets of minority ethnic groups whose cultural practices conflict with other fundamental human rights. Some of these practices are early marriages, usually arranged between parents without the consent of the individuals concerned, circumcision practices, and the pledging of girls for economic gain (*kuzvarira*) or as appeasement to the spirits of a murdered person (*kuripa ngozi*). The inclusion of civil and political rights into school curricula, and the promotion of different cultures are some of the strategies used to alter such practices.

The Committee's concluding observations and comments (CCPR/C/79/Add.89) welcomed: the on-going review of domestic legislation and customary law in order to ensure their compatibility with the Covenant, particularly in the area of women's rights; the recent constitutional amendment which includes gender as a prohibited ground of discrimination; decisions of the Supreme Court upholding rights protected by the Covenant; the establishment of the Office of the Ombudsman with power to investigate citizens' complaints concerning alleged violations of human rights by officials; the establishment of an Inter-Ministerial Committee on Human Rights and International Humanitarian Law; police training conducted by NGOs and efforts undertaken to integrate human rights education in the school curricula; the provision of statistics on AIDS and the efforts undertaken to incorporate HIV/AIDS awareness campaigns into school curricula.

Principal subjects of concern identified by the Committee included, *inter alia*: the persistence of behavioral attitudes in the society, as well as cultural and religious practices, which impede the full realization of human rights;

the failure to make all Covenant rights part of domestic law and the fact that these rights cannot be invoked directly before domestic courts; the absence of effective institutional mechanisms to ensure systematic implementation and monitoring of the Covenant's provisions; the increasing trend to enact Parliamentary legislation and constitutional amendments to frustrate decisions of the Supreme Court that uphold rights protected under the Covenant and overturn certain laws incompatible with it; the lack of a provision giving the Ombudsman power to initiate investigation *suo motu*; and exclusion of the President, the President's Office, the Attorney-General and Secretary for Justice, Legal and Parliamentary Affairs and any member of their staff, from investigation by the Ombudsman.

The Committee expressed concern about: the duality of the legal statutory law and customary law; the fact that where customary law contravenes the Covenant or the statutory law, the customary law continues to be upheld and applied; continued practices such as *kuzvarita*, *kuripa ngozi*, *lobola* (bride price), female genital mutilation, early marriage, and the statutory difference in the minimum age of girls and boys for marriage; the extent and persistence of domestic violence against women; and the subordinate status of women in Zimbabwean society.

Concern was also raised over: reports of excessive use of force by the police and the army during food riots in 1998; with regard to pre-trial detention, the provision in the Criminal Procedure and Evidence Act allowing the maximum period of detention of 48 hours, before being brought to a judge or magistrate, to be extended to 96 hours by a senior police officer; the conditions of overcrowding and disease in most prisons; the amendment to the constitution which has the effect of depriving both women and men of the right to have their spouses registered as citizens; the fact that children born to Zimbabweans abroad may not acquire Zimbabwean citizenship; and amendments to section 15 of the Constitution which, *inter alia*, authorize corporal punishment.

The Committee noted with concern that: the mass media, as well as many other forms of expression including artistic expression, are subject to censorship and are largely controlled by the government; the use by government officials of the law on civil and criminal defamation to limit the freedom of the press; immunity has been extended to individuals committing acts of political violence against government opponents; the lack of political pluralism threatens the realization of democracy in Zimbabwe; homosexuals are subjected to discrimination – for example, that aliens deemed to be homosexuals may be defined as “Prohibited Persons” for immigration purposes and are subject to deportation; the Postmaster-General is authorized to intercept any postal articles or telegrams on grounds of public security or the maintenance of law; there remain legal provisions which restrict freedom of movement.

