



# Thematic Priorities



# Discrimination

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*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.



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.

# Impunity and the rule of law

## *Combating impunity and strengthening accountability, the rule of law and democratic society*

### Background

Developments around the world in 2011 demonstrated that UN engagement to strengthen the effective protection of human rights and the rule of law is more essential than ever. Within the UN system, OHCHR continued to play a leading role in nurturing positive conditions for respect of the rule of law and democracy, in particular through its focus on combating impunity and strengthening accountability.

The absence or collapse of the rule of law in any State can result in violent conflict or repression, leading to gross violations of human rights. Impunity is often the primary obstacle to upholding the rule of law. Human rights become a mockery when killings, disappearances, torture, rape and other forms of sexual violence go unpunished, when amnesty laws exempt perpetrators from responsibility, when inquiries into excessive use of force fail to produce results and when economic, social and cultural rights cannot be attained through a judicial process.

Establishing effective mechanisms to ensure that perpetrators of human rights violations will not go unpunished is an important step in restoring the rule of law in the aftermath of conflict or authoritarian regimes. National accountability mechanisms are also vital to ensuring that victims obtain appropriate remedies and redress.

Transitional justice is recognized as essential for countries recovering from conflict or repressive rule. Rooted in the rights to justice, truth, reparations and guarantees of non-recurrence, transitional justice mechanisms constitute a comprehensive approach to combating impunity, ensuring accountability for past human rights violations, redress for victims of violations of human rights and advancing broader institutional reform necessary to address the root causes of strife and conflict.



A South Sudanese woman casting her ballot in South Sudan's referendum on independence.

## OHCHR's role

OHCHR engages in dialogue with States on ways to achieve legal protection of human rights and accountability for violations. At the country level, OHCHR's efforts focus on dialogue with Governments, institutions concerned with the administration of justice, law enforcement agencies, NHRIs and CSOs to promote principles of accountability and the rule of law, share examples of good practice and provide technical advice.

At the global level, OHCHR supports the development of relevant international norms and standards, collects good practices, elaborates guidance tools and carries out capacity-building activities. It also supports human rights mechanisms in their efforts to enhance the legal protection of human rights and accountability. The Office has assumed a lead role within the UN system on transitional justice and chairs the Working Group on protecting human rights while countering terrorism of the Counter-Terrorism Implementation Task Force established by the Secretary-General.

At the national level, OHCHR is involved in policy development, normative guidance and capacity-building activities which contribute to the development of robust, rule of law-based justice systems by providing ongoing assistance to Member States in these human rights capacity-building activities for judges, prosecutors, defence lawyers and law enforcement agencies. Such assistance includes support and needs assessment in the field of human rights, implementation of specific activities, review of relevant legislation and procedures to ensure compliance with international human rights standards and the delivery of practical human rights training programmes.

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

### National laws, policies and institutions

*EA 1 - Increased number of democratic institutions engaged in issues related to combating impunity*

#### Constitution-making and Constitutional Courts

OHCHR advocates for the inclusion of strengthened provisions with regard to human rights in constitutions and encourages constitutional courts to apply international human rights standards in their decisions.

In Mauritania, the criminalization of torture, slavery practices and *coup d'états* and the establishment of the National Human Rights Commission (NHRC) were incorporated in the Constitution. OHCHR helped to identify relevant human rights issues and ensure compliance of the constitutional amendments with the country's international human rights obligations.

In Somalia, the Human Rights Unit of the United Nations Political Office for Somalia (UNPOS) contributed to the constitution-making process by promoting two dialogues that provided an opportunity for human rights defenders, civil society groups and Government officials to review the draft constitution from a human rights perspective. Through a training-of-trainers exercise in Nairobi, OHCHR, in cooperation with UNDP, built the capacity of members of the Independent Federal Constitutional Commission of Somalia and civil society representatives so they could conduct a human rights audit of the draft constitution.

In Mexico, an important constitutional reform allows for better integration and protection of human rights, giving constitutional status to all human rights provisions enshrined in international treaties to which Mexico is Party. OHCHR-Mexico's contribution to this included facilitating broad dialogue among academics, human rights experts and NGOs which resulted in the publication of a "Comprehensive Proposal for Constitutional Human Rights Reform." This document included progressive proposals on the integration of the body of international human rights law into Mexico's Constitution.

In Guatemala, the Constitutional Court incorporated international human rights standards in some of its policies and decisions, including in cases of torture and violence against women and cases related to indigenous peoples, such as the right to consultation. OHCHR contributed to this result by disseminating material on international standards in relation to key human rights cases, capacity-building activities and sustained advocacy.

#### Compliance of national legislation and policies with human rights

OHCHR plays an important role in providing advice on draft laws to ensure that human rights concerns are fully taken into account, including in legislation such as criminal codes and codes of criminal procedure. For instance, as a member of the Criminal Justice Working Group in Afghanistan, OHCHR-United Nations Assistance Mission in

Afghanistan (UNAMA) contributed to compliance of national legislation with international human rights standards through the provision of comments on the draft Criminal Procedure Code and by participating in task force meetings for the drafting of the National Priority Programme on Law and Justice.

Enforced disappearances continue to be a major concern in many parts of the world. In Nepal, although the draft Criminal Code introduced in Parliament includes a provision to criminalize enforced disappearances, the draft Penal Code and the draft bill for the Commission of Inquiries of Disappearances continue to have shortcomings. OHCHR-Nepal contributed to improved compliance of these bills with international standards by providing analysis and assistance to legal professional groups, CSOs and victims' groups in their advocacy work. In Colombia, OHCHR facilitated the creation of a participatory mechanism to regulate a law that pays homage to victims of enforced disappearances and provided support to discussions in Congress on a draft law related to enforced disappearances and on the draft law, passed by Congress in June, on land restitution and victims' rights. Following the adoption of the Law, OHCHR-Colombia contributed with an analysis on its benefits and gaps. This analysis fed into the UN's position on the matter (included in the 2011 Human Development Report) and contributed to a better understanding of this landmark piece of legislation among the international community, civil society and the public-at-large.

OHCHR provided advice in several countries on new legislation on the rights of prisoners and detainees and the prohibition of torture. In Uganda, OHCHR provided a legal analysis of the Prohibition and Prevention of Torture Bill which underwent its first reading and complies with international standards. In Cambodia, the Law on Prisons was passed in December 2011. While it did not include all comments made by OHCHR on compliance with international human rights law, it improves the previous legal framework. In particular, the Law emphasizes: rehabilitation; the requirement of separation of different categories of prisoners; greater attention to the needs of women and children; the inclusion of minimum design standards for prison construction to ensure basic conditions; an absolute prohibition against torture and other cruel, inhuman and degrading treatment or punishment; strengthened safeguards against arbitrary detention; and clear reference to the broader Cambodian legal framework. As the Law could have provided stronger guarantees of the rights of persons in detention, OHCHR continues to raise these concerns as



A police officer in Nepal.

secondary legislation and administrative procedures are developed to implement the Law.

Several OHCHR field presences devoted special attention to assisting national legislative processes regarding various aspects of the administration of justice. In Guatemala, OHCHR provided technical assistance to the General Attorney's Office, which made significant progress in 2011, including with the adoption of internal regulations on strategic investigation and prosecution, particularly in cases related to the internal armed conflict. The General Attorney also promoted the reform of the Statutory Law that would ensure greater compliance with international standards in Congress.

The National Congress of Honduras approved new legislation on judicial governance and careers. Through the organization of a seminar with international experts, its participation at a plenary Congress session and a publication, OHCHR contributed to ensuring that the Law complies with international principles on the independence and impartiality of the judiciary.

In Colombia, a law on intelligence was adopted by Congress in June which included suggestions on compliance with international standards made by OHCHR. Through this Law, and in accordance with OHCHR's advice, a new intelligence institution was created, with new democratic control mechanisms.

In Kenya, the National Council on the Administration of Justice was established as a mechanism to ensure a coordinated approach to the administration of justice and secure the independence and accountability of the judiciary. OHCHR's comments and suggestions were reflected in the draft bill which was adopted by Parliament.

In Liberia, the Human Rights and Protection System (HRPS), national and UN partners collaborated on the development of the Children's Act, a children's justice curriculum and ethical guidelines for professionals working with children in conflict or in contact with the law. HRPS' input included suggestions to mainstream human rights in legislation and policies. The comprehensive and human rights-compliant Children's Bill was signed by the President in February 2012. In Lebanon, OHCHR's Regional Office for the Middle East contributed to the elaboration of the Code of Conduct for the security forces, adopted by the Directorate of the Internal Security Forces, by providing technical advice to the drafting committee and advocating with members of the Internal Security Forces.

Legislation focused on the protection of the rights of victims and witnesses is fundamental. In Kenya, OHCHR provided advice to national authorities on the legal and institutional framework for the newly created Witness Protection Agency and its Advisory Board which will contribute to ending impunity by aiding investigations and prosecutions and protecting evidence and witnesses of alleged crimes. At the European Union level, the adoption of a draft directive would constitute an important development in harmonizing legislation and ensuring the protection of all victims of crimes, regardless of their nationality or where the crime is committed. Nevertheless, the directive requires some adjustments to ensure that the human rights of victims are fully respected. The OHCHR Regional Office for Europe, in cooperation with UNICEF, UNODC, UN Women and UNHCR, prepared joint comments addressed to the European Commission to ensure that the draft directive is fully compliant with international human rights standards.

Legislation on freedoms of expression and assembly was the focus of attention for OHCHR in several countries. In Iraq, the United Nations Assistance Mission for Iraq's (UNAMI) Human Rights Office continued its advocacy with the Government and State authorities through amendments so as to improve the Journalist Protection Law and ensure it is amended to comply with international standards. It contributed to

raising awareness of these standards by national stakeholders through several meetings, including a national conference on freedom of expression for national authorities and members of the Council of Representatives. In Mexico, OHCHR provided technical input and guidance to the drafting of a bill which abolished libel and slander as crimes. In Togo, a new law was adopted by Parliament which guarantees the right to public gatherings by means of providing prior information to authorities. OHCHR supported consultations on the draft, including through the organization of a workshop with broad participation from CSOs and political parties and advocating for its compliance with the International Covenant on Civil and Political Rights (ICCPR) and recommendations issued by the Human Rights Committee after its consideration of Togo's fourth periodic report under the Covenant.

In new countries, such as South Sudan, and countries recently in transition, such as Tunisia, OHCHR contributed to the initiation of legislative reform. In Tunisia, reforms related to legislation on political parties, the release of political prisoners, the dissolution of the political police and security apparatus and freedom of the press were initiated. OHCHR-Tunisia assisted national counterparts, including through the dissemination of guidance provided by treaty bodies and special procedures, to ensure that new laws comply with international human rights standards. In South Sudan, the United Nations Mission in the Republic of South Sudan's (UNMISS) Human Rights Division offered advisory services to support the formulation of the Transitional Constitution of South Sudan (TCSS) and provided advice on national legislation and the ratification of international human rights instruments. Most comments provided on the South Sudan Nationality Act of 2011 were incorporated into the Act.

In addition to supporting legislative reform, OHCHR also provided support to States regarding policy reform, in particular related to the administration of the justice sector. For instance, the 2011-2015 Strategic Plan of the Burundi Ministry of Justice was developed in 2011 and includes reforms pertaining to judicial independence and accountability. Following advocacy work of the United Nations Office in Burundi (BNUB), two key activities were undertaken: the organization of a national conference on justice which will serve as a platform for recommendations on different issues related to judicial independence and a study on the capacity-building plan for the Supreme Council of Magistrates which will serve as a preliminary step for wider reforms.

In Afghanistan, a Human Rights Support Unit was established within the Ministry of Justice to strengthen the Government's capacity to fulfill its international human rights obligations under the human rights treaties it has ratified, which have also been incorporated into its Constitution. OHCHR/UNAMA, in collaboration with UNDP, supported the establishment of the Unit. The Office also conducted training on the human rights-based approach for newly recruited staff and provided policy advice and technical advice to the Unit for the development of an action plan to implement recommendations of the UPR.

In Guinea-Bissau, the United Nations Integrated Peacebuilding Office in Guinea-Bissau (UNIOGBIS) facilitated the creation of an interdisciplinary committee to ensure the compliance of prisons and detention centres with international standards for detention. As a result of monitoring findings related to the administration of justice, the Government agreed to the creation of an integrated structure for the administration of the correctional system. OHCHR provided technical support to the drafting of the terms of reference for the structure which is expected to be created in 2012.

### **Strengthening human rights compliance by judicial and law enforcement institutions**

The joint OHCHR-DPKO Rule of Law Indicators Project (ROLIP) was launched in 2011 receiving the endorsement of the UN Rule of Law and Coordination Resources Group as a system-wide guidance tool. The project was being implemented in Haiti and Liberia and the indicators were launched in South Sudan in late 2011. Through ROLIP, national authorities are provided with the necessary information and guidance to assess and identify areas in need of reform, such as performance, integrity, transparency and accountability of national criminal justice institutions and ensure compliance with international standards regarding fair trials and the treatment of members of vulnerable groups.

In 2011, OHCHR organized and facilitated human rights training sessions in field presences around the world for the judiciary, police and other security forces, including military forces in order to contribute to improving their compliance with international human rights standards.

With the ILO, the OHCHR Regional Office for South America organized and conducted a two-month course in Peru focused on the direct applicability or the interpretative value of international human rights treaties in domestic



OHCHR briefing on human rights for police officers at the Abidjan Police Training School.

courts. The course was broadcast live on the judiciary's television channel for public prosecutors and judges in several judicial regions throughout the country, including the primary indigenous regions. Through these activities, 50 public prosecutors and judges have been able to increase their awareness, knowledge and skills of the application of human rights treaties and standards relating to indigenous peoples.

In Haiti, over the past two years, there has been an improvement in the police's respect of the 48-hour maximum period before detainees are brought before a judicial authority, as provided by law. The Human Rights Section (HRS) of MINUSTAH contributed to this result by training national police officers. The training also resulted in a significant decrease in the ill-treatment of detainees in police stations.

In Kiribati, Papua New Guinea and Solomon Islands, the police and representatives of a number of ministries attended workshops on monitoring and documenting human rights violations which focused on their duties ensuring that violators are prosecuted. In Papua New Guinea, this resulted in police working with human rights defenders to pursue accountability through the formal justice system in cases of sexual and gender-based violence (SGBV), including gang rape.

OHCHR trained 250 police, gendarmes, customs officers and soldiers in the security forces in five regions of Guinea on human rights and law enforcement. These forces have shown improvement in crowd control techniques which has led to fewer confrontations with the population and a reduction in casualties caused by law enforcement agents.



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OHCHR similarly helped strengthen the capacity of law enforcement officials in Guinea-Bissau, including those in the penitentiary system, through training, monitoring, reporting and advising authorities on necessary measures. This contributed to a significant reduction of arbitrary detentions and ill-treatment in prisons and detention centres and prompted the creation of an interdisciplinary committee to provide support to the authorities in adequately managing the penitentiary system.

In Sri Lanka, the Inspector General of Police approved the comprehensive training curriculum and lessons plan for the core human rights training programme of the Sri Lankan police which was translated and printed in Sinhala, Tamil and English. The training-of-trainers workshop on human rights and policing that was held by OHCHR in 2009 formed the basis of these materials.

