

# Discrimination

---

*Countering discrimination, in particular racial discrimination, discrimination on the grounds of sex, religion and against others who are marginalized*

## Background

The UN works to ensure the promotion and universal respect for and observance of human rights and fundamental freedoms for all, without distinction based on race, sex, language, religion or other grounds. Equality and non-discrimination are the fundamental principles which underlie the United Nations Charter and international human rights instruments. OHCHR works to make a difference in the lives of victims of discrimination around the world. In many countries and communities, people continue to be excluded, marginalized or restricted in terms of enjoyment of their human rights.

In recent years, incremental progress has been achieved in combating racism, discrimination, xenophobia and related intolerance, largely through the enactment or amendment of constitutional protection and domestic legislation. Such legal regimes are important to protect rights and provide avenues for remedy and redress. Tangible progress, however, entails addressing structural causes, the interdependent nature of discrimination and summoning the political will to implement and enforce those laws. In some cases, it is the laws themselves, or the institutions and the practices, which are discriminatory. Contemporary manifestations of discrimination have appeared and modern challenges, such as migration and economic deprivation, have served to exacerbate or provide further justification for discrimination.

A revitalization of actions to combat discrimination and intolerance is therefore required. Discrimination in law and practice must be eliminated, including by providing access to justice and basic services and domestic accountability mechanisms.



UN  
النساء  
للتنجيم

UN Women

Darfur women march on International Women's Day.

## OHCHR's role

OHCHR leads the work of the United Nations to promote equality and universal respect for human rights and fundamental freedoms for all and prevent and combat discrimination. The Office advocates for, promotes and supports reforms, including through technical assistance to States in implementing their international obligations and the recommendations issued by human rights mechanisms in the field of equality and non-discrimination. In 2011, OHCHR worked with Member States on the adoption of legislation, public policies, national action plans and programmes; supported efforts of national human rights institutions (NHRIs), specialized equality bodies, civil society, individuals and groups facing discrimination; and developed thematic studies, capacity-building and methodological tools on the issue of discrimination.

Throughout 2011, the Office provided relevant international human rights mechanisms with substantive and technical secretariat support. It continued to support the Committee on the Elimination of Racial Discrimination (CERD) and the follow-up mechanisms of the Durban Declaration and Programme of Action. These mechanisms consider key and emerging issues such as intolerance, the role of education and sport in combating racism and racial discrimination, freedom of religion and belief, freedom of expression and opinion and xenophobia. Pursuant to requests by the Human Rights Council and the General Assembly, OHCHR organized several high-level panels on: good practices against racism; a global dialogue for the promotion of a culture of tolerance and peace; and a high-level panel discussion on the promotion and protection of human rights through tolerance and reconciliation in recognition of the Nelson Mandela International Day. These activities fostered global dialogue and facilitated the sharing of good practices and an exchange of views on contemporary issues of racial discrimination, xenophobia and related intolerance.

The High Commissioner's strategic advocacy also served to advance the non-discrimination and equality agenda. OHCHR played its leading advocacy role through public information, outreach and awareness-raising activities, including the development of materials and support for public information efforts led by NHRIs, specialized equality bodies and civil society partners on equality and anti-discrimination issues.

System-wide collaboration between the Office and UN agencies, funds and programmes on issues of

discrimination was another area of focus. While mainstreaming occurred to some extent in other organizations of the UN in 2011, OHCHR will strive to increase its role and effectiveness in mainstreaming the principles of equality and non-discrimination throughout the work of the UN at the global, regional and national levels.

The following are results this Office helped bring about in this area in 2011.

### National laws, policies and institutions

*EA 1 - Increased adoption or revision of national anti-discrimination legislation and administrative measures in compliance with international norms and standards in the area of anti-discrimination, in particular the International Convention on the Elimination of All Forms of Racial Discrimination*

#### Racial Discrimination

On request, OHCHR works with Governments to develop draft laws, legislation, policies, institution-building and institutional reform. OHCHR provides human rights expertise and advice, supports civil society organizations (CSOs) in their advocacy efforts and assists United Nations Country Teams (UNCTs) in providing comments on, inter alia, draft laws. To this end, OHCHR engages with international human rights mechanisms to ensure they advocate for the adoption of laws by Governments which are in compliance with the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and promotes and protects the human rights of those who are marginalized. The Office assists States to establish and strengthen NHRIs and other mechanisms through which the complaints of individuals can be submitted and addressed and States can be held accountable for the implementation of their human rights obligations. It also provides technical assistance and capacity-building support to NHRIs on equality and non-discrimination in accordance with international standards.

Advice on, and support to, Member States in the formulation of national policies and programmes, including national action plans to eradicate racism, discrimination and promote equality, was a main part of OHCHR's anti-discrimination work in 2011. The Office continued to support the elaboration of national action plans, including plans against racial discrimination and general discrimination. For the past two years, the Office assisted Member States with activities aimed at developing national action plans with the input and participation of OHCHR's country and regional offices. Support to national



Participants at a workshop on the rights of Afro-descendant people in Bolivia.

action plans to the following countries was provided in 2011: Benin, Bolivia, Botswana, Burkina Faso, Costa Rica, Mauritania, Niger, Nigeria and Uruguay. In September 2011, OHCHR organized a seminar on national action plans in St. Petersburg, Russian Federation for 10 countries of the Commonwealth of Independent States.