The Committee recommended that the government, *inter alia*:

- ♦ take necessary legislative and other measures to overcome the persistence of behavioral attitudes in the society, as well as cultural and religious practices, which impede the full realization of human rights;
- ♦ undertake a comprehensive review of domestic legislation, including the Constitution, with a view to ensuring its full compatibility with the principles and provisions of the Covenant; ensure that Covenant rights are not restricted or overridden by incompatible legislation and that individuals are able to challenge in the courts the application of laws which affect their rights under the Covenant; establish institutional mechanisms to ensure the integration of Covenant rights in law and practice;
- ♦ prohibit by law customary practices that are incompatible with the Covenant and adopt adequate measures to prevent and eliminate prevailing social attitudes and cultural and religious practices hampering the realization of human rights by women;
- ♦ with regard to the Deceased Estate Succession Act 1997, under which a widow may inherit part of her deceased husband's estate, provide further information on the steps taken to ensure that widows are made aware of this right and provide legal assistance for their benefit;
- ♦ adopt legislation making marital rape a criminal offence; undertake educational campaigns, establish institutional mechanisms to address all forms of violence against women, and provide assistance to victims of violence;
- ♦ take measures to eliminate discrimination against women and promote their role in society; establish mechanisms to receive complaints, award appropriate remedies and report publicly on problems and progress;
- ♦ ensure investigation by an independent and impartial body of all cases of alleged excessive use of force committed by members of the police or the army, that action is taken against those officers found to have committed abuses, and that compensation is paid to the victims;
- ♦ provide intensive training and education programmes in the field of human rights for members of the army and law enforcement officials; reduce the list of situations in which the use of lethal force is allowed under domestic law;
- ♦ review the law relating to arrest and detention to ensure that individuals are not held in pre-trial custody for longer than 48 hours without court order; provide further information on the authority of the Attorney-General to deny bail to individuals in pre-trial detention;
- ♦ take steps to remedy overcrowding and the prevalence of disease in prisons; provide qualitative and quantitative statistical data on the state of prisons in its next report;

- ♦ review its laws with a view to reducing the number of offences for which capital punishment can be imposed;
- ♦ bring the permissible restrictions on freedom of expression and the press into strict compliance with article 19 (3) of the Covenant;
- ♦ take steps to ensure that interception of postal articles or telegrams is subject to strict judicial supervision and that the relevant laws are brought into compliance with the Covenant;
- ♦ undertake efforts to ensure that all persons are able to move out of the country freely and without undue delay obtaining the necessary documents;
- ♦ ensure that education is provided in minority languages; and
- ♦ introduce appropriate awareness campaigns to create a deeper understanding of the Covenant and of the need to respect and protect human rights; develop training programmes for public officials and professional groups working in the area of human rights; and include the Covenant in school curricula and give consideration to reflecting it in training curricula.

Committee on the Elimination of Discrimination against Women

Zimbabwe's initial report (CEDAW/C/ZWE/1, July 1996) was considered by the Committee at its January 1998 session. The report prepared by the government states that Zimbabwe is mainly a patriarchal society and has traditionally placed little recognition and value on women's participation outside of the home. National machinery for the protection of human rights generally, and human rights for women specifically, includes the Department of Women's Affairs, the Unit of Women in Development and the Inter-Ministerial Committee on Human Rights, and an Ombudsman's office. The report contains specific information on, *inter alia*: the absence of a constitutional prohibition on discrimination; temporary special measures to achieve equality in such areas as education and access to the public service; sex roles and stereotypes, customs and traditions detrimental to women's equality, stereotyping in the media; suppression of the traffic in, and exploitation of, women; participation in public and political life, the Electoral Act 1990, the Ward Development Committees (WADCs) and Village Development Committees (VIDCOs); nationality and citizenship; education and access to education, assistance through the Social Development Fund and the Social Dimensions Fund, the Zimbabwe Adult Basic Education Course; women and employment, the Labour Relations Act; health, health care and the national health policy; social security, the Social Welfare Assistance Act 1988, the Poverty Alleviation Action Plan (PAAP), the National Social Security Authority Act 1989; the situation of rural women, the Land Acquisition Act 1990; equality before, and the protection of, the law; and marriage and the family, the Legal Age of Majority Act, domestic violence.

The Committee's concluding observations and comments (A/53/38, paras. 120–166) noted developments after preparation of the government's report, including: the 1997 amendment to the Constitution explicitly prohibiting discrimination based on gender and adoption of the Sex Discrimination Removal Act; the appointment of gender focal points in all Ministries; introduction of gender-sensitivity training for police and judicial officers; and a programme to review school textbooks and development of a curriculum on human rights to be taught at the primary and secondary levels.