In Togo, the Justice and Security Ministries and OHCHR carried out a training programme on human rights norms in the administration of justice for magistrates and criminal investigative police officers. The programme was the first to bring together these entities and contributed to enhancing their understanding of and ability to apply human rights norms in their work.

The human rights training of members of armed forces is crucial. In Burundi, on BNUB's recommendation, the Minister of Defence re-launched a capacity-building programme for members of the armed forces elaborated by BNUB. Training of military focal points in human rights was conducted after informal consultations with the Ministry and a retreat was organized in collaboration with high-ranking military officers on the application of international human rights standards and humanitarian law and their role as supervisors. It was decided that the programme

would be integrated into the overall development of the security sector to further strengthen the capacity of the armed forces leadership to protect human rights.

In South Sudan, the Sudan People's Liberation Army is being converted from a guerrilla force into a professional and disciplined armed force that will operate under democratic civilian control. Compliance with human rights standards improved, partly as a result of human rights trainings conducted by the Human Rights Component of UNMISS for division commanders and military personnel.

As a result of various trainings on human rights protection, law enforcement and elections monitoring, the Ugandan People's Defence Force (UPDF) has begun to comply with international human rights standards in personal security, bodily integrity and public freedoms issues, including in relation to the Karamoja Disarmament process and the political context before, during and after elections. The UPDF in Karamoja is now rolling out its own training programme for Local Defence Units and UPDF command that is based on material provided by OHCHR and the Uganda Human Rights Commission.

Monitoring of detention facilities, advocacy efforts and public reporting contribute to improving the treatment of prisoners by law enforcement officials. In Afghanistan, for instance, OHCHR/UNAMA undertook systematic monitoring of its advocacy with the Government in relation to recommendations made in the Arbitrary Detention Verification Campaign report and released a report on the treatment of conflict-related detainees held by the National Directorate of Security (NDS) and Afghan National Police (ANP). Following OHCHR/UNAMA's activities, Government and international security forces (ISAF) made immediate changes to their policies on the

treatment of detainees and the prevention of torture in Afghanistan. Thus, a system for tracking detainees and information on their treatment was introduced by ISAF to ensure appropriate treatment of detainees handed over to national authorities. The Afghan Government implemented some recommendations regarding detention and fair trial guarantees, including: the establishment of an internal oversight commission by the NDS while the external oversight of the ANP is being developed by the Afghanistan Independent Human Rights Commission; and initiation of reform of the Criminal Procedure Code and the Penal Code.

### Democracy and elections

Respect for and protection of human rights is essential to democracy and free and fair elections. Free and fair elections were held in Côte d'Ivoire in December 2011. Through training and support material provided by the Human Rights Division of UNOCI, law enforcement officials were equipped with techniques and tools to ensure that human rights were upheld during the elections. Civil society groups, media practitioners, members of political parties, as well as the general electorate were sensitized to critical human rights norms related to elections, their importance and how to advocate for their respect. In Cameroon, human rights civil society organizations produced reports from a human rights perspective on elections, following training and documentation received from OHCHR's Regional Office for Central Africa.

### National human rights institutions

NHRIs and Ombudsmen's Offices are among mechanisms to ensure the compliance of States with their human rights obligations. Their work can have a direct role in combating impunity and promoting the rule of law.

OHCHR advocates for and supports the establishment of new NHRIs compliant with the Paris Principles in all regions. In 2011, the Regional Office for South America supported efforts to establish a NHRI in Uruguay by raising awareness among parliamentarians and the Governments about the importance of taking steps to establish the institution and participating in the development of a strategy for the institution, taking into account best practices from around the region. The Uruguayan Congress created a joint commission (Senate and Representatives Chambers) to select the five Commissioners of the national human rights institution. It is anticipated that the first Commissioners will be appointed in 2012, starting the process of the progressive establishment of the Uruguayan human rights institution, as included in the Uruguayan United Nations Development Assistance Framework (UNDAF) 2011-2015 signed by the Government. The Regional Office also collaborated closely with the newly created National Human Rights Institute in Chile and advocated for legislation that would make it compliant with the Paris Principles. In March 2011, the Chilean Senate adopted a

#### Juveniles held with adult prisoners are released as a result of human rights monitoring

Four juveniles who had been held in detention at the Sefadu prisons in Kono, eastern region, Sierra Leone, were released on 13 August 2011 by the resident magistrate of Koidu. They were initially charged as adults by the Sierra Leone police and were only identified as juveniles during a visit by the magistrate that followed a justice sector coordination forum promoted by the United Nations Integrated Peacebuilding Office in Sierra Leone (UNIPSIL). The forum took place in the wake of other similar initiatives conducted throughout the country. In 2011, justice sector fora were held in eight different districts in response to the recurrent monitoring findings and

challenges of the justice sector institutions. The findings indicated lapses and coordination flaws that negatively impacted on human rights, including the right to due process, among the various actors within the administration of justice chain. The fora aimed at creating a platform for justice sector stakeholders to discuss human rights flaws, share information and devise practical strategies, including advocacy measures to improve justice delivery. In the case noted above, the boys were released after engagements between HRS, the magistrate and prison authorities to ensure that their matter was brought before the court. This is, however,

not an isolated case. State authorities generally lack the knowledge and equipment for age assessment or deliberately inflate the age of child offenders to subject them to stringent sanctions. Some training has been provided, but this is affected by the frequent movement and postings of personnel from one duty station to another. In its regular monitoring of detention facilities, UNIPSIL often finds juveniles being detained in the same cells as adults. This issue continually forms a part of UNIPSIL's engagement with relevant authorities. The justice sector fora provide a new and effective way to tackle this problem.

resolution recommending that the Government prioritize the legal initiative aimed at the establishment of a NHRI that is compliant with the Paris Principles. The resolution reflected comments provided by OHCHR factsheets and letters to parliamentarians.

In November 2011, the Parliament of Comoros passed a law on the establishment of a National Commission for Human Rights and Liberties, drafted with the substantive input and support of OHCHR's Regional Office for Southern Africa, UNICEF and UNDP. Following technical advice provided by FOTCD in cooperation with BNUB and the Independent Expert on Burundi, Burundi established the National Independent Human Rights Commission in May 2011 compliant with the Paris Principles.

In Guinea, the *Conseil National de la Transition* reviewed draft legislation on the establishment of a NHRI with OHCHR providing technical assistance and comments on the draft law and organizing a workshop for stakeholders on the process of establishing a NHRI based on the Paris Principles. The draft legislation incorporated the recommendations of the workshop and was submitted to the President for promulgation into law. It is expected that the law will be passed in 2012.

A plan for the creation of an independent national human rights commission was developed and implemented following a participatory process involving the Government of Niger, civil society organizations, unions, the media, the National Observatory for Human Rights and Fundamental Freedoms and the UNCT. The support provided by the Human Rights Adviser was critical to the mobilization of resources, provision of advice on the Paris Principles and sharing of good practices. The process resulted in the drafting and validation of a draft law on the creation of a NHRI in conformity with the Paris Principles.

Vanuatu is taking steps towards the establishment of a NHRI in compliance with its commitment under the UPR. OHCHR's Regional Office for the Pacific organized a scoping mission in Vanuatu on the establishment of a NHRI. Together with the Pacific Islands Forum Secretariat (PIFS) and the Asia Pacific Forum (APF), OHCHR has been actively following up on the recommendations of the mission with the Government. A consultation on the establishment of a NHRI is due to be held in Vanuatu in 2012.

Following the OHCHR assessment mission deployed to Yemen, which recommended the establishment of a NHRI in line with the Paris Principles in its report

to the Human Rights Council, the Yemeni Government adopted a framework document for the implementation of OHCHR recommendations, including for the establishment of a national institution. Parliament is currently discussing the adoption of this document.

In many countries, once NHRIs are established, OHCHR continues to provide support. In some cases, such support consists of the training of commissioners and staff on international human rights law and ensuring that NHRIs function in full compliance with the Paris Principles. For instance, in Cameroon, OHCHR facilitated and funded technical advisory services and training for NHRI commissioners and staff to, inter alia, assist them to more effectively address individual cases alleging human rights violations. As a result, the commissioners and staff of the NHRI acquired skills in human rights monitoring and have improved knowledge on how to respond to individual complaints.

Following advocacy efforts by the OHCHR Regional Office for Central Africa, Gabon has undertaken steps to make its national human rights commission operational. The members of the Commission have been appointed and a review of the law establishing the Commission to ensure it is compliant with the Paris Principles is envisaged.

A regional meeting of English-speaking Caribbean NHRIs in Trinidad and Tobago resulted in the Port of Spain declaration through which national institutions of the region committed to becoming "A" status institutions in compliance with the Paris Principles. The seminar was organized by OHCHR and the Commonwealth Secretariat, with administrative support from the UNCT in Trinidad and Tobago.

The International Coordinating Committee of National Human Rights Institutions upgraded the Mauritanian Human Rights Commission from "B" to "A" status. OHCHR provided technical advice and support to reinforce the capacities of the Commission and ensure its compliance with the Paris Principles. Following the Office's advocacy efforts, the Mauritanian Constitution was amended to affirm the role of the National Human Rights Commission. Similarly, in Congo, the Regional Office for Central Africa organized a seminar for the NHRI to sensitize stakeholders on the steps needed to ensure their compliance with the Paris Principles (currently accredited with "B" status). As a result, the Government took steps to review the current Law establishing the Commission to make it fully compliant with the Paris Principles.

In Haiti, the Ombudsman's Office (OPC) is implementing a decentralization plan and maintains regional offices in nine jurisdictions outside of Port-au-Prince. The OPC is supported by the HRS of MINUSTAH. In particular, the HRS worked with OPC personnel in the interior to address human rights violations in the context of detention and 735 cases of illegal detention were addressed.

OHCHR-Nepal contributed to the capacity-building of the National Human Rights Commission through a joint project with UNDP. The project allowed for the training of the NHRC's staff; the production of publications for human rights defenders, security forces and Government officials; and the undertaking of advocacy and consultations with stakeholders on thematic human rights issues. The project also supported a high-level panel discussion on withdrawals of cases of serious crimes and activities to mark important days such as the International Day in Support of Victims of Torture. Through the same project, the NHRC successfully coordinated the exhumation, by relevant State actors, of the remains of five people who were allegedly victims of disappearance during the conflict. The first four victims were exhumed in 2010 and 2011.

In Myanmar, OHCHR's Regional Office for South-East Asia engaged with the newly established Human Rights Commission through a workshop which provided an opportunity for members of the Commission and mid-level Government officials to familiarize themselves with international human rights law.

In South Sudan, significant progress was made in strengthening the capacity of the NHRI. As the major partner for the implementation of national-level programming, UNMISS's Human Rights Division forged a strong relationship with the Commission through training, technical and advisory services and joint programmes. With the assistance of a consultant recruited by the Office, the Commission has developed a complaints and investigation mechanism that has strengthened its monitoring mandate. The Commission also successfully launched the South Sudan Human Rights Forum which serves as a mechanism for the exchange of information and dialogue on human rights concerns among the Government, the UN and international partners.

In October, the Kosovo Assembly appointed five deputy Ombudspersons following a transparent process compliant with statutory requirements related to minority and gender representation. OHCHR has contributed to this result and provided comments on the rules of procedure for the selection process and the Paris Principles. The entire

selection process was monitored by civil society organizations and international agencies present in Kosovo. For the first time since its establishment and the transfer of authority to Kosovo institutions, the Ombudsperson Institution is fully staffed. After the selection of the deputy Ombudspersons, OHCHR closely cooperated with the institution and provided guidance and support in addressing discriminatory provisions in legislation. By the end of 2011, the Ombudsperson Institution processed the first case to the Constitutional Court which had positive outcomes.

The UN Joint Programme to strengthen the capacity of the Ombudsman Institution in Tajikistan was launched by the UN Resident Coordinator. OHCHR cooperated with the Ombudsman Institution to strengthen its capacities through a number of activities, including by organizing a seminar on methodologies of interviewing victims of torture and other serious human rights violations and providing assistance in preparing the Institution's application for accreditation. Extensive joint work was undertaken on the promotion of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT) and international standards related to the elimination of torture. This resulted in a public statement issued by the Ombudsman on a recent case of torture which appealed to authorities to initiate an immediate investigation. The Ombudsman's Office has undertaken steps to strengthen its position by introducing legislative changes related to the implementation of its mandate. As an example, a law was adopted obliging all State bodies to provide feedback on its inquiries. Changes to the Criminal Procedure Code were also introduced on the competence of the Ombudsman to visit closed institutions; the first of which were carried out in the last quarter of 2011.

### **National preventive mechanisms**

Supported by technical assistance provided by OHCHR, the National Preventive Mechanism (NPM) in Honduras approved a strategic plan which significantly improves its compliance with international human rights standards. Implementation of this plan is ongoing and some key goals have already been achieved, such as the publication of a report on the state of the penitentiary system in Honduras. OHCHR advocated with the Government, in coordination with the Subcommittee on Prevention of Torture (SPT), on the importance of ensuring that the NPM was equipped with appropriate resources to fulfil its mandate.



A police officer in Cambodia participating in a seminar on national preventive mechanisms.

A draft law on the NPM, compliant with OP-CAT requirements, was submitted to the Kyrgyz Parliament by a group of parliamentarians. OHCHR's Regional Office for Central Asia contributed to the elaboration of this draft by the provision of technical advice and expertise through, inter alia, the hiring of a national expert to advise on and promote OP-CAT standards. The Office also conducted advocacy during high-level meetings with relevant Government officials and Members of Parliament. The draft law is expected to be considered in 2012.

In Paraguay, Congress passed a law approving the establishment of an NPM in compliance with the OP-CAT. Congress is considering the harmonization of the definition of torture with international standards. OHCHR disseminated the recommendations addressed to Paraguay by the SPT and international standards on torture through publications issued by the Committee against Torture and the OP-CAT. OHCHR also organized a seminar with the Human Rights Network of the Executive Branch, institutions involved in the implementation of the SPT recommendations and CODEHUPY (a national NGO network) in Congress. The Vice-President of the SPT also provided support to this seminar by presenting best practices in the region.

In Serbia, Parliament adopted relevant legislative changes and appointed the Ombudsman as the NPM, in line with the OP-CAT. OHCHR intensively advocated for the appointment of the NPM in Serbia and worked with the Ombudsman to ensure the

developed model fully complies with international law requirements. OHCHR worked closely with the Ombudsman's Office to strengthen the institution and its ability to provide effective human rights protection. With OHCHR support, the Ombudsman established a system for the effective monitoring of and reporting on Roma rights.

### Human rights action plans

Human rights action plans can serve as important tools for developing a comprehensive and inclusive strategy for combating impunity. In the Republic of Moldova and Sri Lanka, for example, the HRA provided technical support to the elaboration of the National Human Rights Action Plan adopted in June and September 2011, respectively. In Paraguay, the National Human Rights Action Plan, presented in December 2011, was prepared following a participatory process with the active involvement of State institutions, universities and civil society organizations. The Plan incorporates recommendations from UN human rights mechanisms. Its overall goal is to enhance harmonization among State institutions working on human rights issues and ensure the compliance of public policies with human rights standards.