The International Year for People of African Descent in 2011 was a catalyst for further efforts to promote and protect the human rights of people of African descent around the world. OHCHR was integral to many of the commemorative actions which took place under the theme of “Recognition, Justice and Development.”

Through its Regional Office for Central America, OHCHR implemented a two-year project on the institutional promotion and strengthening of the rights of people of African descent of Central America, with activities in the countries covered by the Regional Office, namely: Belize, Costa Rica, El Salvador, Honduras, Nicaragua and Panama. In Bolivia, the National Council for Afro-Bolivian People was established in September and became a member of both the National Committee against Racism and All Forms of Discrimination and the National Human Rights Council. OHCHR contributed to this by organizing workshops and seminars and through financial and technical support.

In December 2011, Bolivia’s National Committee against Racism and All Forms of Discrimination, which was established with the support of OHCHR, adopted the Plan of Action against Racism and All Forms of Discrimination in compliance with the Durban process and Bolivia’s Law No. 045. This plan draws

on a participatory assessment of the current situation of racism and discrimination carried out in 2010-2011. The Office provided technical and financial support to the Vice-Ministry of Decolonization for the elaboration of the assessment and plan.

In 2011, the NHRI in Costa Rica began a process of engagement with Afro-descendant organizations on how it could strengthen its case-handling procedures with respect to cases of racial discrimination and racism. The Regional Office for Central America contributed to enhancing the capacity of NHRIs through training, exchange of experiences and technical advice. The NHRI also began to take up cases of racism and racial discrimination. A procedural handbook for dealing with cases of discrimination is being drafted to encourage systematization of the way it handles discrimination cases.

The NHRI in Nicaragua took similar steps to review its modalities for dealing with cases relating to Afro-descendant populations, particularly through a procedural protocol for cases and situations of racial discrimination and racism. OHCHR’s trainings have opened up a new space in which Afro-descendant civil society can interact with the national human rights institution. The NHRI has been a useful forum of discussion and exchange and the Office’s work has served to sensitize the NHRI and enhance the promotional functions it undertakes in accordance with the wishes expressed by the Afro-descendant communities.

The NHRI in Panama stepped up its work against racism and racial discrimination. The creation of an anti-discrimination unit charged with establishing

procedures on how to deal with cases of racial discrimination was agreed by the Ombudsperson. The NHRI has taken a more active lead in the Commission against Discrimination and a strategic plan is being drafted with the support of the OHCHR Regional Office for Central America.

### Rights of persons belonging to minorities

In 2011, the European Commission adopted the European Union (EU) Framework for National Roma Integration Strategies which complements and reinforces the EU's equality legislation and policies by addressing the needs of Roma in four priority areas: equal access to employment; education; housing; and healthcare. Although the process of drafting the Framework could have benefited from wider consultation, its content generally complies with international human rights standards. The OHCHR Regional Office for Europe advocated vis-à-vis key stakeholders, such as the European Commission and civil society, for the Framework to contain key elements of a human rights-based approach (HRBA) to Roma integration. The Regional Office also provided guidance to Member States and civil society organizations in the design and implementation of their respective national strategies.

#### International Year for People of African Descent

In 2011, OHCHR engaged in a number of activities to mark the International Year for People of African Descent (IYPAD) under the theme of "Recognition, Justice and Development." These commenced with an official launch by the Secretary-General on 10 December 2010 and included thematic panel discussions at the 16th session of the Human Rights Council, the 78th session of the Committee on the Elimination of Racial Discrimination (CERD) and the commemoration of the International Day for the Elimination of Racial Discrimination on 21 March 2011. An electronic "toolkit" was prepared to assist the work of OHCHR field presences on issues concerning Afro-descendants. A new fellowship programme was launched for participants from the Americas, Europe and the Middle East, enabling 10 Fellows to deepen their understanding of the United Nations human rights system. The IYPAD was closed by the Secretary-General in New York on 6 December 2011 during a ceremony at UN Headquarters with the participation of, inter alia, members of the Working Group of Experts on People of African Descent and civil society. During the 66th session of the General Assembly, a resolution was adopted proclaiming that the International Decade for People of African Descent will commence in 2013.



A group of Dalit people in Nepal.

To enhance attention paid to minority rights in laws and policies related to decision-making, OHCHR organized a regional roundtable for Central Asia in June 2011 in Bishkek. Experts provided thematic guidance on the implementation of minority rights in Kyrgyzstan and other countries of the region. Participants also adopted a concluding statement that reaffirmed their commitment to advancing minority rights and participation. The roundtable led to the increased involvement of OHCHR and its Regional Office in the drafting of a new governmental strategy on inter-ethnic and minority issues and contributed to the ongoing process of reforming minority consultative structures. The Government of Kyrgyzstan made sustained efforts to develop an ethnic policy concept paper to outline key principles and policies directed at fostering inter-ethnic cooperation, societal consolidation and respect for minority rights. Although work on the passage of the concept paper in Parliament was delayed due to the presidential elections and formation of the new Government in the last months of 2011, it is expected that the Government will consider this legislation in 2012.