The Committee welcomed, *inter alia*: the amendment to the Constitution prohibiting discrimination on the basis of sex; the translation of the Convention into local languages in order to encourage its wider dissemination; the development of a National Gender Policy to implement the Beijing Platform for Action; the establishment of the Inter-Ministerial Committee on Human Rights and the strengthening of the office of the ombudsperson which can now investigate the police and security forces; the introduction of gender-sensitive training for police officers and the establishment of "victim-friendly courts"; and the implementation of affirmative action measures with respect to education, employment and political participation, particularly in the rural councils.

Factors hindering the implementation of the Convention were noted as including: the continued existence of, and adherence to, customary laws; prevailing traditional and socio-cultural attitudes towards women that contribute to the perpetuation of negative images of women; and the negative impact of the structural adjustment programmes, especially in the areas of education, health and employment.

The principal areas of concern identified by the Committee included, *inter alia*: discriminatory traditional practices, such as lobola (dowry), polygamy and female genital mutilation, despite the fact that the Constitution criminalizes any act of discrimination on the ground of sex and the practice of lobola has been made illegal; the failure to recognize in law violence against women, especially in society and in the domestic sphere; inadequate support of, and assistance for, victims of violence, such as rehabilitation programmes and temporary shelters; that the Ministry of National Affairs, Employment Creation and Cooperation — as the National Machinery for the Advancement of Women — has no real power or responsibility to initiate and implement policy measures to eliminate discrimination against women; and the low level of women's participation at the decision-making level.

The Committee expressed concern about: the fact that prostitutes are criminalized by law while their clients go unpunished; the recourse to prostitution as a means of survival by poor women, migrant women and women from other marginalised sectors; the effect of the HIV/AIDS pandemic and the very high rate of infection among young women, noting the risks of transmission to infants through childbirth and breastfeeding; reports relating to the refusal of some health-care providers to

give family planning services to sexually active adolescents, despite there being no legal restrictions in this regard; the fact that women in rural areas often suffer more as a result of prevailing negative attitudes and discriminatory traditional practices and often work longer hours than any other group; and the lack of support systems to enable pregnant teenagers to continue their schooling, as well as the lack of detailed statistics available on teenage pregnancy.

The Committee recommended that the government, *inter alia*:

- ♦ take a more pro-active role by introducing concrete measures to abolish all discriminatory customs and practices;
- ♦ review the functions of the National Machinery with a view to providing it with the authority and financial resources to initiate and implement policy programmes to eliminate discrimination against women and enabling it to act as a coordinating body for all the gender focal points of the ministries; launch through the National Machinery a public awareness-raising campaign for gender equality, targeting both women and men; organize a campaign to promote positive images of women, involving the mass media;
- ♦ extend gender-sensitive training to all sectors, including health-care workers;
- ♦ take measures to ensure that the President and the Ministers are accountable for gender-mainstreaming within their respective departments;
- ♦ adopt temporary special measures of affirmative action to promote the status of women in all spheres of society;
- ♦ extend the function of the office of the ombudsperson to allow it to address complaints about gender discrimination in the private sphere and the private sector;
- ♦ codify family and customary laws, incorporating only those customary laws and practices that promote gender equality and the empowerment of women;
- ♦ put in place socio-economic programmes to assist women living by prostitution; document systematically the prevalence of prostitution in order to develop assistance programmes in this regard;
- ♦ reappraise the law on abortion with a view to its liberalization and decriminalization, as illegal abortion is cited by the government as a major cause of death for women in Zimbabwe;

- ♦ increase efforts to combat the HIV/AIDS pandemic and ensure that appropriate sexual and reproductive health information, education and services are provided to all women and, in particular, to adolescents; provide sex education and practical family planning to both youth and adults;
- ♦ include, in the next report, more detailed data and adequate information on all forms of violence against women, prostitution, and trafficking in women and teenage pregnancy and the ability of young mothers to continue their education; and
- ♦ establish a functional central coordinating body with a regular budget to accelerate implementation of gender policies and programmes.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Racism and racial discrimination, Special Rapporteur on: (E/CN.4/1998/79, paras. 74, 84–85)

The report notes information provided by the government referring to the Charter of Rights and provisions curbing discrimination, including discrimination based on race (article 23 of the Constitution). The government indicated that it intends to introduce legislation to prohibit discrimination based on political opinion, beliefs, and sex in a variety of contexts.