### National accountability mechanisms

*EA3 - National accountability mechanisms established and functioning for combating impunity in accordance with international human rights standards and best practices*

OHCHR supports the establishment and effective functioning of national accountability mechanisms in a variety of ways, including through: advocacy; the provision of technical assistance and advice on the development and reform of normative frameworks; providing training to accountability actors; developing guidance materials; and undertaking and supporting human rights monitoring.

In Colombia, as a result of monitoring activities undertaken by the Medellin field office, OHCHR was able to document and thus make visible cases of ill-treatment and torture committed by the police. OHCHR's monitoring and recommendations resulted in the establishment of an accountability and sanction mechanism for police station commanders to prevent ill-treatment and torture committed by their subordinates or related to omissions in the exercise of their duties.

In Haiti, the HRS investigated 52 cases of human rights violations and advocated for and supported

action by national justice and accountability mechanisms. The investigations, involving more than 100 police officers across the country, related to more than 25 civilian deaths, alleged summary executions and torture. Information collected by the HRS during its investigations was regularly shared with the police and the judiciary. Prosecutors across the country opened investigations into at least 22 cases and the HRS supported several *juges d'instruction* to carry out their investigations, leading to the arrest and detention of about 10 police officers.

In the Democratic Republic of the Congo (DRC), the Joint Human Rights Office (JHRO) deployed seven Joint Investigation Teams, including JHRO Human Rights Officers, to gather information on incidents to enable the opening of criminal investigations and prosecutions. JHRO also supported the holding and observed the proceedings of 30 court hearings (including mobile court hearings) across the DRC. As a result of these trials, 276 judgments were delivered by Congolese courts, leading to 22 convictions for serious crimes under international law, including war crimes and crimes against humanity.

In Bolivia, OHCHR observed more than 90 hearings in cases concerning human rights violations, including the trials related to violent racist incidents in Sucre in 2008 and the massacre of El Porvenir. It also met with judges, public prosecutors, defence lawyers, defendants and victims and prepared a number of legal opinions regarding these cases. In some instances, OHCHR's actions assisted in increasing the protection of people at risk (i.e., witnesses, victims or lawyers) and mitigated tensions during hearings.

A guardian system was established within the Office of the Prosecutor General of Guinea-Bissau to prevent child abuse, partly as a result of advocacy of the Human Rights Component of UNIOGBIS for funds and technical support. The Human Rights Component also strengthened the coordination and oversight role of the guardian *ad litem* system over the judiciary police with regard to child protection.

In Kyrgyzstan, OHCHR's advocacy work with central and local authorities in Osh contributed to the promulgation of three orders in 2011 by the General Prosecutor which outlined concrete steps to address impunity, torture and ill-treatment. OHCHR also hosted the General Prosecutor's first meeting with local human rights organizations in southern Kyrgyzstan and monitored the implementation of the orders of the General Prosecutor through regular meetings with local prosecutors. Furthermore, the

Regional Office for Central Asia's NGO partner, Civil Initiative on Internet Policy (CIIP), led to the development of a website dedicated to human rights in Kyrgyzstan containing human rights-related news, articles and reports. The website will include an interactive map of human rights violations and a human rights legislation database and will serve as a platform for human rights NGOs. CIIP monitored Kyrgyzstan's media and prepared reports on inter-ethnic relations and freedom of speech which present an overview on restrictions on freedom of speech, defamation, violence against journalists, ethnic slurs, regionalism and language concerns. The Office provided advice, guidance and technical assistance in this process.

In Nepal, accountability for human rights violations weakened in 2011, following a series of attempts by the Government to withdraw a large number of criminal cases and recommended pardons for, and the promotion of, several persons convicted, or facing credible allegations, of serious crimes. The Supreme Court played an increasingly important role in subjecting Government decisions to judicial review. OHCHR-Nepal contributed to this process, including by publishing a legal opinion stressing that regular criminal proceedings cannot be transferred to a transitional justice mechanism. The content of this opinion was reflected in a Supreme Court order requiring the continued investigation and prosecution of such cases under the regular criminal procedure, irrespective of the establishment of transitional justice mechanisms.

In South Sudan, as a result of a report issued by UNMISS's Human Rights Division, the President of the Republic ordered a high-level inquiry into allegations of human rights violations by the Southern Sudan Police Service (SSPS) at the Rajaf Police Training Centre. The report documented a pattern of serious human rights violations by senior police officers, including arbitrary detention, torture and rape of police recruits at the Centre. The Minister of the Interior took steps to address some of the human rights concerns raised in the report, but the SSPS continues to face significant challenges in becoming an effective, accountable and professional law enforcement authority that operates in compliance with human rights standards. The Division provided trainings and prepared trainers' manuals to equip police educators with capacity-building tools.

OHCHR continued its work on the protection of victims and witnesses involved in judicial, quasi- and non-judicial proceedings to strengthen accountability for human rights violations. At the national level,

OHCHR deployed senior international experts to Kosovo, Nepal and Uganda to support efforts of national authorities to develop legal frameworks and programmes aimed at more effective protection for victims and witnesses and compliance with international human rights standards. Expert reports on needs in Kosovo, Nepal and Uganda, including recommendations for the development of effective programmes, were shared with national authorities. The Kosovo Assembly adopted a law on witness protection which establishes a witness protection programme. In 2011, OHCHR commissioned research which resulted in an internal report that outlined recommendations to enhance the Law's compliance with human rights standards. In Uganda, OHCHR supported the organization of a judicial colloquium on victims' and witness' protection and the administration of justice and provided technical assistance for the elaboration of draft Witness Protection Guidelines, which are currently under final revision. A seminar on national legislation related to witness protection was organized in Argentina. The seminar fostered national dialogue on the need to review and improve aspects of the witness and victim protection programmes.

### Transitional justice mechanisms

*EA3 - Transitional justice mechanisms progressively established and functioning in accordance with international human rights standards and best practices*

Over the past year, OHCHR supported transitional justice processes in more than 20 countries which included assistance in carrying out national consultations, the design and implementation of judicial accountability mechanisms, truth-seeking processes, reparations programmes and institutional reform.

For example, OHCHR supported the steps taken towards the enhanced functioning of the Truth, Justice and Reconciliation Commission of Togo through the provision of logistical, strategic, technical and administrative support and training. In 2011, the Commission held a total of over 400 hearings. OHCHR also organized an induction workshop on transitional justice for the Dialogue, Truth and Reconciliation Commission of Côte d'Ivoire, which increased awareness among commissioners of international standards and good practices.

The Government of Burundi took steps towards the establishment of a Truth and Reconciliation Commission. In October 2011, a Technical

Committee appointed by Presidential Decree submitted its report to the President and BNUB. The report includes a draft law on the establishment of transitional justice mechanisms, particularly the Truth and Reconciliation Commission. BNUB and OHCHR provided substantive technical and logistical support to the Committee. Following an analysis of the report, the UN recommended that the Government take into account the conclusions of the national consultations, views of civil society and relevant international standards with regards to the Commission's establishment.

In Guinea, the National Reconciliation Commission has initiated transitional justice processes with consultations. OHCHR-Guinea provided technical advice to the Commission and organized capacity-building workshops for civil society in Labe, Nzerekore and Mamou on international human rights standards and methods of monitoring and reporting human rights violations. Closer partnership with civil society has ensured a continuous flow of accurate information and reports, especially from the interior of the country where OHCHR does not have a presence.

In Timor-Leste, the draft laws on the follow-up institution to the Commission for Reception, Truth and Reconciliation (CAVR - *Comissão de Acolhimento, Verdade e Reconciliação*) (named Public Memory Institute in the current draft) and the reparations scheme were passed in the first and second readings in 2010. Although the third reading has not yet taken place, it was announced in December 2011 that it would be undertaken in February 2012. The Human Rights and Transitional Justice Section of UNMIT provided technical and financial assistance for the drafting of both laws, advocated for their approval and supported the creation of a national victims' association.

During 2011, some progress was made with regard to legislation to establish two transitional justice mechanisms in Nepal, albeit more than six years after they were originally proposed. A legislative subcommittee was appointed to finalize the relevant bills in May 2011 and OHCHR worked with committee members on substantive issues related to international law, standards and best practices. Progress was achieved in reaching consensus on a number of contentious issues. In November, following the conclusion of a seven-point agreement between parties regarding commitments to the adoption of transitional justice bills, an informal task force was appointed to finalize the bills at the political level. Subsequently, it has become apparent that provisions to allow for a broad amnesty, including for serious violations of international



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Egyptians protest in Tahrir square.

human rights law, could be included and that important provisions empowering the mechanisms to recommend prosecutions could be removed. The Office continues to advocate against a broad amnesty, calling for the respect of the right of victims to an effective remedy.

OHCHR provided technical and logistical support to the DRC national authorities, which contributed to the holding of several trials that resulted in convictions of perpetrators of human rights violations, including sexual violence. A presentation of a report by the High-Level Panel appointed by the High Commissioner on reparations for victims of sexual violence in the country has been followed up by the formation of the joint OHCHR/UN Women project to strengthen reparations programmes for victims in the DRC.

In collaboration with OHCHR, the Uganda Human Rights Commission carried out field consultations on reparations and remedies for victims of the armed conflict, the results of which contributed to ongoing national discussions on transitional justice policy. The completion by OHCHR of specialized field research on gender and reparations in Uganda and the presentation of its findings to the Government, donors and civil society resulted in raised awareness of national stakeholders on international human rights obligations and the need to ensure reparations for victims of sexual violence.

The Human Rights Section of UNIPSIL supported, through the United Nations Peacebuilding Fund, the establishment of reparations programmes in

Sierra Leone. The programmes conducted a number of symbolic community reparations events and delivered partial benefits to 20,000 of the 32,000 registered victims. A National Trust Fund for Victims was established to facilitate the sustainability of the programme, although lack of funding presents a serious challenge.

OHCHR provided advice to the Libyan Interim Government on transitional justice processes with a view to improving their compliance with international human rights norms and standards. It also provided advice on, and facilitated coordination among, international actors which could assist the newly established National Commission for the Search and Identification of Missing Persons.

OHCHR supported the creation of a Regional Commission tasked with establishing facts about war crimes and other serious human rights violations committed on the territory of the former Yugoslavia from 1991-2001 (RECOM), including through participation in expert panels, information discussions and the dissemination of relevant materials, as well as sensitizing international partners about the importance of the initiative. RECOM's draft statute was adopted by a coalition of civil society organizations in March 2011.

In Cambodia, OHCHR engaged in activities aimed at capitalizing on the opportunity created by the Extraordinary Chambers in the Courts of Cambodia (ECCC) to promote human rights, including through a variety of trainings, public lectures and supporting



Demonstration of "los indignados" (the indignant) to demand the protection of their rights.

efforts by civil society to ensure lessons learned from the ECCC inform domestic practices. Together with the East-West Management Institute and the British Embassy, OHCHR is also creating an Annotated Code of Criminal Procedure, drawing on the jurisprudence of the ECCC. OHCHR supported the Secretary-General's Panel of Experts on Sri Lanka and completion of the report by the Panel of Experts which advised on accountability measures to address the serious human rights violations that occurred during the war.

### Access to justice and basic services

#### *EA 4 - Increased access to justice for marginalized groups*

Throughout the year, OHCHR continued efforts to ensure that individuals and groups facing discrimination, in particular women, minorities and indigenous peoples and people of African descent, have increased access to justice.

For instance, in Kyrgyzstan, five Kyrgyz human rights NGOs provided free legal aid for the population affected during, and in the aftermath of, the June 2010 violence in the southern part of the country in order to contribute to the restoration of justice and promotion and protection of human

rights. The five NGOs received technical and financial support from OHCHR's Regional Office for Central Asia and maintain a network of lawyers experienced in criminal law who are on-call seven days a week and provide immediate legal representation to arrested individuals. By the end of the year, more than 12 legal clinics were opened in several districts of Osh and Jalal-Abad regions, including in marginalized areas of the country.

### Participation

#### *EA 5 - Rights-holders, especially women and others who have suffered discrimination, increasingly use existing national protection systems and participate in decision-making processes and the development and monitoring of public policies*

Since the establishment of the Truth, Justice and Reconciliation Commission (TJRC) in Kenya, victims of the human rights violations that occurred in 2008 have come forward to accuse the police and/or the judiciary of failing to prosecute their cases. In 2011, the HRA worked closely with the victims' assistance network, in particular the Civil Society Network (CSO-Network), based in Kisumu and the Independent Medical Legal Unit (IMLU), based in Nairobi. In particular, the HRA contributed to discussions on mechanisms of redress

and supported the participation of the CSO-Network in the victims' forums. As a result, the CSO-Network was able to bring in witnesses to testify during the TJRC hearings in Kisumu.

OHCHR-Guatemala provided technical assistance to women's organizations which incorporate international human rights standards in their legal claims, thus resulting in positive decisions, including that of the local tribunal in Salama which condemned the killing of two indigenous women because of their sex.

### International and regional human rights law and institutions progressively strengthened and/or developed

#### *EA 8 - Advances in the progressive development of international human rights law in selected areas of focus*

In the Great Lakes Region, OHCHR assisted the International Conference on the Great Lakes Region's (ICGLR) Regional Committee on the Prevention of Genocide, War Crimes, Crimes against Humanity and All Forms of Discrimination. The Office provided the Committee with technical and financial support for its annual meetings; mobilized additional partners, including the OIF and the Special Adviser on the Prevention of Genocide to attend and support these; and provided information on the human rights situation in the countries of the region. This information provided background for the Committee in its discussions of situations which needed attention and making relevant recommendations to Member States.

The Committee also adopted a workplan which includes policies and measures to guarantee the rights of victims of genocide, war crimes and crimes against humanity; and the rights to truth, justice and compensation, including gender-sensitive measures.

### Responsiveness of the international community and the United Nations system

#### *EA 10 - International entities, including the International Criminal Court (ICC), international tribunals and the Human Rights Council and other UN human rights mechanisms increasingly responsive to critical accountability situations*

The High Commissioner continued to call for ratification of the Rome Statute by all States so that the ICC becomes a universal institution. In 2011, the number of States Parties to the Rome Statute rose to 120, following its ratification by Cape Verde, Grenada, Maldives, Tunisia and Vanuatu.

In 2011, the High Commissioner and the Assistant Secretary-General for human rights addressed the Security Council on a number of occasions on situations and violations of human rights and accountability in Côte d'Ivoire, Libya, Syrian Arab Republic and South Kordofan, thereby increasing the Security Council's understanding of critical human rights issues in order to facilitate effective action.

Through its contribution to the Secretary-General's report on the rule of law and transitional justice in conflict and post-conflict societies (S/2011/634), OHCHR drew the attention of the Security Council to the need to make explicit reference to accountability, combating impunity and the provision of remedies for victims. OHCHR emphasized the need to: foster accountability for gross violations of human rights and serious violations of international humanitarian law, including by supporting the implementation of recommendations of international commissions of inquiry; reject any endorsement of amnesties for genocide, war crimes, crimes against humanity or gross violations of human rights and support for the implementation of transitional justice and rule of law provisions in peace agreements; encourage further attention to the rights of victims to a remedy and reparations, in particular the victims of conflict-related sexual and gender-based violence; and to provide for transitional justice measures when establishing new mandates.