In May 2011, Nepal's Parliament passed the long-awaited Caste-based Discrimination and Untouchability Act following sustained advocacy by a variety of partners, including OHCHR, the National Dalit Commission and civil society. The Act prohibits and criminalizes caste-based discrimination and practices of untouchability and criminalizes the incitement to commit such acts in the public and private spheres. Furthermore, the new law provides harsh penalties for public officials found guilty of such discrimination and requires perpetrators to provide compensation to victims. A 100-day campaign, entitled "I commit to end caste discrimination and untouchability" was launched by

the Office and the National Dalit Commission in September 2011 in order to increase public awareness of the new Act.

OHCHR-Nepal also supported the establishment and strengthening of local networks working to address caste-based discrimination in six districts across three regions of Nepal. These networks have been instrumental in helping to reduce the number of incidents of caste-based discrimination at the grassroots level and supporting victims, including by facilitating their access to the criminal justice system. In December, OHCHR-Nepal launched the public report, entitled “Opening the Door to Equality: Access to Justice for Dalits in Nepal” which provides a systematic analysis of the challenges faced by Dalits seeking justice. The report was based on information collected through OHCHR-Nepal’s monitoring and investigation of emblematic cases and serves as an important tool to promote reforms and change needed to ensure equal access to justice for all.

### Indigenous Peoples

The Office provides support to national efforts to ensure that normative frameworks in the area of indigenous peoples are in line with the UN Declaration on the Rights of Indigenous Peoples and other relevant standards. In January 2011, a law on the rights of indigenous peoples was adopted in

Congo following a process that was initiated by OHCHR in 2006 in cooperation with the Ministry of Justice, the International Conference on the Great Lakes Region and indigenous peoples’ organizations. The Law is fully compliant with international human rights standards and is the first of its kind in Africa.

In Colombia, the Office contributed to the establishment and functioning of a national technical assistance committee composed of representatives of indigenous and Afro-Colombian organizations, universities, UN entities and the Ombudsman’s Office. Regional committees were also established in five cities. The national committee played a leading role in the preparation of initial documentation, planning of field activities and identification of methodologies to collect inputs that are expected to be considered by the Colombian State in designing future legislation and public policy on informed prior consultation. Throughout 2011, a number of activities, including exploratory missions and field participatory processes, took place in 14 of the 32 departments of the country with the participation of more than 700 people, representing almost 50 different indigenous peoples and Afro-Colombian communities. As a result of the field-based participatory process undertaken, it was decided to elaborate subregional documents that will serve as guidelines for duty-bearers and rights-holders, in addition to the originally planned national document that will be the main output of this project.



In Guatemala, following technical assistance provided by OHCHR, significant improvement was observed in the number, analysis and follow-up of cases dealt with by the Commission on Discrimination and Racism and the Office for the Defence of Indigenous Women (DEMI) and an improvement in the use of international standards in the investigation of cases related to racism and discriminatory practices. In an emblematic case dealt with by DEMI, for instance, the Constitutional Court handed down a decision in November 2011 which granted three imprisoned indigenous women the possibility of having an interpreter in their language. In addition, the database established by the Office, which includes information on all complaints received by those institutions, facilitated the process and follow-up of those cases.

OHCHR-Mexico provided technical advice in cases related to indigenous peoples' access to justice. The Office's monitoring and advocacy efforts led to the release of a Mayan woman who had been unfairly detained for over three years. They also led to a judgment by the Electoral Tribunal of the Federal Judiciary integrating international human rights standards and ordered a public consultation in the community in relation to the election of public officials. OHCHR continued to monitor and advocate for other indigenous peoples whose rights had been violated, including two indigenous Nahua human rights defenders who were arbitrarily detained in Atla, Puebla. They remain in prison and the case is pending resolution.

In Peru, a law on consultation with indigenous peoples was passed in September 2011 and a new Vice-Ministry of Intercultural Affairs was created following advocacy meetings among the Regional Representative of OHCHR, the Government, Congress, the judiciary, the Ombudsman and the Director of the National Department on Indigenous Peoples.

### **Discrimination against women in law and practice**

The adoption and integration of laws which establish equality of treatment, opportunity and access of women and men were encouraged by OHCHR. The Office also sought to support the increased participation of women in decision-making processes and the abolition of discriminatory laws by providing technical advice and, in conjunction with other actors, carrying out substantial advocacy targeting Governments and other political partners.

In Guatemala, the Presidential Secretariat for Women (SEPREM) increased the awareness, knowledge and use of international human rights standards in its work plan, reports and design of public policies.

OHCHR-Guatemala participated in a working group established by SEPREM on the elaboration of the follow-up report to the Committee on the Elimination of Discrimination against Women (CEDAW) and provided technical assistance on the methodology of preparing periodic reports to CEDAW. This facilitated the preparation by SEPREM of the report that Guatemala is to submit by July 2012.

In Mauritania, Parliament adopted a law amending the Constitution to establish equal access for women and men to electoral mandates and electoral functions. The Office provided technical advice and carried out, in conjunction with other actors, significant advocacy targeting the Government and opposition parties which eventually led to the adoption of a road map. The Office also organized three seminars on the participation of women in decision-making and removing discriminatory laws unfavourable to gender equality.

In Mauritania, a forum on Islamic thinking and a cultural dialogue was organized by the *Association des Oulémas* of Mauritania, with the support of UN agencies, to develop a comprehensive national strategy to modify or eliminate negative cultural practices and stereotypes that are harmful to and discriminate against women and to promote women's full enjoyment of their human rights. As a result, a subregional Fatwa was issued to accelerate the elimination of female genital mutilation. A comprehensive study is underway to facilitate the development of the national strategy. In collaboration with UN Women, the Office is supporting the review of the *code du statut personnel* with particular attention focused on issues regarding the status of women in society.