Sale of children, child prostitution, child pornography, Special Rapporteur on the: (E/CN.4/1998/101, para. 133)

In commentary on the connections between child labour, including child prostitution, HIV/AIDS and the lack of education, the report notes that in Zimbabwe, school sex education starts at the age of eight or nine years. The Special Rapporteur stated while this may seem very young, AIDS workers have pointed out that there is increasing incidence of child sex abuse, including rape, which makes it very important to introduce the subject during that period and even earlier.

FIELD OPERATIONS

Zimbabwe is a member of the Southern Africa Development Community (SADC) and, therefore, a beneficiary of and participant in the Regional Human Rights Programme Office for Southern Africa, a joint project of OHCHR and UNDP, which is based in Pretoria (see profile under "South Africa").

APPENDIX: HUMAN RIGHTS TREATY BODIES

DRAFT SCHEDULES FOR CONSIDERATION OF STATE REPORTS

The following schedules of the treaty bodies was prepared after the country profiles were completed. This accounts for any discrepancies that may appear between information in the profiles, related to consideration of state reports, and the information contained below. Please note: the following schedule was compiled at the beginning of February 1998 and is subject to change at short notice.

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (CESCR)

The provisional schedule of reports and/or situations to be considered by the Committee is:

20th Session: 26 April-14 May 1999

Tunisia 2nd periodic report E/1990/6/Add.14

21st Session: 15 November-3 December 1999

Cameroon Initial report E/1990/5/Add.35

22nd Session: April 2000

Egypt Initial report E/1990/6/Add.38

23rd Session: November 2000

Sudan Initial report E/1990/5/Add.41

24th Session: April 2001

Morocco 2nd periodic report E/1990/6/Add.20

HUMAN RIGHTS COMMITTEE (HRC OR CCPR)

The provisional schedule of reports and/or situations to be considered by the Committee is:

64th Session: March 1999

Cameroon 3rd periodic report CCPR/C/102/Add.2
Lesotho Initial report CCPR/C/81/Add.14

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION (CERD)

The provisional schedule of reports and/or situations to be considered by the Committee is:

54th Session: 1-19 March 1999

Congo 12th-14th periodic reports ***
DR Congo 10th and 11th periodic reports ***
Lesotho 7th-14th periodic reports CERD/C/337/Add.1
Rwanda *** ***
Sudan *** ***

COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN (CEDAW)

The provisional schedule of reports and/or situations to be considered by the Committee is:

20th Session: 19 January-6 February 1999

Algeria Initial report ***

21st Session: June 1999

DR Congo 2nd and 3rd periodic reports CEDAW/C/ZAR/2;
CEDAW/C/COD/3
Egypt 3rd periodic report CEDAW/C/EGY/3

COMMITTEE AGAINST TORTURE (CAT)

The provisional schedule of reports and/or situations to be considered by the Committee is:

Libya 3rd periodic report CAT/C/44/Add.3
Mauritius 2nd periodic report CAT/C/43/Add.1
Morocco 2nd periodic report CAT/C/43/Add.2

COMMITTEE ON THE RIGHTS OF THE CHILD (CRC)

The provisional schedule of reports and/or situations to be considered by the Committee is:

20th Session: January 1999

Guinea Initial report CRC/C/3/Add.48

21st Session: May 1999

Benin Initial report CRC/C/3/Add.52
Chad Initial report CRC/C/3/Add.50
Sierra Leone Initial report CRC/C/3/Add.43

22nd Session: September 1999

Mali Initial report CRC/C/3/Add.53

23rd Session: January 2000

South Africa Initial report CRC/C/51/Add.2

25th Session: September 2000

DR Congo Initial report CRC/C/3/Add.57
Djibouti Initial report CRC/C/8/Add.39

26th Session: January 2001

Burundi Initial report CRC/C/3/Add.58
Comoros Initial report CRC/C/28/Add.13

27th Session: May 2001

Central African Republic Initial report CRC/C/11/Add.18
Lesotho Initial report CRC/C/11/Add.20
Egypt 2nd periodic report CRC/C/65/Add.9

28th Session: September 2001

Ethiopia 2nd periodic report CRC/C/70/Add.7

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