OHCHR, along with the Special Rapporteur on trafficking, co-organized an expert panel discussion on The Right to Remedies for Victims of Trafficking raising awareness on the rights of victims to an effective remedy and generated discussion about the need to strengthen coordination among UN and other partners in order to address the issue from a human rights perspective, rather than exclusively from a crime control perspective.

### Human rights mainstreaming within the United Nations

#### *EA 11 - Combating impunity and strengthening accountability, the rule of law and democratic societies*

The outcome documents of the Inter-Agency Security Sector Reform Task Force reflect a human rights perspective. OHCHR contributed to these developments in the area of security sector reform (SSR) through guidance notes on peace processes and SSR, democratic governance of the security sector, national security policies and strategies and gender-sensitive SSR.

OHCHR proposed drafting suggestions reflecting international human rights standards in an UNODC project, mandated by ECOSOC, to develop principles and guidelines on access to legal aid. As a result, the Intergovernmental Working Group adopted draft principles and guidelines in conformity with international human rights law that will be considered by the United Nations Commission on Crime Prevention and Criminal Justice. The draft principles and guidelines provide extensive guidance to States on how to fulfil their obligations regarding legal aid in the criminal context.

In Madagascar, OHCHR and UNFPA were appointed as co-chairs of the Working Group on human rights and gender. OHCHR provided substantive support and input into a joint project with UNDP, UNFPA and UNICEF that analysed initiatives in access to justice in Madagascar and proposed measures for judicial reform, including transitional justice. The study informed the planning of UNCT activities following the signature by the Southern African Development Community-sponsored road map on 17 September 2011, ending three years of political crisis in the country.

OHCHR has worked to underline the close and interdependent relationship between human rights and democracy within the United Nations system. With DPA and International IDEA, OHCHR organized a round table on democracy and human rights in New York. The round table discussed democracy movements and their characteristics in a number of States, including those involved in the Arab Spring. It also underlined the importance of the UN working with regional and subregional organizations when reacting to unconstitutional changes of Government and in the promotion of democratic movements and democracies.

OHCHR and UN Women commissioned a study on reparations for victims of conflict-related sexual violence which will inform the 2012 development of a guidance note on this issue for the UN system. In addition, OHCHR co-chaired a joint OHCHR/UN Women international expert panel on Securing Justice for Women in Post Conflict States. Information from this panel fed into the establishment of a Task Force on Women's Access to Justice during the 10th Annual Session of the Inter-Agency Network on Women and Gender Equality in February 2011. The Task Force, which is

#### Inter-agency collaboration to promote universal birth registration

Birth registration establishes proof of a child's identity and nationality. This improves their access to education and healthcare. It also increases their protection from crimes and human rights abuses, such as illegal adoptions, child labour and trafficking. A child's right to a nationality is guaranteed in the Convention on the Rights of the Child of the Timor-Leste Constitution.

During 2011, the Ministries of Justice, State Administration, Health, and Education, as well as a number of religious institutions, signed a Memorandum of Understanding (MOU) to boost birth registration in Timor-Leste. The MOU was implemented through a campaign that registered 63,300 children (49 per cent females) below the age of five years at the local level. Village chiefs were instrumental in carrying out this

campaign and were supported by UNICEF and the United Nations Police (UNPOL). Following this campaign, UNICEF estimated that 86 per cent of all children under the age of five were registered. It was widely recognized that more work was required to complete birth registration for all children under the age of five. The Human Rights and Transitional Justice Section (HRTJS) of the United Nations Integrated Mission in Timor-Leste (UNMIT) identified the need to expand the campaign to include older children and the general population. HRTJS addressed this gap by meeting with UNICEF and national partners to create collaborative opportunities for an expanded advocacy campaign.

As a result, in November 2011, three events took place to celebrate the International Day for Children with the theme "Children's rights are not options! We have an

obligation to assure their rights." The events were organized by the National Commission for the Rights of the Child with support from the HRTJS, UNICEF and national and international NGOs. In the same month, HRTJS, in cooperation with the Commission, started a media campaign on birth registration for children between 0 and 18 years of age through a radio programme and pamphlet dissemination. The aim of the campaign was to highlight the importance of birth registration as a first step in ensuring legal recognition of children of all ages by the State. During December 2011, HRTJS continued the campaign by organizing and participating in a radio interview on birth registration in Tetum with UNMIT's Public Information Office, highlighting the human rights and derived benefits that every citizen may obtain from being registered at any age.

co-led by OHCHR, was established in response to the perceived need to enhance coordination among UN entities and strengthen coherence on the rule of law and women's access to justice.

## Challenges and lessons learned

OHCHR contributed to ongoing efforts of the UN system to enhance the rule of law and combat impunity during 2011. Bearing in mind the growing demands arising from recent developments taking place, in particular in North Africa and the Middle East, more efforts and resources are needed to ensure that OHCHR can meet the many challenges of this critical time for human rights. While the international community has made progress in addressing heinous crimes through the development of new standards and international criminal procedures, recent intergovernmental debates have demonstrated the need for sustained efforts to ensure that the UN system appropriately responds to serious human rights situations and impunity-related issues. Strategic efforts must be made to address these challenges and in particular, OHCHR needs to advocate more visibly and effectively for the mandatory inclusion of commitments to combat impunity and the promotion and protection of human rights in peace mediations, negotiations and agreements.

Much more remains to be done at the national level, including securing clear political commitments from States to counter impunity. OHCHR's advocacy work need to continue and OHCHR will need to respond to calls for technical assistance and the provision of expert legal advice, including for the drafting and amendment of relevant legislation.

Sustained efforts are also required to create the conditions for the establishment and protection of independent national judiciaries, support their training in relation to the national-level implementation of international human rights standards and ensure access to justice for all, including members of the most vulnerable groups and those most subject to discrimination.

OHCHR has developed expertise in transitional justice and provides conceptual and analytical

support, advice and assistance in the design and implementation of transitional justice processes from a human rights perspective, as well as capacity-building and partnership with national and international actors. This has resulted in increased requests for assistance from national authorities, intergovernmental bodies and other UN agencies; demonstrating the importance being placed on addressing transitional justice from a human rights perspective. Requests received in the context of ongoing transitions in North Africa and the Middle East have been significant.

OHCHR has developed methodologies to monitor, initiate and investigate inquiries into gross violations of human rights. Experience has shown the continued need to stress the indivisibility, interdependence and interrelatedness of all human rights when conducting monitoring and investigation activities. To this end, OHCHR should enhance its focus on assisting national partners to strengthen their capacity and providing support for the establishment and effective functioning of NHRIs which can play an important role in ending impunity and ensuring accountability.

OHCHR has a field presence in nearly every country in which the ICC and other international justice mechanisms are engaged and has actively fostered partnerships with these mechanisms. More substantive guidance will be needed, however, to strengthen these relationships and capitalize on the potential for cooperative activities. In addition, OHCHR should increase its contribution to enhancing the investigative and prosecutorial capacity of national jurisdictions. The recommendations of human rights treaty bodies and special procedures which address issues of impunity provide guidance for action to all national-level stakeholders. Further efforts are needed with regard to their implementation and follow-up.

OHCHR's leadership in enhancing accountability for violations, fostering transitional justice measures and supporting institution-building has benefited from its partnership with other organizations within the UN system. OHCHR is strongly committed to a coordinated, coherent and responsive approach to the rule of law and accountability in order to strengthen the delivery of assistance and emphasize the broader human rights message.

# Poverty and economic, social and cultural rights

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*Pursuing economic, social and cultural rights and combating inequalities and poverty, including in the context of the economic, food and climate crises*

## Background

At the end of 2010, a desperate Tunisian individual denied the most basic elements of a life in dignity was driven to set himself alight - a spark that lit the fire of the Arab Spring. The events of the Arab Spring fuelled demands for human rights worldwide and exposed the fallacy of the assumption that economic or social progress can be achieved in isolation from enjoyment of human rights.

Against this backdrop, the imperative to respect, protect and fulfil economic, social and cultural rights acquires even greater urgency. In the context of this global awakening, the High Commissioner reminded Governments and international institutions that health care, education, housing and access to justice are not commodities for sale to the few, but are rights, guaranteed to everyone, everywhere, without discrimination. The Universal Declaration of Human Rights and international human rights treaties call for the enjoyment by all of fundamental values and principles of dignity and freedom; universal standards for all to be upheld at all times.





The year 2011 also marked the global commemoration of the 25th Anniversary of the UN Declaration on the Right to Development. Human rights, including the right to development, provide both intrinsic and instrumental standards for development work. Development must be guided by, and aim for, human rights protection and be participatory, empowering, sustainable, accountable and non-discriminatory. The empowerment of women, minorities and marginalized communities generates significantly more development resources. At the international level, the need for system-wide policy coherence, based on international human rights and humanitarian law, is imperative.

## OHCHR's role

At the core of OHCHR's work is the provision of guidance and technical advice, legal analysis and applied research, development of methodological tools and learning packages, capacity-building and sharing expertise on economic, social and cultural rights and human rights-based approach to development with Member States, NHRIs, CSOs, UN partners and advocacy groups.

As part of its efforts to promote the full implementation of economic, social and cultural rights, the Office continues to provide dedicated support to the Committee on Economic Social and Cultural Rights, which is tasked to review the implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR) in States Parties and to other treaty monitoring bodies and special procedures of the Human Rights Council.

OHCHR endeavours to integrate all human rights, including the right to development and their gender dimensions, into international cooperation and national development policies and economic and social programmes, particularly in the context of the implementation and achievement of the Millennium Development Goals (MDGs). In this regard, OHCHR leads UN system-wide efforts to mainstream human rights and is an active participant in the ongoing discussions on the post-2015 development agenda within and outside the UN.

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

## National laws, policies and institutions

*EA 1 - Increased compliance with international human rights standards by relevant State institutions in domestic laws, policies and programmes relevant to development, poverty reduction and economic, social and cultural rights*

OHCHR assisted Governments, civil society and other national stakeholders, upon their request, to make necessary changes in national legislation and policies to realize economic, social and cultural rights and integrate human rights in national poverty reduction strategies, development policies and budgets. Along with methodical tools, OHCHR's applied research, technical advice and practical learning which were instrumental in raising awareness and building capacities of national partners to align national policies and programmes with human rights obligations.

As a result of OHCHR's multi-year advocacy efforts to raise awareness and promote the full implementation of the ICESCR with national partners, the Guiding Principles on Development-based Evictions, elaborated by the Special Rapporteur on adequate housing, are increasingly being put in practice. In Serbia, for example, the Guiding Principles were used by OHCHR in response to the relocation of a Roma settlement in Belgrade, provided a planning framework for alternative housing solutions and helped promote the participation of civil society and communities in determining just solutions. In Haiti, the President declared, on 22 July 2011, that his Government was opposed to forced evictions and requested that municipalities put a hold on any evictions of camp inhabitants. This was a result of long-term advocacy by OHCHR and its partners.

In Guatemala, the Office assisted national stakeholders and civil society in their claims for policy change in the areas of sexual and reproductive health and food security. Key women's organizations promoted the incorporation of human rights standards on sexual and reproductive health into a resolution issued by the Ombudsman. In line with recommendations of OHCHR and special procedures, the Government increased social spending between 2009 and 2011 and presented proposals to institutionalize a Cash Transfer Programme to Congress.

A number of Government agencies and national and regional human rights institutions have engaged in the development and use of indicators to foster the implementation of human rights, drawing on



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OHCHR's methodology for human rights indicators. In Nepal, for instance, OHCHR facilitated the strengthening of the Government's human rights-based approach to national planning and programming on poverty reduction, including through the development of human rights indicators to monitor economic, social and cultural rights. Launched in September 2011, Nepal's national human rights indicators, which replicated OHCHR's indicators framework, are intended to assist national stakeholders in monitoring the status of the rights to adequate food, housing, health, education and work.

OHCHR has also supported efforts to incorporate a human rights perspective into the development of national programmes, policies and budgets. In July, the Government of Ecuador adopted a guide on the formulation of human rights-based sector-specific public policies through a ministerial decree. This guide, developed with technical and financial support from OHCHR, adopts a human rights-based approach to planning as a mandatory methodology for all branches and departments of the Executive and makes operational the equality agendas enshrined in the Constitution. It also establishes the mandatory and systematic use of the recommendations of international and regional human rights mechanisms in the diagnosis and formulation of public policies. The Mexico City Governmental Mechanism to implement and evaluate the local human rights programme was established with sustained technical assistance

from OHCHR. Substantive progress was also reported in the elaboration of two new human rights assessment processes in the states of Oaxaca and Baja California, Mexico. In the context of the proposed 2012 State budget, the Parliament of Timor-Leste considered the recommendations of the Special Rapporteur on extreme poverty and human rights to increase public expenditure on social services and agriculture. The final, adopted budget for 2012 increased funding for health and education by 47 per cent and 35 per cent, respectively.

The Office organized a regional workshop on a human rights-based approach to the budget process in December 2011 in Cameroon. Delegations from seven countries from Central Africa, including officials from finance and planning ministries, NHRIs and civil society, attended this event and identified concrete entry points and follow-up actions to advance human rights in their respective national development agendas, public policy and financial frameworks. For example, the Government of the Central African Republic was able to further influence positively the adoption of a 2012 financial law by the Parliament which resulted in the planned allocation of more financial resources to human rights activities in key ministries. Similar workshops on human rights and budget processes were delivered in the Czech Republic, Ecuador, Kenya and Nepal, directed at national actors from the Government, NHRIs, civil society and the UNCT.

### Putting human rights into practice through development: the Ecuadorian experience

Human rights and development share a common objective: to improve people's well-being. Some economic strategies focus narrowly on growth, yet this is insufficient for human development. Human rights provide the normative framework to protect the freedom and equality of all individuals and bring principles of accountability and social justice to the development process.

By incorporating human rights principles into national development strategies, Governments are more likely to be successful in achieving the MDGs and realizing the UN Charter's vision of a more equal and just world.

During a summit on the MDGs in September 2010, the High Commissioner offered her Office's support to countries "willing to integrate human rights into their development and cooperation policies." She said it was her

intention to bring the findings from such country experiences to the attention of a "Special Event" on the MDGs in 2013. "This," she added "will help identify success factors towards achieving the MDGs."

In 2010, the Government of Ecuador requested assistance from OHCHR to integrate human rights principles and approaches into development planning. The collaboration between the Government of Ecuador and OHCHR resulted in the publication in May 2011 of a *Guía de Formulación de Políticas Públicas Sectoriales*, a guide for the formulation of sectoral policies.

The guide, issued by the National Secretariat for Development and Planning of Ecuador, represents the first in a series of efforts by the Government, with OHCHR's assistance, to ensure that human

rights will contribute to the vision of *Buen Vivir*, or good living. This vision, enshrined in the Ecuadorian Constitution adopted in 2008, is based on the principle that there is no real development without the full enjoyment of human rights by all.