In Sierra Leone, a draft Gender Equality Bill was prepared and submitted to the Government through the Office of the Attorney General. The Human Rights Section of the Integrated Peacebuilding Mission in Sierra Leone (UNIPSIL) provided technical and advisory services to the Government, the National Committee on gender-based violence and CSOs. In collaboration with the UNIPSIL Political Affairs Section, the Human Rights Section hosted several consultative meetings.

In Cameroon, the topic of gender responsive budgeting was presented during the subregional workshop on the application of a human rights-based approach to policymaking and budgeting as well as to the Cameroonian multipartner gender thematic group and members of the Government. In Rwanda, in July 2011, the OHCHR Regional Office for Central Africa advocated for the use of gender responsive budgeting as a tool

to realize women's human rights at the High-level Global Meeting on Increasing Accountability and Development Effectiveness through Gender Responsive Planning and Budgeting.

In Asia and the Pacific, OHCHR continued its efforts to build a network among specialised women's commissions in several countries to provide capacity-building and mutual support. The commissions held a further meeting in Jakarta on 16 July 2011, with the participation of the Special Rapporteurs on violence against women and on culture, to discuss the impact of religion-based legal systems on respect for women's rights.

### **Persons living with HIV/AIDS, stigma and marginalization**

The working group to draft the National HIV/AIDS Strategy 2012-2016 was established in the former Yugoslav Republic of Macedonia in September 2011 with the participation of all relevant stakeholders. The Strategy will address prevention, treatment and HIV in local communities and include special considerations to address discrimination against persons living with HIV/AIDS, including based on gender. The working group comprises Government representatives, lead civil society organizations concerned with human rights and sexual and

#### **Ground-breaking constitutional reform on human rights generates concrete change in the life of an indigenous community in Mexico**

"Our patience has run out. In this unjust war, we, as indigenous peoples, are not only the victims of organized crime but also of institutional violence from authorities, which do not recognize our ancestral rights and our ways of organization. Therefore we demand the constitutional recognition of our rights" said an indigenous community leader in Cherán, in the state of Michoacán. Community members are weary of the environmental destruction linked to illegal logging and the violence from organized crime groups. High Commissioner Navi Pillay heard their concerns during her visit to Mexico in July 2011, including the community's search for self-governance according to their own traditions. The forests surrounding Cherán are considered to be the economic, cultural and ecological lifeline of the Purépecha people, and the people of Cherán believe that only by governing themselves can they protect their forests and their own safety.

On 10 June 2011, after 10 years of discussion, including five years of advocacy and technical advice from OHCHR, Mexico promulgated a constitutional reform that fully embraces international human rights standards and provides for strengthened human rights

protection for over 112 million citizens, including Cherán's community. The reform gives constitutional status to the rights enshrined in all international human rights treaties to which Mexico is a party and provides that judicial interpretation should ensure the protection of the individual. In addition, the reform places greater restrictions on the declaration of a state of emergency; provides foreign citizens with the right to a hearing prior to deportation; strengthens the role of the human rights Ombudsman; includes human rights considerations within educational and penitentiary systems; and strengthens legal recourse for human rights protection, including through an emphasis on state responsibility and integral reparations. The High Commissioner publicly welcomed the enactment of the reform, saying it paved the way for greater promotion and protection of internationally recognized human rights in the country.

Within six months of the reform, fundamental changes have taken place concerning the protection of the human rights of Mexican citizens. Mexico's Supreme Court has overhauled its outlook on constitutional protection and officially declared the start of a "new

judicial era," announcing that judges throughout the country must act as the guardians of constitutionally and internationally enshrined human rights, no matter what jurisdiction they exercise. In the case of the community of Cherán, their legal and social struggle gained traction thanks to the constitutional reform. In October 2011, their case arrived at the Electoral Tribunal of the Federal Judiciary which issued a sentence that allowed the indigenous group to elect, for the first time, their authorities in line with their traditions and customs. Among other points raised, the Court recognized the right to the community to do so. The Court ordered a public consultation in Cherán to verify the demands of the people. The overwhelming majority of voters that turned up for Cherán's public consultation process voted to elect their own governing structures in accordance with their traditions. The local Government of the municipality of Cherán was also elected in conformity with international legal standards on the right to self-determination. This case has become a best practice in the application of international human rights standards at the local level and in the exercise of the right to consultation of indigenous peoples.

reproductive health, the Office of the Ombudsman and OHCHR through its resident Human Rights Adviser (HRA). The working group includes persons living with HIV/AIDS represented through their self-help organizations. Contributions from the HRA have included technical advice on how to carry out a rights-based analysis and track human rights outcomes. The HRA will contribute to the review and finalization of the draft Strategy planned for early 2012.

In the Republic of Moldova, the new Data Protection Law was adopted in 2011 to improve Moldova's compliance with international standards in this area. The Law will enter into force in April 2012. Further attention will be needed to ensure that the practical implementation of the Law extends to key fields involving sensitive personal data. The HRA and the Resident Coordinator's Office commented on the draft, focusing on key aspects of discrimination, in particular in relation to persons with HIV/AIDS.

OHCHR co-sponsored the regional meeting on HIV and the law for ministers of justice and judges in West and Central Africa, in collaboration with UNAIDS, UNDP and the African Association of Highest Francophone Jurisdictions. At the conclusion of the meeting, a declaration of commitment was adopted which includes a number of recommendations, such as strengthening ministries of justice by establishing clear targets in areas of HIV-related laws and human rights. In addition, the capacities of seven civil society organizations were strengthened to support their engagement with the African Commission on Human and Peoples' Rights and its Committee on the Protection of the Rights of People Living with HIV and Those at Risk, Vulnerable to and Affected by HIV.

### Persons with disabilities

Since the adoption of the Convention on the Rights of Persons with Disabilities (CRPD) in 2006, OHCHR has stepped up its work on the rights of persons with disabilities. OHCHR contributed to increasing awareness of the importance of aligning national anti-discrimination legislation with the CRPD. Staff at headquarters and in field offices provided assistance and support to States Parties in reviewing national legislation and policies on discrimination against persons with disabilities to ensure their consistency with the CRPD. OHCHR was also one of the main actors which founded the UN Partnership to Promote the Rights of Persons with Disabilities and the Multi-Donor Trust Fund on Disability. The aim of the Fund is to sponsor



A visually impaired person voting in Spain with the help of an 'accessibility kit' facilitated by the National Organization of Spanish blind people.

projects strengthening national capacity for the implementation of the CRPD (see box).

The Regional Office for Southern Africa has been actively participating in discussions on the need for an African Instrument to protect the rights of persons with disabilities to supplement the CRPD. With the support of staff at headquarters, the Regional Office provided Governments, NHRIs and CSOs, including Disabled Persons' Organizations (DPOs), with the information necessary to conduct an informed and constructive discussion on the subject. The Regional Office also worked closely with the Secretariat of the African Decade on Persons with Disabilities to strengthen the capacity of DPOs in the promotion and monitoring of the CRPD. The advocacy efforts undertaken by the Regional Office in 2011 led to the ratification of the CRPD and its Optional Protocol by Mozambique on 30 January 2012.

OHCHR's Human Rights Adviser in the Republic of Moldova worked with Government counterparts to develop a law on the social inclusion of persons with disabilities, which aims to incorporate the requirements of the CRPD into domestic legislation, including Moldova's first legal requirement of reasonable accommodation. The draft law was approved by the Government in December 2011 and sent to Parliament for adoption. The Human Rights Adviser also worked with UNDP, the NHRI, Parliament and the Ministry of Health to design a pilot Office of the Ombudsman in the Chisinau Psychiatric Hospital. The measure was approved in December 2011 and will be launched in 2012. In November 2011, following extensive efforts by OHCHR, the Ministries of Health, Justice and Labour, Social Protection and Family established an inter-ministerial working group to review domestic legislation and policies to ensure their consistency with article 12 of the CRPD. This article requires States Parties to move from the current system of substituted decision-making for people with psychosocial disorders to a system of assisted decision-making.

Also in the Republic of Moldova, OHCHR supported the Ministry of Health and the Government in improving protection of the rights of persons with psychosocial disabilities held in mental institutions, resulting in an agreement to establish an independent institutional complaint review mechanism - an Ombudsperson in psychiatric institutions - an idea proposed and developed by the Human Rights Adviser.

In Sierra Leone, which ratified the CRPD in October 2010, the Human Rights Component of the UN Integrated Peacebuilding Mission in Sierra Leone, in collaboration with OHCHR, supported the Government in the process of elaborating the new Persons with Disabilities Act that was enacted in March 2011. The Act constitutes an important step towards the elimination of discrimination against persons with disabilities and the facilitation of their full participation and inclusion in society.

In Cameroon, persons with disabilities were sensitized on their right to participate in political life on an equal basis with others and the importance of their political participation. As a result of OHCHR's advocacy efforts, the Election Management Body made some polling stations accessible for persons with disabilities during the October 2011 elections.

## Access to justice and basic services

*EA 4 - Increased number of measures taken to improve access to justice and basic services of those affected by discrimination, particularly women, and with regards to the right to education*

In Cambodia, OHCHR provided financial and technical support to the process of allowing the registration of communal title by seven villages of Phnong indigenous peoples in Mondulkiri Province. Working closely with non-governmental partners, the Office assisted individuals to file their claims with the Ministry of Interior and the Ministry of Rural Development. The project on indigenous peoples involves 3,741 people.

In Serbia, as a result of joint efforts of the Ministry for Human and Minority Rights and the Ombudsman, with support from the OHCHR Human Rights Adviser, the Law on ID Cards was changed and temporary ID cards were introduced for people without a permanent or temporary residence address or those with a temporary administrative address. In addition, the Law on Residence was changed to introduce an obligation for municipal social welfare centres to provide an administrative address to persons whose residence cannot be established. This partially resolved the issue of access to personal documents for persons living in informal settlements.