The State, which according to the Constitution of Ecuador embodies the principles of human rights and justice, must design and implement public policies that ensure the full enjoyment by all of the rights set forth in the Universal Declaration of Human Rights.

The guide has been made available as a working document to support the formulation of human rights-based sectoral policies by all Ministries and Secretariats of the Republic of Ecuador and will be piloted in June in the water and sanitation sector with the assistance of OHCHR.

In Liberia, the Office organized workshops on human rights and business for the National Investments Commission. This resulted in the development and endorsement of a "Ten Principles Framework on Business and Human Rights," aimed at guiding the negotiation of concession agreements and monitoring and advising business operations. OHCHR and UNDP collaborated to support the Ministry of Planning and Economic Affairs to integrate human rights in Liberia's Second Poverty Reduction Strategy for 2012-2017 (PRSP II). A briefing paper analysing the Liberian National Budget for 2011-2012 from a human rights perspective was presented to the legislature by civil society organizations.

#### Access to justice and basic services

*EA 4 - Increased number of measures taken to improve access to justice and to quality economic and social services by discriminated groups, and particularly women, indigenous and minority groups and people living in poverty*

OHCHR engaged in advocacy, awareness-raising and capacity-building activities to improve access to justice and quality economic and social services by individuals and groups experiencing discrimination.

OHCHR strengthened the capacity of judges, lawyers and civil society organizations on the judicial protection of economic, social and cultural rights through training activities in Bolivia, Central America and Western Africa. Support was also given to the Kyrgyz NGO OOSZN in their provision of legal aid and humanitarian assistance to homeless people in Jalal-Abad, southern Kyrgyzstan, and bringing local authorities' attention to the various ways and means of preventing and reducing homelessness.

In Timor-Leste, OHCHR provided technical and financial support to a national NGO, Forum-DESK (Forum on Economic, Social and Cultural Rights), on advocacy on the right to education, based on their past monitoring activities and consultations with Members of Parliament, the Ministry of Education, local authorities and civil society. As a result, the Ministry of Education included the re-opening of four schools in the subdistrict in its 2012 programme.

Following the visit to the United States of America of the UN Special Rapporteur on the human right to safe drinking water and sanitation, the community of Seville received notice that it was eligible for two types of grants from the State of California. It had previously been informed that it was ineligible. The community is

currently using these funds to implement different solutions to improve water quality. The Special Rapporteur had convened a public hearing with the local communities who had expressed concern regarding the safety of the drinking water, particularly regarding nitrate contamination.

## Participation

*EA 5 - Discriminated groups, and particularly women, indigenous and minority groups and people living in poverty, increasingly advocate for their economic, social and cultural rights and participate in decision-making processes and the formulation and monitoring of relevant public policies*

Participation is vital for achieving equal, equitable and sustainable public policy outcomes. International human rights standards should be the normative baseline for participation. The 1986 Declaration on the Right to Development requires that participation be “active, free and meaningful.”

In Guatemala, following OHCHR’s technical assistance to key civil society organizations, five legal claims filed against the State on the violation of the right to food were admitted by the court in Zacapa, marking the first occasion on which such claims had been admitted. The aim of these cases

was to align jurisprudence with international standards concerning the right to food.

In Cambodia, the Office promoted and facilitated the further involvement of civil society organizations in prison reform work, including through legal aid support. For example, support to the Centre for Study and Development in Agriculture on prison farming yielded positive results, including enhanced capacities of staff and prisoners, improved production techniques and increased yields, which led to higher income-generation by prisons and increased prisoners’ rations. The Office supported SIPAR, a French NGO working towards the reconstruction of Cambodia through youth education, in its partnership with the General Department of Prisons to improve literacy, education and rehabilitation opportunities through the establishment of libraries in four prisons. The Office has also been working closely with VBNK, an institute to serve facilitators of development, to build the capacities of the core team of prison trainers from the General Department of Prisons and the Royal Police Academy of Cambodia.

In the North-East Department of Haiti, OHCHR provided support to CSOs in relation to public policy monitoring and the identification of development priorities within local public budgets. A report on



Guatemalan students learn about human rights with interactive materials developed by OHCHR.

human rights priorities to be used as a reference document in the preparation of public policies and budgets was presented to local officials, civil servants and elected parliamentarians. Parliamentarians for the North-East Department publicly endorsed the report and presented it to the Prime Minister.

In Liberia, OHCHR provided technical support to civil society networks so that they are now able to gather data and monitor the implementation of the human rights-based approach in Liberia's Poverty Reduction Strategy and County Development Agendas in relation to health, education and the rights of persons with disabilities in five counties. In addition, the Office facilitated a pilot project on the new Freedom of Information Law, the County Development Fund and Social Development Fund, implemented in three counties with support from the World Bank. The results include the establishment of a civil society human rights and budget network for a number of sectors at the county level, enhanced capacities of local CSOs to monitor the use of these development funds and the creation of a database containing over 300 active CSOs in 15 counties in preparation for strengthened civil society engagement in the nationwide PRS II consultation processes in 2012.

OHCHR also contributed to the development of a common understanding in international standards on the right to adequate housing and the prohibition of forced evictions and facilitated dialogue between various actors in these areas through its work with State authorities and CSOs in Georgia, Kyrgyzstan

and Tajikistan. In Kyrgyzstan, OHCHR advised on the drafting of the housing code which is currently under review by Parliament and, if adopted in its current form, could serve as a useful model for the region. OHCHR further supported the work of the Office of the Ombudsman in Serbia in monitoring the implementation of national Roma action plans aimed at improving the situation of Roma in the areas of housing, health, employment and education.

The Assisting Communities Together Project, implemented in partnership with UNDP, supported 28 CSOs in 13 countries through providing small grants for human rights education and promotional activities in local communities to address a variety of issues, including the right to health, rights of older persons, women's rights, human rights of persons with disabilities, land rights, domestic violence, anti-discrimination campaigns and others.

### Responsiveness of the international community

*EA 10 - International community is increasingly responsive to the human rights dimensions of poverty and the realization of economic, social and cultural rights*

The continuing effects of recent global crises illustrate the critical importance of encouraging international responsibilities for human rights and international partnerships to create an enabling environment for development. The commemoration of the 25th Anniversary of the Declaration on the Right to

#### Commemoration of the 25th anniversary of the Right to Development: "Development as a human right for all"

The 2011 global commemoration of the 25th Anniversary of the Declaration on the Right to Development provided an opportunity for the international community to reflect on the lessons learned, achievements made over the past 25 years and the potential of the right to development to address contemporary global challenges in an increasingly interdependent and globalized world. The anniversary inspired an unprecedented amount of initiatives and activities by stakeholders, international organizations, academic institutions, non-governmental organizations and civil society. OHCHR organized

13 international events, seminars, workshops, panels and roundtables; and developed and disseminated three new publicity materials and one video, including through social media platforms. Some 20 public statements were made in support of the right to development.

Many of the discussions echoed the four key messages that the High Commissioner emphasized at the launch of the anniversary year: development is a human right for all; the right to development belongs to everyone, without discrimination; the right to development is as relevant today as it was on the day the Declaration was adopted; and

we must act together in a determined and coherent manner in order to realize the right to development. The conclusions of the anniversary events call for a resolute transition from theory to action. They also highlighted the many challenges that remain for the meaningful realization of the right to development.

For the full report on the anniversary activities, see the Report of the Secretary-General and the High Commissioner for Human Rights on the Right to Development, 8 December 2011 (A/HRC/19/45).



Mothers with their young children at a mobile clinic in Timor-Leste.

Development in 2011 provided an opportunity for the international community to reflect on lessons learned, achievements made over the last 25 years and the potential of the right to development to address contemporary global challenges in an increasingly interdependent and globalized world.

OHCHR actively supported the Special Representative of the Secretary-General on the issue of human rights and transnational corporations in finalizing the “Guiding Principles on Business and Human Rights: Implementing the United Nations Protect, Respect and Remedy Framework”, unanimously endorsed by the Human Rights Council in June 2011. This marked the first time an intergovernmental human rights body adopted a normative instrument clarifying the respective duties and responsibilities of States and business enterprises for managing the human rights risks related to business activities and establishing the Guiding Principles as the authoritative global reference point. OHCHR produced an interpretive guide on the corporate responsibility to respect human rights which focuses on the second pillar of the Guiding Principles on Business and Human Rights.

A number of special procedures mandate-holders have been active in relation to the MDGs agenda. In May 2011, the Office supported the Special Rapporteur on safe drinking water and sanitation in convening a multi-stakeholder meeting to address post-2015 monitoring of water and sanitation which

included representatives from the UN, the World Bank, Member States, bilateral donor organizations, regional development banks, water and sanitation experts and civil society experts. The participants agreed that the human rights to water and sanitation should inform the selection of global goals, targets and indicators for the post-2015 development agenda. The Inter-Agency Advisory Board for the global monitoring platform in relation to the water and sanitation MDGs, co-chaired by UNICEF and WHO, committed to incorporating human rights standards into the indicators developed for the post-2015 MDG framework.

Drawing from the human rights commitments undertaken by Member States in the 2010 MDG Review Summit Outcome Document, OHCHR strengthened its research, advocacy and partnership work in relation to the MDGs and post-2015 development agenda by working within intergovernmental and UN development structures and through a broad range of civil society partnerships. In November 2011, the Office convened an expert consultation on the concept of accountability in connection with the MDGs and post-2015 development agenda. OHCHR facilitated and supported various forums and expert consultations to promote coherent and coordinated advocacy on human rights, including quantitative assessment methods for human rights, the MDGs and economic, social and cultural rights.



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The Human Rights Council continued to hold panel discussions throughout the year which addressed the human rights dimensions of poverty and the realization of economic, social and cultural rights. It held panel discussions on issues ranging from violence against women and girls and the realization of the right to health of older persons to a panel discussion on the way forward in the realization of the right to development, focusing on both policy and practice. The panels were supported by OHCHR and provided an opportunity and venue for the international community to focus on and discuss, with experts in the field, new and emerging thematic human rights issues and increasing awareness of these issues from a human rights perspective.

### Human rights mainstreaming within the United Nations

*EA 11 - Increased integration of human rights standards and principles, in particular those relevant to economic, social and cultural rights, into policies and programmes of the UN system and other intergovernmental bodies in development, humanitarian action and in response to global crises*

Mainstreaming human rights principles and standards in UN policies, guidelines, programmes and learning and methodological tools is critical for strengthening

UN capacities to support national human rights promotion and protection efforts, including on economic, social and cultural rights.

The Secretary-General and his High-level Task Force on the Global Food Security Crisis (HLTF) advocated for world food and nutrition security throughout 2011, including at key international policy processes such as the General Assembly, ECOSOC, the Committee on the World Food Security and the Inter-Agency Standing Committee (IASC). OHCHR actively participated in the development of common advocacy messages and positions for the UN and international financial institutions through the HLTF. The HLTF's advocacy consistently integrated reference to the realization of the right to food and adoption of a human rights-based approach as a part of its strategies to achieve world food and nutrition security.

The Office also provided substantial technical assistance to the negotiation of the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, developed under the auspices of the Committee on World Food Security. OHCHR's contributions sought to ensure consistency of the guidelines with existing international human rights law. The agreed language of the draft guidelines reflects existing international human rights norms and standards.

OHCHR increased its institutional collaboration with UN-HABITAT under the United Nations Housing Rights Programme. This collaboration resulted in, inter alia, the development of several activities, including a publication on eviction impact assessment methodologies which clarify the relevance of international human rights norms in practice. OHCHR also contributed to the inclusion of human rights as a cross-cutting issue in UN-HABITAT's organizational restructuring.

OHCHR continued to play a leading role in strengthening system-wide efforts to integrate human rights in the UN's operational activities for development through the chairing and coordinating of the work of the UNDG Human Rights Mainstreaming Mechanism (UNDG-HRM). During its initial phase in 2011, the UNDG-HRM undertook a survey on human rights mainstreaming by UNCTs. A total of 99 UNCTs responded to the survey, demonstrating their strong commitment to supporting the needs of national partners and providing critical insights into challenges and opportunities at the country level, including in the context of implementing recommendations of the Universal Periodic Review. In addition, the UNDG-HRM undertook a mapping of mainstreaming policies and collected over 400 programming and other tools which were made available on the HRBA Portal, re-launched on 10 December on the occasion of Human Rights

Day. An inter-agency training package on HRBA was updated and enhanced and a training-of-trainers workshop was carried out to expand the pool of accredited trainers further. On 27 October 2011, a Multi-Donor Trust Fund was launched to solicit support for the full implementation of the UNDG-HRM's priorities.

At the field level, OHCHR continued to support UNCTs in implementing a human rights-based approach to the formulation of UNDAFs and other common country programming processes by, inter alia, delivering HRBA workshops to UNDAF roll-out countries in partnership with the UN System Staff College (UNSSC); participating in the drafting of outcome documents of these programmes; and coordinating or chairing a number of task teams responsible for the development of the common programmes mentioned above. As a result, UNDAFs and similar development programmes in Bolivia, Burkina Faso, Cape Verde, Chad, Chile, DRC, Djibouti, El Salvador, the Gambia, Georgia, Guinea-Bissau, Honduras, Liberia, Libya, Madagascar, Mauritania, the Republic of Moldova, Occupied Palestinian Territory (OPT), Panama, Papua New Guinea, Peru, Senegal and Uruguay include human rights concerns to a moderate or substantial extent. A significant number make reference to specific recommendations from UN human rights bodies and mechanisms and comprise human rights interventions that are to be

#### The UNDG Human Rights Mainstreaming Mechanism and the Multi-Donor Trust Fund

On 27 October 2011, the High Commissioner for Human Rights and the UNDP Administrator and Chair of the United Nations Development Group, jointly launched the Multi-Donor Trust Fund to support the work of UN agencies and country teams in mainstreaming human rights and strengthening coherent and coordinated responses to national needs.

Over the last decade, there has been significant progress in mainstreaming human rights into the work of the UN system. An increasing number of UN agencies are not only integrating human rights into their internal policies, but are also actively advocating for human rights through their

mandated work, including in relation to the rights of people affected by HIV, the rights to food, education, health and shelter and the fundamental rights of workers.

"For our colleagues on the ground, human rights are no longer 'add-ons' to their long list of other priorities, but a foundation on which they can build the UN's coherence and comparative advantages," said the High Commissioner.

As the first four-year cycle of UPR is completed, there have been increased demands and expectations for more technical assistance from the United Nations. "This is why UN Member States will have to be provided with coherent and coordinated support from the

UN system," said the Ambassador from Uruguay and President of the Human Rights Council. "The 'Delivering as One' approach in Uruguay has been helpful in bridging the development and human rights pillars of the UN reform and in enhancing the synergies between various UN institutions present or not in the country."

The UNDP Administrator added that "through development, countries can improve their ability to promote and protect human rights. And conversely, through the application of human rights principles, including non-discrimination, participation and accountability, countries can help make national development efforts more effective and peace more secure."

implemented by OHCHR or in cooperation with other agencies. OHCHR contributed to several trainings and induction programmes aimed at Resident Coordinators and UNCT leadership organized by the UN Development Operations Coordination Office and UNSSC. As a result, 170 Resident Coordinators and Heads of UN agencies were trained during the year on human rights leadership and coordination.