### Multi-Donor Trust Fund on disability

The Multi-Donor Trust Fund (MDTF) on disability was established to achieve the objectives of the UN Partnership to Promote the Rights of Persons with Disabilities (UNPRPD). The partnership aims to develop the capacities of national stakeholders, particularly Governments and organizations of persons with disabilities, for the effective implementation of the Convention on the Rights of Persons with Disabilities (CRPD). The MDTF brings together six UN agencies, namely OHCHR, the UN Department of Economic and Social Affairs (DESA), UNDP, UNICEF, ILO and WHO. The Fund, which is administered by UNDP, was officially launched on 8 December 2011.

In 2006, the General Assembly adopted the CRPD, acknowledging

the widespread discrimination, exclusion and marginalization that persons with disabilities are facing in all parts of the world. The CRPD embodies a paradigm shift towards a human rights-based approach to disability. It is comprehensive in scope, covering a broad range of civil, cultural, economic, political and social rights. Few countries, however, currently have adequate mechanisms in place to ensure its full implementation. In their everyday lives, persons with disabilities face numerous and multifaceted barriers which undermine the purposes of the CRPD and make its implementation by national stakeholders highly challenging. The UNPRPD was established against this background as the first global UN inter-agency initiative with a programmatic focus

on the promotion and protection of the rights of persons with disabilities. The MDTF on disability will allow for effective implementation of joint and individual programmes at the country level. The thematic priorities for the MDTF on disability include promoting ratification and reforming and/or developing legislation, policy, strategies and plans of action; improving the delivery of programmes and services (mainstream and specialized); raising awareness and enhancing dialogue and coordination between States, persons with disabilities and their representative organizations, social partners and United Nations Country Teams; and improving data and research on disability.

The Advisory Office on Good Governance/Office of the Prime Minister, which acts as the main coordinating structure for the implementation of the Kosovo Action Plan on the implementation of the Anti-Discrimination Law, established a multi-sectoral working group to develop the Action Plan on the Anti-Discrimination Law 2012-2015. OHCHR engaged in sustained advocacy for the revision and amendment of this Law, which entered into force in 2004, but its implementation at all levels remained very low. The Office oriented its efforts in two directions: a) work at the policy level to influence the initiation of the revision and amendment of the Law; b) support for local NGOs to increase the demand for its implementation while ensuring local ownership of the process. As part of the working group, OHCHR presented its policy recommendations and undertook comparative research into equality bodies that could be used as a model by Kosovo institutions. Together with the OSCE, OHCHR will continue to substantively contribute to the process.

Efforts of OHCHR are among the factors resulting in the first legal recognition of a Muslim community in the Republic of Moldova. By identifying discriminatory processes applied by the authorities in registering the community, through extensive work undertaken in collaboration with the UN Resident Coordinator's Office, CERD, the UN Special Rapporteur on freedom of religion or belief, as well as processes such as the UN-Moldova Human Rights Dialogue, OHCHR contributed to assisting the Government to overcome opposition to registration of the community.

## Participation

*EA 5 - Increase in use by individuals facing discrimination of existing national protection systems and their meaningful participation in decision-making processes and monitoring of public policies*

Participation in elections and decision-making processes is essential for the exercise of human rights. OHCHR places particular emphasis on strengthening the participation of women in these processes. Organizations of persons with disabilities, indigenous peoples' organizations and women's groups participated as observers in the elections in Cameroon, following OHCHR's training and a publication on elections and human rights.

A draft bill on a 30 per cent quota for women in decision-making positions has been tabled in Sierra Leone. The Human Rights Section of UNIPSIL, in

collaboration with the Political Affairs Section, provided technical support and participated in the deliberations leading to this result. If the bill is enacted in early 2012, the quota will be applicable in the upcoming general elections in November 2012.

The Office continued to promote strategic litigation to challenge anti-discriminatory laws and test the judicial system's response to anti-discrimination cases with a view to implementing international standards.

The Office provided support to the European Centre for Minority Initiatives (ECMI), a local non-governmental organization (NGO) that works primarily on minority issues in Kosovo and provided direct legal aid in 44 cases of alleged discrimination related to the restoration of destroyed property, the return of seized property, access to records, acquisition of personal documents, repatriation, etc. In addition, ECMI drafted a report on the pattern of segregation of Roma children to separate classrooms. The report provides a set of recommendations to the Ministry of Education on the adoption of an administrative instruction based on the Law on Primary Education and existing inclusive policies to stop discriminatory practices at school. Another local partner of OHCHR, the Youth Initiative on Human Rights (YIHR), received technical advice on drafting a report on the implementation of the Anti-Discrimination Law in Kosovo. The report, which was issued in December 2011, outlined the weaknesses in existing legislation as well as institutional capacity gaps in the implementation of the Law. OHCHR also made small grants available to civil society organizations in Mitrovica and Zvečan for activities with the objectives of: promotion and protection of human rights, such as campaigning for ratification or implementation of human rights instruments; and monitoring, documenting, providing legal aid, strengthening the rule of law and improving access to justice.

In Guatemala, the Office provided capacity-building and training to key indigenous organizations involved in strategic litigation under the Maya Programme which led to an increase in the number of strategic cases presented before the national courts and tribunals. In 2011, of the 11 organizations included in the first phase of the programme, 10 presented cases. One indigenous organization, for instance, sought an injunction (*amparo*) in the Constitutional Court in relation to the General Law of Communications alleging it had limited the freedom of expression and communication of indigenous peoples. The case is now pending final resolution. In another case,

some indigenous organizations sought an injunction in the Constitutional Court in relation to the Government-established process to approve an initiative to regulate the right of indigenous peoples to consultation. The Court granted the injunction, suspending the process, as it limited the scope of the right to consultation established in ILO Convention No. 169 and called on the President to redirect the initiative.