OHCHR worked to mainstream human rights into the response of the UN system to humanitarian crises, both in situations where it acted as lead of local Protection Clusters or where it was a member without coordinating responsibilities. In OPT, for instance, the Office successfully ensured the integration of human rights standards into the Protection Cluster's work, in particular with regard to responses to settler violence, violations in Access Restricted Areas in Gaza and related to the mainstreaming of protection into the work of other Clusters. OHCHR's efforts resulted in the identification of protection as one of the two main themes in the 2012 Consolidated Appeal Process and the mainstreaming of human rights throughout the document. OHCHR also worked with the Water, Sanitation and Hygiene Cluster and the Health Cluster to integrate human rights into programming related to health, water, sanitation and hygiene and, as a result, programming checklists were finalized and adopted by Cluster members.

## Challenges and lessons learned

OHCHR has moved from taking a conceptual approach to one that is more operational in nature in the promotion of economic social and cultural rights. It has also applied this approach in the integration of human rights in development policies and programmes against the growing demands and compounding impact of the global food, oil, financial and climate crises. The focus and scale of demands for OHCHR's support have increased and are consequently stretching OHCHR's technical capacities and institutional resources.

This challenge, however, has also been an opportunity to move economic, social and cultural rights and human rights-based approaches from rhetoric to operational reality, enabling OHCHR to innovate and work closely with Member States at the policy level, achieve greater impact in policy interventions and sectoral programming and create deeper and more effective partnerships within the UN and civil society. Nevertheless, in light of the evolving global demands and trends, more efforts and resources are needed to ensure that OHCHR can meet the substantial challenges that the UN system must confront. National capacities to promote and protect economic, social and cultural rights need to be reinforced further in tandem with efforts to restore peace and security and the rule of law and address impunity.



The High Commissioner with the UN Secretary-General at a special event organized by OHCHR to commemorate the 25th anniversary of the UN Declaration on the Right to Development, November 2011.

OHCHR's strategy in the area of human rights mainstreaming is to strengthen partnerships with UN agencies further so as to raise awareness and build the capacities of UN staff members on human rights issues connected with their work. Resident Coordinators play a critical role in promoting and advocating for human rights as a common UN value. They also coordinate the integration of human rights into operational and capacity-development activities of the UN system at the country level in a manner that is responsive to national demands and challenges. This will remain a priority for OHCHR and will benefit from enhanced inter-agency support under the UNDG-HRM.

Challenges remain in the realization of the right to development, including politicization and polarization in intergovernmental debates; the need to enlarge the constituencies in support of the right to development; and the imperative of mainstreaming the right to development into all areas of the UN system's work. This underscores the importance of human rights-based policy coherence in the global partnership for development and requires complete mainstreaming of all human rights, including the right to development, into the work of the United Nations system. This will be particularly critical in the upcoming Quadrennial Comprehensive Policy Review in 2012 and post-2015 development agenda.

#### Reaching zero discrimination in the AIDS response

Claire Gasamagera, from Rwanda, was five when her parents discovered she had been born with HIV. Her mother died the same year from AIDS-related causes. With no access to treatment at the time, she considers it a miracle that she is alive today. "I was meant to die but God has [kept me alive]... Today is my birthday. I am 28," she told a panel of the General Assembly High-level Meeting on AIDS.

According to UNAIDS, AIDS has claimed approximately 30 million lives worldwide since it was first identified 30 years ago. While access to treatment has significantly increased, new infections, estimated at 7,000 daily, far outstrip capacity

to provide universal treatment. More than half of eligible people in low and middle income countries - 9 million out of 15 million - are not receiving treatment. Countries meeting at a United Nations summit in New York in June 2011 adopted a Political Declaration with ambitious new targets to defeat AIDS, such as the promotion of laws, policies and measures to ensure the full realization of all human rights for people living with HIV, including access to prevention, treatment, care and support and the elimination of related discrimination and stigma.

Inadequate funding is not the only obstacle to universal access to

prevention, treatment, care and support. Participants in the High-level Meeting also identified gender inequality; violence against women and girls; marginalization and criminalization of drug users, sex workers and men who have sex with men; and discrimination and stigma against people living with HIV as major obstacles. "The question is no longer whether we can eliminate AIDS, but whether we have the will to do what it takes: to end discrimination and stigma and to ensure that marginalized populations can enjoy their human rights," said the Assistant Secretary-General for Human Rights.

# Migration

A red suitcase is positioned on a dirt ground next to a green tent. The suitcase is upright and has a black strap across it. The tent is made of a heavy, green fabric and is partially visible in the background. The scene is outdoors, and the lighting suggests it might be daytime. The overall atmosphere is one of a temporary or transitional space, likely a migrant camp or a transit point.

## *Protecting human rights in the context of migration*

### Background

In 2011, OHCHR continued to advocate for the promotion and protection of the rights of migrants. The significant population movements that accompanied the momentous political changes in North Africa and the Middle East brought into focus the potential vulnerability of all migrants. During the conflict and insecurity, some migrant workers sought asylum when they were unable to return to their countries of origin. People became victims of trafficking. Migrants who left their homes in search of a better life found themselves wounded, helpless and stranded; sometimes at sea. And it was often forgotten that each of these individual migrants was a human being with human rights.

The events in North Africa and the Middle East highlighted the fact that while all migrants can be vulnerable to human rights violations, those who are in irregular situations can be even more vulnerable to discrimination, exclusion, exploitation and abuse at all stages of the migration process. They are more likely to be targeted by xenophobes and racists, victimized by unscrupulous employers, abducted or killed while in transit, subject to prolonged or even mandatory detention and are more vulnerable to traffickers. During 2011, public discussion on irregular migration focused on issues of risk and border control, law enforcement, security threats and expulsion. As the High Commissioner and the human rights mechanisms continued to emphasize, criminalizing irregular migration tends to have a disproportionate effect on realization of the rights of migrants. In addition, most criminalization policies are expensive to implement and do not deter irregular migration or discourage people from seeking asylum.

OHCHR's 2011 message was that a human rights-based approach provides an extensive baseline of protection for all migrants and constitutes a framework of action and set of guidelines and tools for migration policymakers. Such actions are not only the legal obligations of Governments, they also make sound public policy sense.



## OHCHR's role

OHCHR's strategy regarding migration focuses on promoting and contributing to the protection of the human rights of all migrants, regardless of their legal status. Underlying this strategy is recognition of the need to reframe the current global discussion of migration. OHCHR therefore seeks to encourage policymaking which is based on human rights norms. It aims to integrate human rights norms and standards into the international debate on migration and development. The Office believes that migrants whose rights are protected and are socially integrated are able to live in dignity and security and, in turn, are better able to make more meaningful economic and social contributions to society than those who are exploited, marginalized and excluded.

The Office is gradually building and strengthening its advocacy, analysis and technical assistance on issues of migration and human rights. Over the last few years, OHCHR developed capacity-building tools, such as learning packages and information materials on key issues. It has conducted research and consultation with a wide variety of stakeholders on migration and highlighted key advocacy issues at the national, international and regional levels. OHCHR supports the work of the human rights mechanisms on migration, including the Special Rapporteur on the human rights of migrants and the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families.

Distinct but complementary to its work on migration, OHCHR made progress in 2011 by advancing a human rights-based approach to combating human trafficking, including through technical support and capacity-strengthening and supporting the Special Rapporteur on trafficking in persons, especially women and children.

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

### National laws, policies and institutions

*EA 1 - Increased compliance with international human rights standards of national laws, policies and administrative regulations relevant to migration*

#### Migration

OHCHR assisted Governments, NHRIs and CSOs to draft and revise relevant legislation in line with international standards on the human rights of

migrants. Through a variety of activities, the Office also sought to build the capacity of stakeholders at the national level to implement a human rights-based approach to migration, raise awareness of migrants' rights issues and foster partnerships.

In Lebanon, a law on migrant domestic workers was adopted by the Lebanese Ministry of Labour in January 2011. OHCHR, in collaboration with ILO, made significant inputs to the draft and is now assisting the Ministry of Labour to improve compliance of the Law with international human rights standards.

In May 2011, Mexico's new Immigration Act entered into force. The Act takes into account various recommendations by UN human rights mechanisms and establishes protection of the rights of all migrants, regardless of their immigration status. OHCHR accompanied the drafting process and facilitated UNHCR's access to it so it could provide technical input and guidance.

OHCHR organized a judicial colloquium on the implementation in Europe of article 3 (best interests of the child) of the Convention on the Rights of the Child. Judges from national and regional courts in Europe shared their experiences and good practices in determining the best interests of a child in procedures dealing with migrant children, including unaccompanied and separated children. A study prepared after the colloquium reviewed judicial decisions from regional and national courts and identified a number of relevant cases. It is expected that this study will be a valuable tool to guide jurisprudence and policy throughout Europe.

The Office raised awareness of the human rights-based approach to migration and trafficking through advocacy and subregional workshops. Initiatives are underway at the subregional and national levels to ensure that legislative and policy frameworks integrate the principles and guidelines concerning human rights and trafficking in persons in Cameroon, Congo, Equatorial Guinea and Gabon. Following a subregional dialogue on migration and human rights organized by the Office, the Ministry of Territorial Administration of Cameroon requested specialized training on human rights and migration for immigration officials.

During her visit to Australia in May 2011, the High Commissioner advocated for changes to Australia's migration policy and raised concerns about a planned agreement between Australia and Malaysia which would have resulted in a breach of Australia's international obligations. A subsequent decision by



The Mexican President signs the country's new Immigration Act, May 2011.

Australia's High Court confirmed this position and the Government abandoned the agreement. The Government also decided that more migrants and asylum-seekers would be released from mandatory immigration detention. An OHCHR opinion-editorial on the rights of migrants and asylum-seekers in Australia attracted significant national and regional media attention.

A few days after the conclusion of the visit of the Special Rapporteur on trafficking to Thailand, the Ministry of Labour and the Ministry of Social Development and Human Security announced that seven Fishery Labour Coordinating Centres would be established. Under this system, the National Fisheries Association would be responsible for assessing demands for labour in the fishing sector and liaising with the Ministry of Labour, which would formally recruit workers from neighbouring countries.

### Trafficking in persons

There has been an increase in the capacity of Government officials and civil society representatives from 44 countries in Central Africa, Central Asia, Europe and the Middle East to evaluate the impact of anti-trafficking policies and measures on human rights and adopt a human rights-based approach to address trafficking in persons as a result of trainings

and regional launches of the OHCHR Commentary on the Recommended Principles and Guidelines on Human Rights and Human Trafficking.

FRONTEX (tasked to coordinate the operational cooperation between EU member states in the field of border security) produced a "Trainer's Manual on Anti-Trafficking Training for Border Guards" in 2011, which will be used for training of border guards at the national level. OHCHR provided legal and technical advice, in cooperation with other UN and regional bodies, on the compliance of the FRONTEX manual with existing international and regional human rights standards.

Following OHCHR's advocacy in Central Africa in 2011, the United Nations Standing Advisory Committee on Security Questions in Central Africa included trafficking in persons on its agenda.

An agreement to integrate a human rights-based approach into the Arab Strategy for Combating Human Trafficking was reached at the Regional Consultation on the Human Rights-Based Approach to Combating Human Trafficking. The consultation was organized by OHCHR and the Qatar Foundation for Combating Human Trafficking in May 2011. The Arab Strategy for Combating Human Trafficking is a formal initiative of the League of Arab States to

strengthen regional implementation of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. The earlier draft of the Strategy was amended to include explicit references to OHCHR's "Recommended Principles and Guidelines on Human Rights and Human Trafficking." The Strategy also includes explicit references to OHCHR as an important partner in combating trafficking.

### Civil society engagement with human rights mechanisms

#### *EA 7 - Increased engagement of rights-holders, national human rights institutions and civil society actors with UN and regional human rights mechanisms and bodies to promote migrants' rights*

OHCHR has developed a number of information tools to contribute to strengthening the capacity of civil society actors to promote migrants' rights, including by using the UN human rights mechanisms for this purpose. Around the world, NHRIs are becoming increasingly involved in the promotion and protection of the human rights of migrants. Civil society organizations continued to provide input into the consideration of States Parties' reports by the human rights treaty bodies. In September 2011, the Committee on the Protection of All Migrant Workers and Members of Their Families hosted a day of general discussion on the rights of migrant workers in an irregular situation and members of their families. The event was attended by more than 50 participants from Member States, intergovernmental organizations, civil society and academia. In November 2011, OHCHR and the Friedrich Ebert Foundation co-organized a side event, entitled "The Rights of Migrants in an Irregular Situation: Engaging with the UN Human Rights Mechanisms" during the civil society days of the Global Forum on Migration and Development in Geneva. The event served as a discussion forum and platform to promote the engagement of civil society with relevant UN human rights mechanisms.

Following a training workshop on the human rights of migrant workers in October 2011 in Bangkok, Thailand, many participants reported back on actions they had taken, individually or in collaboration with others, to protect migrants' rights using the knowledge and skills they had gained from the training. OHCHR, in collaboration with the Diplomacy Training Programme and Migrant Forum in Asia, organized the training workshop using materials on migration and human rights currently being developed by OHCHR. The workshop was

attended by 25 participants from NHRIs and NGOs in the Asia-Pacific region.

### Responsiveness of the international community

#### *EA 10 - International community increasingly responsive to migrants' rights*

The Office continued its efforts to raise awareness regarding the human rights approach to migration at the international level, including through advocacy by the High Commissioner at the Human Rights Council during official sessions and other relevant fora.

A two-day Global Roundtable on alternatives to the detention of migrants, refugees, asylum-seekers and stateless persons was organized by OHCHR in partnership with UNHCR in May 2011. The roundtable brought together representatives from States, international organizations, human rights mechanisms, regional human rights bodies, NHRIs and national and international NGOs. The informal summary conclusions of the roundtable have been used as an advocacy tool by OHCHR, UN human rights mechanisms and civil society actors.

The Office presented a study to the 18th session of the Human Rights Council on the human rights situation of migrants and asylum-seekers fleeing events in North Africa. The study was based on contributions from Governments, UN agencies and NGOs and presented a substantive set of recommendations to the international community and was welcomed by Governments and civil society in a side event at the Human Rights Council.

The Office highlighted migration and human rights themes during key meetings at the regional and international levels, notably at the annual conference of the EU's Fundamental Rights Agency on "Dignity and Rights of Irregular Migrants." The Deputy High Commissioner gave the keynote speech to the conference. At the 5th Global Forum on Migration and Development held in Geneva on 1 December 2011, OHCHR participated in the official roundtable discussions and organized a side event on addressing irregular migration through a human rights-based approach. A panel discussion organized by OHCHR in New York was held in May 2011 on the issue of migration, racism and discrimination as a prelude to the General Assembly's Informal Thematic Debate on International Migration and Development. Many Member States referred to the panel in their statements to the General Assembly.



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Migrants wait at the Egyptian-Libyan border after fleeing violence in Libya.