OHCHR-Bolivia contributed to enhancing the visibility of indigenous peoples' rights through monitoring activities. The Office's monitoring and advocacy efforts contributed to the decision of the Departmental Legislative Assembly of Santa Cruz to enable two indigenous members, who had thus far been prevented from taking office by the majority of the Assembly, to finally do so. Both members were elected through procedures that respected their traditions.

In the Central African Republic, efforts to enhance the capacity of civil society organizations to promote and protect human rights had some positive results. A local network of human rights groups was selected for funding by the Assisting Communities Together Project, a joint UNDP and OHCHR initiative. The Human Rights Section of the United Nations Integrated Peacebuilding Office in the Central African Republic (BINUCA) had been active in supporting the creation and development of the network, for instance by holding weekly human rights education sessions and organizing joint human rights promotion activities. For the first time, the network will obtain a small grant to carry out a human rights advocacy campaign. The campaign seeks to fight discrimination against women and minority groups, mainly the Peuhl minority, through theatre performances and radio talks.

In Papua New Guinea, OHCHR used public information tools and distributed materials as a means of increasing dialogue on human rights and engagement with the Government, advance the human rights agenda and promote the participation of civil society and other stakeholders. OHCHR developed communication strategies, used social media, created a website, produced a film and organized art festivals to advocate for greater human rights protection and disseminate information about human rights to the general public. These outreach activities significantly improved access to information and opportunities for dialogue on how to advance the human rights agenda.

## Engagement with human rights mechanisms

*EA 7 - Increased number of victims of discrimination and national human rights institutions acting on their behalf using the Human Rights Council and its subsidiary bodies, special procedures and treaty bodies to promote equality and non-discrimination*

Nine minority representatives (Arabic and English speakers) and 25 indigenous Fellows (English, French, Spanish and Russian speakers) received in-depth training on human rights mechanisms through the OHCHR fellowship programme which gives the Fellows an opportunity to contribute to the Forum on Minority Issues and the Expert Mechanism on the Rights of Indigenous Peoples. OHCHR also inaugurated a senior fellowship programme which gives more experienced minority and indigenous representatives hands-on experience in the work of OHCHR. In the selection of Fellows, gender balance was a key consideration.

In October and November, 10 Fellows from Europe, the Americas and the Middle East gathered in Geneva for the inaugural OHCHR fellowship programme for people of African descent. Exchanges with UN human rights staff and experts, as well as training and participation in key human rights mechanisms and bodies, enabled them to deepen their understanding of the United Nations human rights system and gain skills to support their communities better.

## Responsiveness of the international community

*EA 10 - International community increasingly responsive to situations characterized by discrimination against individuals and groups*

In June 2011, the Human Rights Council adopted a resolution focused on violence and discrimination on the grounds of sexual orientation and gender identity (A/HRC/RES/17/19). The adoption of the resolution was due in part to efforts led by the High Commissioner to raise awareness about the susceptibility of lesbian, gay, bisexual and transgender (LGBT) persons to a wide range of human rights violations. In addition to issuing public statements and organizing and participating in panel discussions and other meetings, OHCHR produced newspaper opinion editorials on the issue, as well as online videos, web-based stories and other public information materials. In follow-up to the resolution, the Office prepared a report on violence and discrimination based on sexual orientation and

gender identity which documented discriminatory laws, practices and acts of violence directed at individuals on the basis of their actual or presumed sexual orientation or gender identity. The report called for the reform of laws in more than 70 countries that criminalize consensual same-sex relationships, as well as an end to discriminatory restrictions on freedoms of expression, association and assembly and the legal prohibition of discrimination in employment, education and healthcare. The report also highlighted the need for measures to tackle homophobic violence, including training for law enforcement personnel, investigation of reported cases and systems to track, record and report such violence.

During various sessions of the Human Rights Council and on other important dates, including the International Day for the Elimination of Racial Discrimination, OHCHR organized a number of high-level panels on issues such as tolerance and peace, best practices against racism and current human rights situations around the world, drawing from the inspiration of the Nelson Mandela International Day, to raise the awareness of the international community. OHCHR also produced and disseminated copies of an electronic toolkit for its field offices and other stakeholders containing materials on how to tackle discrimination against people of African descent.

In accordance with Human Rights Council resolution 16/28, OHCHR actively engaged in the General Assembly High-level Meeting on AIDS by providing a human rights-based perspective. The High Commissioner's report to the Council provided further information on the role that the Office played and an analysis of the 2011 Political Declaration on HIV and AIDS from a human rights perspective.