## Human rights mainstreaming within the United Nations

*EA 11 - Increased integration of human rights standards and principles related to migration into the work of international and regional processes on migration*

### Migration

OHCHR continued its efforts at the international level to encourage the integration of a human rights perspective in the global debate on migration. The Office was an active member of the inter-agency Global Migration Group (GMG) in 2011 and sought to promote and mainstream a human rights approach to migration within the United Nations system. As a member of the GMG Troika in the first half of 2011, OHCHR organized a roundtable on combating xenophobia and discrimination against migrants in the context of a GMG Practitioners' Symposium on "Migration and Youth: Harnessing Opportunities for Development."

Substantive input was also provided by OHCHR to two key GMG statements; the joint statement of the GMG to the General Assembly's Informal Thematic Debate on International Migration and Development held in May 2011; and a joint GMG Principals' statement on "The Impact of Climate Change on Migration" drafted by UNESCO, as the

Chair-in-Office in November 2011. The latter statement has been referred to in advocacy messages on climate change issued by several GMG agencies.

OHCHR also mainstreamed human rights issues within the GMG by providing trainings on migration and human rights at the International Labour Academy, organized by the ILO, and at the International Migration Law course, organized by the International Organization for Migration. Participants in these trainings included Government officials, such as migration policymakers, staff of UN and other intergovernmental agencies and civil society.

In the context of the UN Regional Thematic Working Group on International Migration, OHCHR contributed a chapter on migration and human rights for inclusion in the 2011 UN Situation Report on Migration in South and South-West Asia.

By encouraging application of the human rights-based approach, OHCHR continued to mainstream human rights issues into United Nations programming at the country and regional levels. For instance, regarding the Royal Thai Government's policy response to the severe flooding in Thailand, OHCHR advised on the advocacy messages of the UNCT with the Ministry of Foreign Affairs and other authorities, particularly regarding the protection of

migrants. This included highlighting relevant legal standards and recommendations of human rights mechanisms and providing other guidance and methodological tools to the United Nations Country Team (UNCT). The advocacy of the UNCT, combined with NGO advocacy and media coverage of the concerns relating to migrants, resulted in the establishment of an additional shelter for migrants and improved legal protection.

Together with ILO, OHCHR drafted an employer's Code of Conduct for national and international UN staff employing migrant domestic workers. The Lebanon UNCT endorsed the text in July and staff members were asked by Heads of agencies to sign it, preferably with their employees. Several agencies consider it to be a mandatory procedure. The Code of Conduct complies with international norms, but does not provide for a minimum wage.

In reaction to allegations of serious human rights violations committed against irregular migrants from the Democratic Republic of the Congo, following OHCHR's advocacy and a visit by the Special Representative of the Secretary-General on Sexual Violence in Conflict, the UNCT in Angola identified the protection of the rights of migrants as a priority area. This is expected to result in the appointment of a Protection Adviser to the UNCT by UN Action in 2012.

### Trafficking in persons

A joint UN statement was submitted to the European Union providing clear examples on the application of a human rights-based approach, as well as gender- and age-sensitive recommendations of the EU Directive on Preventing and Combating Trafficking in Human Beings and Protecting its Victims. OHCHR actively participated in the elaboration and adoption of the EU Directive, in cooperation with the UNCT (OHCHR, ILO, UNHCR, UNICEF, UNODC and UN Women). A commentary designed to assist EU countries in interpreting the Directive using a human rights-based approach was developed and submitted to the EU.

### Challenges and lessons learned

As recognition has grown about the myriad and complex human rights issues raised by migration, OHCHR has stepped up its efforts to ensure that migration is viewed as involving human beings who have human rights and not merely an issue of economic development, remittance transfers or border control and security. A remaining challenge is to turn rhetoric into reality and concretely assist



States and other stakeholders to promote and protect the human rights of migrants by filling normative and implementation gaps at the national, regional and international levels.

Challenges also remain in relation to ratification and effective implementation of core international human rights instruments relevant to migrants, particularly the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and enhancing the capacity of all human rights mechanisms to include the situation of migrants in their analyses and recommendations.

OHCHR's work on migration has primarily concentrated on the international level where important advances have been made in terms of partnership and advocacy. A limited number of OHCHR field presences has begun to develop work on migration in their particular country or regional context. Yet more needs to be done to develop and strengthen their capacity to engage at the operational and field levels in order to monitor violations, advise on and address concrete migration issues through a human rights lens, including by supporting implementation of recommendations issued by human rights mechanisms.

Migration is a multifaceted field and OHCHR will need to invest sufficient resources to ensure adequate attention is paid to the human rights dimensions of this complex phenomenon. It is estimated that if the migrant population continues to increase at its current pace, there will be approximately 405 million international migrants in the world by 2050. It is incumbent on OHCHR to take the lead in the coming years to ensure that the human rights of all migrants are protected, respected and fulfilled.



Judicial colloquium on the implementation of article 3 of the Convention on the Rights of the Child organized by OHCHR's Regional Office for Europe, July 2011.

OHCHR's Regional Office for Europe (ROE) engaged with local authorities and civil society stakeholders on a pilot project in Ostrava, Czech Republic for the inclusion of Roma. As a result of an initiative launched by ROE, the City of Ostrava embarked upon a complex and ambitious inclusion project involving housing, as well as other policy areas (health, employment, education, community-building), which will be primarily financed by EU Structural Funds. ROE also conducted a two-day training session on the application of a human rights-based approach on the ground for local authorities and civil society actors (including the Roma themselves). If carried out as envisaged, this could be the most comprehensive human rights-based project of its kind focused on the social exclusion of Roma in a major city in Central and Eastern Europe. The project would certainly not have been possible without the initiative and support of OHCHR. The actual implementation of the project, however, will need to be closely monitored to ensure that its objectives are fully realized and that the Roma remain empowered throughout the process.

# Armed conflict and insecurity

## *Protecting human rights in situations of armed conflict, violence and insecurity*

### Background

Situations of violence and insecurity generally lead to human rights violations. Such violations can take place during times of war, armed conflict or peace, in the aftermath of natural disasters and/or man-made emergencies. During these periods, focused efforts should be undertaken to protect human rights so that these can in turn help prevent or reduce eruptions of violence and insecurity.

International human rights law, whether established by treaty or custom, applies at all times, including during armed conflict. Yet international human rights norms and those of international humanitarian law are often disregarded and violated, affecting the rights of the civilian population.

International human rights law and human rights mechanisms reaffirm standards related to the use of force outside of situations of armed conflict, such as in the context of demonstrations and the mobilization of persons exercising their right to peaceful demonstration. The year 2011 was marked by a wave of massive demonstrations in several countries in North Africa and the Middle East during which protesters demanded social justice, democracy and human rights. In several cases, Governments responded with repressive measures, including disproportionate use of force against demonstrators by security forces, harassment, intimidation, arbitrary detention, torture and killings of protesters or individuals critical of the Government. In other parts of the world, social protests - mostly peaceful - were also heavily repressed.

High rates of insecurity and violent crimes, including homicides and sexual and gender-based violence, continued to prevail in many countries, particularly in the northern part of Central America, in Mexico and South Africa. In such contexts, the Office advocated for a comprehensive approach to insecurity by integrating the following elements: prevention of crime and violence; imposition of penalties in line with international standards;







Floods in Thailand.

protection and assistance to victims and groups at risk; and rehabilitation of offenders. These elements would help to protect the right to life and integrity of all persons from the threats posed by violence and crime while at the same time addressing the root causes of insecurity and ensuring responses based on human rights standards.

The aftermath of natural disasters and/or man-made emergencies may exacerbate pre-existing situations of inequality, discrimination and exclusion, increasing the risk of human rights violations for the members of the population more at risk, including women, children and minority groups. OHCHR continued to implement its mandate to protect affected individuals and populations and in this context, emphasized the civil, political, economic, social and cultural rights of all.

## OHCHR's role

In 2011, on the basis of its global protection mandate, recognized expertise and understanding of the most pressing human rights issues and its presence in the field in most regions, the Office contributed to the promotion of worldwide peace and security and advocated for the promotion and protection of human rights with the aim of

protecting lives and personal integrity in contexts of violence and insecurity. Particular attention was paid to the situation of populations most affected by conflict, violence and insecurity, in particular human rights defenders, the poor, women, children and youth.

Efforts to strengthen the integration of human rights into the UN's peace and security and humanitarian agendas are particularly critical in the context of armed conflict and insecurity and form core objectives of the Office. These efforts included the development and implementation of policies and operational guidance for peacekeeping and special political missions. In addition, OHCHR closely cooperated with other components of peace missions and maintained and fostered partnerships with UN agencies, funds and programmes to ensure the adoption of a human rights-based approach during the UN's engagement in conflict and post-conflict contexts. The Office has been particularly active in addressing the issue of conflict-related sexual violence.

The Office carries out its actions in the field and at the international level, including through: advocacy and effective protection on the ground where OHCHR has a field presence; rapid deployments; and technical cooperation and advice, for instance in relation to the adoption and reform of legislation and regulations and the design of security policies

and action plans which safeguard human rights. The High Commissioner's advocacy role is particularly crucial and is undertaken, inter alia, through addressing pressing human rights issues during missions or in international fora, such as in briefings to the Security Council on the protection of civilians and regarding country situations.

The Office strengthened its capacity to promptly respond to emergency situations, primarily through the consolidation of the Rapid Response Section, increased use of the internal Rapid Deployment Roster of staff trained in fact-finding and investigations and the Contingency Fund; all areas of focus for the 2010-2011 programme. Rapid response efforts have proven to be particularly valuable in the Office's engagement in the Middle East and North Africa. In addition, the Office continued its leadership of the Protection Cluster in Haiti, Nepal, the Occupied Palestinian Territory (OPT), the Pacific and Timor-Leste. Although an enhanced rapid deployment capacity has enabled the Office to respond to emergency and critical situations more effectively, a significant increase in financial and human resources is needed to ensure that OHCHR's responses are timely and meaningful.

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

### National laws, policies and institutions

*EA 1 - Increased compliance with international human rights standards by all State entities, including national human rights institutions and the judiciary, as well as with domestic laws, policies and programmes*

The centrality of human rights in situations of conflict, violence or insecurity and in the aftermath of natural disasters, guides OHCHR's engagement with affected States. Through direct dialogue, legal advice and advocacy related to new or revised legislation and to facilitate the use of relevant human rights mechanisms, OHCHR's engagement aims at strengthening the capacity of States to address human rights challenges in such situations. Results have been achieved in the development of legislation, policies and institution-building to address violence and insecurity in the context of armed conflict, in times of peace and in the aftermath of natural disasters. Special attention has been paid to combating gender-based violence, including conflict-related sexual violence.

### **During armed conflict or post-conflict situations**

The ratification of international human rights and humanitarian instruments, translation of these standards into domestic law and their practical implementation often requires the provision of technical advice and training for governmental institutions, especially law enforcement bodies and a broad range of national stakeholders. In OPT, the Office, in its engagement with the Palestinian Authority, emphasized the need to respect international standards in the context of arbitrary detention and ill-treatment which resulted in the Office being granted access to most detention centres to monitor the situation.

In Afghanistan, the protection of civilians and the reduction of casualties remain critical priorities. With technical advice from OHCHR/UNAMA, the International Security Assistance Force put in place standard operating procedures and tactical directives to restrict the use of force, increase civilian protection and formed special teams to track civilian casualty incidents and mitigate future incidents. These tactical directives, together with standard operating procedures regulating night searches, the rules of engagement and rules of escalation of force contributed to a reduction in casualties attributable to Government forces.

In Colombia, a law on victims' rights and land restitution was adopted in June 2011 which included a number of recommendations presented by OHCHR-Colombia to ensure compliance with international principles and standards. These recommendations covered issues related to

On the occasion of the celebration of Human Rights Day on 10 December 2011, the Human Rights Adviser (HRA) in Chad organized a drawing competition. Students in three colleges in Ndjamena were asked to draw images reflecting a particular human rights situation and interpret their drawings in a narrative.

Surprisingly, 98 per cent of the drawings represented images of security forces, police, gendarmerie and the army abusing civilians through beatings, firearms, rape, etc. For the HRA and the Minister of Human Rights present at the celebration, this demonstrated the extent to which security forces are perceived, even by young students, as the primary perpetrators of human rights violations in Chad. The other two per cent of the drawings represented appeals for greater protection of the rights of the child, in particular the right to education.

non-discrimination, protection, access to justice and comprehensive reparation measures, including land restitution. Also in Colombia, the Office provided technical comments that were reflected in a draft law to increase the length of prison terms for child recruitment which is awaiting discussion in Congress.

In the Great Lakes Region, national committees on the prevention of genocide were established in Congo, Kenya and Tanzania with the support of OHCHR in Kenya and the participation of key human rights actors such as NHRIs, justice ministries and national human rights NGOs and networks.

### **In times of peace**

In Ecuador, the Human Rights Adviser provided technical advice to the national police on the implementation of a 2010 ministerial decree policy and guidelines issued by the Ministry of Interior on detention and the use of force and firearms. In Venezuela, a draft law and draft policy on disarmament were prepared by the National Commission on Disarmament which took on board OHCHR's recommendations aimed at ensuring compliance with human rights standards.

In Nepal, a draft bill on victims' and witness' protection was finalized with the support of the Office, which provided reference materials, such as guidelines for witness management used in the preparation of the draft.

In Serbia, the Human Rights Adviser continued supporting a national process towards the preparation of a comprehensive national policy on human rights defenders, in partnership with the Organization for Security and Co-operation in Europe (OSCE) Mission in Serbia and the Lawyers Committee for Human Rights (YUCOM), under the auspices of the Human Rights Directorate of the Government of Serbia. Government delegates and representatives of national institutions publicly expressed their commitment to the finalization of the policy. Also in Serbia, a Solidarity Network Mechanism developed with the assistance of the Human Rights Adviser and OSCE was established in 2011 to provide human rights defenders with legal assistance. As a result of awareness-raising conducted over previous years by the Human Rights Adviser and other partners, the City of Belgrade provided the premises for a "Human Rights House" which will host five human rights organizations.

In the Central African Republic, a draft law on internally displaced persons (IDPs) (*Loi portant*

*protection des personnes déplacées internes*) was supported by OHCHR and finalized and presented to Parliament for adoption.

### **In the aftermath of natural disasters**

In 2011, the Office contributed to multilateral humanitarian responses by, inter alia: advocating with authorities respect for the human rights of migrants during the devastating floods in Thailand; training Japanese NGOs on protection in natural disasters after the March earthquake and tsunami; engaging the Human Rights Council on the crisis in the Horn of Africa; and addressing forced evictions in Haiti.

### **Gender-based violence**

In every region of the world, initiatives have been undertaken with the support of OHCHR to combat gender-based violence. In Somalia, following a monitoring project of the Human Rights Unit which documented instances of sexual violence against women and girls in IDP camps and onsite advocacy by the Special Rapporteur on violence against women, a Task Force on Sexual and Gender-Based Violence was established to adopt measures to prevent and address gender-based violence. The Task Force will report directly to the Prime Minister of Somalia. In Burundi, a draft law on sexual and gender-based violence, compliant with the International Conference on the Great Lakes Region Regional Protocol and specific provisions on harmful cultural practices, was prepared with the support of the Office and is pending adoption in Parliament. In the Central African Republic, a draft bill on sexual violence was prepared with the technical support of the Office and presented to Parliament for adoption.