The High Commissioner continued her advocacy efforts related to maternal mortality and morbidity underlining that this is an issue of discrimination against women and therefore a human rights concern. Following up on her landmark report to the Human Rights Council in 2010, the High Commissioner presented to the Human Rights Council a compilation of good practices in which a human rights-based approach had been applied to eliminate preventable maternal mortality and morbidity. The report identified five key areas in addressing maternal mortality and morbidity in line with human rights obligations. These included: enhancing the status of women by removing barriers to an effective human rights-based approach to eliminate maternal mortality and morbidity; ensuring respect for sexual and reproductive health rights;

strengthening health systems to increase access to, and use of, skilled care; addressing unsafe abortions; and improved monitoring and evaluation practices. In conjunction with the presentation of this report, the High Commissioner participated in a high-level side event on maternal mortality at the Human Rights Council, with the Vice-President of Colombia, the Ambassador of New Zealand and senior representatives from the UN and civil society, promoting the integration of a human rights-based approach in follow-up actions undertaken by the Human Rights Council to reduce maternal mortality and morbidity. The Human Rights Council adopted a resolution requesting the High Commissioner to develop technical guidance on the application of a human rights-based approach to the reduction of preventable maternal mortality and morbidity for submission to the Council at its 21st Session.

## Human rights mainstreaming within the United Nations

*EA 11 - Increased integration of equality and non-discrimination standards and principles into UN policies and programmes with respect to development, humanitarian action, peace and security and economic and social issues*

OHCHR works within and across the UN system in Geneva, New York and the field to promote and protect human rights; to integrate a human rights-based approach into the UN's activities; and ensure that the principles of equality and non-discrimination remain as a solid foundation of the UN's programming in all spheres and activities.

Through the Gender Integration Cluster, OHCHR promotes a human rights-based approach to gender mainstreaming efforts within the United Nations. Following the adoption of the OHCHR Gender Equality Policy in September 2011 and the development of a Gender Equality Strategic Plan (2012-2013) translating the Policy into concrete action, the Office is serving as one of the pilot organizations to test the System-Wide Action Plan on Gender Equality and Women's Empowerment, coordinated by UN Women. Within this framework, OHCHR is contributing to the development of system-wide standards and performance measures on gender mainstreaming to ensure that human rights principles and concerns are adequately reflected.

In May 2011, OHCHR, WHO, UNFPA, UNICEF and UN Women issued an inter-agency statement on preventing gender-biased sex selection. The statement recognizes gender-biased sex selection as a

manifestation of impermissible discrimination against women and emphasizes that measures to address this phenomenon must not violate women's human rights. It offers specific recommendations to a variety of stakeholders on how to address gender-biased sex selection and provides an important basis for interventions designed to eliminate a practice which has serious implications for women's enjoyment of their human rights. OHCHR coordinated the inter-agency launch of this statement which received wide coverage in the media in June 2011. The statement is a powerful example of inter-agency coordination to convey a unified UN voice on an important women's human rights issue.

OHCHR issued a new tool on minority issues for UN staff and others, entitled "Minority Rights: International Standards and Guidance for Implementation." The handbook provides guidance on standards and mechanisms pertaining to the protection of minorities and a checklist for developing programmes and projects on minorities, including combating multiple forms of discrimination against minority women.

The United Nations Indigenous Peoples' Partnership (UNIPP), a joint initiative of OHCHR, ILO, UNDP, UNFPA and UNICEF became fully operational in 2011. The Policy Board, which includes representatives of agencies and indigenous experts, was co-chaired by OHCHR. The Board held two meetings in 2011 and approved six country programmes (Bolivia, Cameroon, Central African Republic, Congo, Nepal and Nicaragua) and one regional programme (South-East Asia) to be implemented in partnership with indigenous peoples in 2012. These programmes aim to advance human rights standards contained in the Declaration on the Rights of Indigenous Peoples and ILO Convention No. 169.

At the field level, the Human Rights and Transitional Justice Section of the United Nations Integrated Mission in Timor-Leste launched the first public report by a peacekeeping mission, in September 2011, on the rights of persons with disabilities. The objective of the report was to mainstream the rights of persons with disabilities in human rights work, create opportunities for persons with disabilities to participate in human rights activities and advocacy and raise awareness about the rights of persons with disabilities through public reporting and advocacy. The findings and recommendations of the report are being used to facilitate discussion on how the Government, civil society and international actors in

Timor-Leste can work together to promote and protect the rights of persons with disabilities.

## Challenges and lessons learned

During 2011, gaps in the full and effective implementation of international obligations persisted, despite widespread ratification of the core international and regional instruments protecting the right to equality and non-discrimination. OHCHR continued to provide tools and guidance notes, as well as specific trainings and technical assistance to support States Parties in domestic implementation. Support to States for the elaboration and development of national action plans was a useful anti-discrimination activity at the national level and encouraged the participation of domestic actors in national processes. OHCHR will continue advocating for, and supporting, the elaboration of national action plans in the future.

Maintaining international consensus on anti-discrimination work has been a significant challenge. The Durban Declaration and Programme of Action established a comprehensive anti-discrimination framework to address a range of issues concerning discrimination and intolerance, which was reaffirmed at the Durban Review Conference of 2009. These instruments outlined contemporary forms and manifestations of discrimination, including discrimination and intolerance based on religion and belief. While the 10th Anniversary Political Declaration urges a renewed political will in relation to anti-discrimination issues, sensitive issues will remain at the forefront for the foreseeable future.

It has also been necessary to build an understanding around the importance of addressing emerging issues at the international level. In this regard, continued advocacy by the High Commissioner and the Office will be necessary.

While the impact of advocacy on the promotion and respect for women's human rights has resulted in institutional changes and reform measures, the challenge of addressing certain cultural and traditional beliefs and practices, which constitutes discrimination against women and girls, persist. This calls for scaling up the Office's work on implementation at regional, national and community levels.