In Iraq, a law combating domestic violence in the Kurdistan region was adopted with the support of OHCHR-UNAMI.

In Guinea-Bissau, a study on violence against women prepared and published with the support of OHCHR-UNIOGBIS and other members of the UN system enabled national authorities to measure the extent of gender-based violence and revise strategic policies and legislation, including the draft policy on gender equality and equity and the draft law on domestic violence.

In Timor-Leste, a law against domestic violence with input and advice of the Office was adopted by the National Parliament on 3 May 2010, providing a legal framework in compliance with international human rights standards. The Human Rights and Transitional



A woman walks through the deserted streets of Bakara Market in central Mogadishu, Somalia.

Justice Section (HRTJS) of the UN Integrated Mission in Timor-Leste (UNMIT) continued to deploy a Unit to monitor cases of gender-based violence, regularly visited courts, police stations and safe houses and assisted victims to understand their rights and mechanisms available under the Law. By the end of 2011, the national police reported an approximate 34 per cent increase in the number of reported cases of domestic violence compared with 2010, indicating significant progress in the implementation of the Law.

In Colombia, the Office provided advice to the Ministry of Defence on the proposed modification of their guidelines to prevent the occurrence of sexual violence within the armed forces. OHCHR also supported the NGO working group established by the Constitutional Court in 2008 to follow up on judicial investigations of sexual violence cases submitted to the Attorney General's Office. OHCHR-Colombia significantly contributed to raising awareness of the Victims and Land Restitution Law (adopted in 2011) by providing analysis on its benefits and gaps to the United Nations Country Team (UNCT). In Central America, the Office advocated for specific legislation to address gender-based violence. In Bolivia, OHCHR provided technical advice on a proposed bill on violence against women, which included a provision to add

the crime of femicide<sup>3</sup> to the Penal Code. The draft bill was tabled at the Legislative Plurinational Assembly for consideration in 2012. In Guatemala, the Constitutional Court incorporated international human rights standards in some of its decisions, inter alia, on cases of violence against women. The Office contributed to this by making materials available on international standards and through capacity-building and sustained advocacy. In Peru, the Government approved a Law which incorporates the crime of femicide into the Criminal Code.

The Government of Afghanistan approved a by-law regulating the operation of Women's Protection Centres for women and girls facing violence and abuse. OHCHR/UNAMA, together with civil society, the Afghanistan Independent Human Rights Commission and the UNCT, advocated with the Government to ensure that the by-law was in line with human rights principles. OHCHR/UNAMA also released a public report on implementation of the 2009 Law on the Elimination of Violence against Women in Afghanistan, following systematic monitoring and the documentation of harmful traditional practices. The Government and civil society took up the recommendations of the report and began implementing some of its recommendations.

<sup>3</sup> Femicide refers to an extreme form of gender-based violence; the intentional killing of women for being women.

## National accountability mechanisms

*EA 3 - Justice and accountability mechanisms established and functioning in accordance with international human rights standards to monitor, investigate and redress violations of civil and political, economic, social and cultural rights*

OHCHR, along with DPKO and UNDP, is a co-lead entity of the Team of Experts established by the Secretary-General pursuant to Security Council resolution 1888, under the guidance of the SRSG for sexual violence in conflict. In 2011, the Team of Experts was deployed to situations of particular concern with respect to sexual violence in armed conflict in order to assist national authorities to strengthen the rule of law and identify gaps and challenges they face in responding to sexual violence. OHCHR's participation in the Team of Experts led to a sustained dialogue with human rights field presences in countries where the Team of Experts is engaged (Congo, Guinea, Liberia and South Sudan) and allowed its work to be grounded

in human rights standards and recommendations issued by human rights mechanisms.

In 2011, specialized units were established in the Office of the Prosecutor in the Democratic Republic of the Congo (DRC) to investigate and prosecute crimes of sexual violence. With the advisory and advocacy support provided by the Joint Human Rights Office (JHRO) in DRC, a project is underway to deploy women prosecutors and magistrates to selected courts in eastern DRC in 2012.

The work of the special procedures, supported by OHCHR, has triggered developments towards the establishment of national accountability mechanisms in compliance with human rights standards. For instance, in Mexico, following the country mission of the Special Rapporteur on the independence of judges and lawyers in October 2010, and after discussions with the High Commissioner during her visit in July 2011, the Supreme Court determined that military justice should not be applied to human rights violations, in accordance with a ruling of the Inter-American Court of Human Rights.

### Developing a protocol to investigate femicide in El Salvador

With the objective of tackling the epidemic of violence against women in El Salvador and enhancing the investigative capacities of public prosecutors, judges and members of the police, the OHCHR Regional Office for Central America supported the development of a protocol on the investigation of femicide. This objective was achieved by establishing a fruitful partnership with the Technical Implementing Unit of the Justice Sector (*Unidad Técnica Ejecutiva del Sector Justicia – UTE*), the Central American University “Simeón Cañas,” the National University of El Salvador in San Miguel, UN Women Mexico, and UNFPA El Salvador and resulted in the introduction of innovative measures to undertake investigations of femicide. The protocol was developed on the basis of a model developed by UN Women Mexico in 2010 and was then adapted to the constitutional and legal framework of El Salvador. The School of Continuing Education of the Attorney General's Office in El

Salvador provided technical and logistical support for the implementation of a training module on the investigation of femicide, based on the use of the Protocol. The training module was delivered by an international expert who was selected by the Regional Office.

In the words of its Director, Juan Carlos Real: “This course has allowed all of us to see why our attitudes towards women guide our investigations, the questions we ask and why so many killings of women go unpunished. Our prosecutors and judges were able to share their experiences which contributed to drawing a more complete picture of what it means to investigate the killing of a woman. We tend to say that we do not have capacities, knowledge or adequate resources. Our forensic personnel sometimes feel frustrated because they say that the prosecutors do not request the “right” criminal techniques [...]. At the Prosecutors' School we will place more emphasis on how to

investigate violence against women without any type of discrimination.” The module was also implemented in San Miguel, a town known for its high rate of femicide, and has already had an important impact on how prosecutors approach these cases. Judith Florez Borja, a prosecutor in Soyapango, said: “Throughout my career as a Chief Prosecutor, I knew about the international treaties protecting the rights of women. However, it has only been through my participation at the validation workshops of the Protocol on the investigation of femicide that I finally grasped how violence against women has its roots in our cultural prejudices towards women. This course based on the Protocol has made international treaties signed by our country on gender-based violence a living reality”. The module is now part of the curriculum of schools of the justice sector and the text of the Protocol, endorsed by the Attorney General, is being made available nationwide.

## Access to justice and basic services

*EA 4 - Increased number of measures taken to improve access of discriminated groups, and particularly women, to justice and basic services*

In 2011, assistance from, and advocacy by, the OHCHR Regional Office in El Salvador resulted in significant developments taking place in El Salvador to increase access to justice for women victims of gender-based violence. Of particular significance was the elaboration of a protocol for the investigation of cases of femicide. In Haiti, the Human Rights Section (HRS) of MINUSTAH provided support to six Haitian NGOs for actions to prevent sexual and gender-based violence and inform victims on how to seek judicial redress.

Throughout the year, OHCHR-Colombia participated in the NGO working group established by the Constitutional Court to follow up on judicial investigations of sexual violence cases submitted to the Attorney General's Office.

OHCHR promoted developments to increase the participation of women in national protection systems and mechanisms on reparation and redress for human rights violations, including sexual violence. In 2011, in DRC, an increased number of victims, in particular of sexual violence, were able to seek redress, due in part to legal assistance provided by legal clinics and free legal consultation bureaus offered by bar associations. As a result of OHCHR's promotion and advocacy for protection measures and prevention, victims and witnesses of human rights violations were able to participate in a number of trials and court hearings, without harassment, intimidation or reprisals. OHCHR also supported, including financially, the participation of victims and witnesses who would otherwise have been unable to attend the hearings. In 2011, OHCHR extended its Programme on Access to Justice for Victims of Sexual Violence from two provinces (North and South Kivu) to an additional seven provinces, bringing the programme's coverage to nine out of 11 provinces in DRC. The expansion of the programme resulted in a substantial increase in the number of legal clinics providing assistance to victims of sexual violence and the number of victims of sexual violence who received legal redress.

In Sierra Leone, the Human Rights Section, in collaboration with the Human Rights Commission of Sierra Leone, delivered trainings on sexual and gender-based violence and focused on engaging State agents and utilizing existing mechanisms in cases of violations. These efforts resulted in the



Youth organizations call for justice and the end of violence in Guatemala.

establishment of support groups made up of women and men from sectors that disseminate this knowledge in their respective communities, monitor implementation of the laws and provide support to victims wishing to access justice.

The Nepalese Government accepted most of the UPR recommendations concerning the promotion and protection of women's rights, many of which were included in the National Action Plan on Gender-Based Violence adopted in 2009. OHCHR-Nepal contributed to the implementation of the Action Plan and improved access to justice for victims of sexual and gender-based violence, in close cooperation with the National Women's Commission. In particular, OHCHR supported a capacity-building programme for law enforcement officials and the staff of safe houses established by the Government in 15 districts.

In Serbia, a Solidarity Network and Mechanism developed with the assistance of the Human Rights Adviser and the OSCE was established in 2011. The network provides legal assistance to human rights defenders and has been recognized by the EU delegation in Serbia, which relied on the Structure of the Solidarity Network to design its Human Rights Defenders Strategy. The Strategy was launched following advocacy and advice from the OHCHR Human Rights Adviser.

## Participation

*EA 5 - Rights-holders, especially women and others who have suffered discrimination, increasingly use existing national protection systems and participate in decision-making processes and the development and monitoring of public policies*

Coverage of human rights issues increased in the regional media of the Middle East following engagement by OHCHR's Documentation Centre in Qatar. Training workshops were organized, in collaboration with Al Jazeera and UNESCO, for journalists on: a human rights-based approach to

media coverage; international mechanisms for the promotion and protection of human rights; issues of legal protection for journalists; and standards of international human rights law and international humanitarian law applied in times of armed conflict.

In Darfur, IDPs and human rights defenders were represented in the civil society track of the Doha peace process. The HRS advised the Joint Mediation Support Team regarding civil society participation in the Doha peace talks and collaborated with the African Union - United Nations Hybrid Operation in Darfur (UNAMID) Civil Affairs Section to implement a rights-based approach in the participant selection process and during briefings of civil society participants on human rights and justice issues prior to the peace talks.

In the highlands and in Bougainville, Papua New Guinea (PNG) as well as in Kiribati, Solomon Islands and Vanuatu, human rights defender networks were established with the help of OHCHR's Regional Office for the Pacific, which, inter alia, provided mentoring support and focused on monitoring and documenting of human rights violations. The Office also assisted the networks in the highlands of PNG to receive funding from UNDP for projects and emergency protection funding from OXFAM and Amnesty International Australia. In two cases, the latter assisted in the protection of victims and human rights defenders from further attacks.

## Responsiveness of the international community

### *EA 10 - International community increasingly responsive to critical human rights situations and issues*

OHCHR supports the Human Rights Council in its efforts to respond to urgent, chronic and emerging situations. During 2011, OHCHR significantly increased the responsiveness and informed action of the international community with regard to critical human rights and humanitarian issues, especially with regard to the situation in countries in North Africa and the Middle East. OHCHR contributed to country-specific sessions through briefings and oral interventions and continued to engage with Member States to ensure that human rights violations in situations of armed conflict, violence and insecurity are on the agenda of relevant UN bodies, including the Human Rights Council, the Security Council and the General Assembly.

OHCHR advocated for the establishment of commissions of inquiry, investigation of allegations, making those responsible for human rights violations accountable and the provision of reparations for victims. In 2011, the Human Rights Council established three commissions of inquiry to investigate serious violations of human rights and humanitarian law in: Côte d'Ivoire, Libya and Syrian Arab Republic. OHCHR supported the commissions of inquiry and fact-finding missions through technical assistance, logistical, human and financial resources.



Human rights defenders in Papua New Guinea, April 2011.

OHCHR's public statements and reports, including those presented to the Human Rights Council and the General Assembly, addressing country situations, are strong advocacy tools for UN organizations and international and national NGOs. For instance, OHCHR/UNAMA's reports on protection of civilians received worldwide media attention and raised the profile of the impact of conflict on civilians in Afghanistan. Similarly, following the High Commissioner's February 2011 mission to the OPT, her concluding statement was widely disseminated, significantly increasing the visibility of the human rights and humanitarian situations on the ground and the work of OHCHR in the territory, in the media and at the General Assembly and the Human Rights Council.

The Office's engagement with the Security Council notably increased in 2011, as exemplified by numerous requests for briefings. The High Commissioner delivered five briefings on the protection of civilians and the situations in Côte d'Ivoire, Libya, the Middle East, Sudan and Syria. As a result of these briefings, the human rights aspects of the crises were given prominence in public debates in the highest global forum. Specific language was integrated into the reports of the Secretary-General on country situations to the Security Council which stressed the need to establish transitional justice mechanisms in accordance with international standards. Specific language was also included in Security Council resolutions on the renewal of peace mission mandates while the Secretary-General made references to human rights during his missions and in meetings, on an almost daily basis. OHCHR is invited systematically to contribute to the Secretary-General's missions, speeches and meetings and is sometimes requested to accompany the Secretary-General on missions.

In October 2011, OHCHR organized a high-level panel discussion, entitled "Stopping reprisals for cooperating with the UN in the field of human rights - a priority for all," during the 66th session of the General Assembly in New York. As a result of this panel, New York-based stakeholders participating in the General Assembly were sensitized about the issue of reprisals and intimidation against persons

who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights. The serious consequences of reprisals on the willingness and ability of people to cooperate with the UN and the importance of the UN reporting on, and appropriately reacting to, threats against human rights defenders were highlighted. The high-level participation, in particular by the Secretary-General, confirmed the importance of the issue.

Human rights components of field missions continued to monitor and investigate human rights implementation and promote access to justice for victims. Special investigation public reports were produced, for example, by the Joint Human Rights Office of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO). Human rights components also contributed information for the Secretary-General's annual report on conflict-related sexual violence (A/66/657-S/2012/33).

In Guinea, OHCHR, with the support of the donor community, provided the Government with advice and support on the implementation of recommendations from the report of the Commission of Inquiry.

OHCHR continued to work closely with the Inter-American Commission on Human Rights (IACHR) in the area of citizen security.<sup>4</sup> More specifically, the Office vigorously advocated for a human rights-based approach to fighting crime, violence and insecurity in various countries through: promotion of the joint IACHR/OHCHR/UNICEF "Report on Citizen Security and Human Rights," organization of a side event on the issue during the General Assembly of the Organization of American States which was well attended by Government representatives; and the publication of a second joint report on juvenile justice and human rights. At the Southern Common Market (MERCOSUR) level, work continued towards the completion of a human rights-based citizen security policy that will be presented at the meeting of Security Ministers of MERCOSUR in June 2012.

<sup>4</sup> "The concept of citizen security is the one that best lends itself to addressing the problems of crime and violence from a human rights perspective. In lieu of concepts such as 'public security,' 'internal security' or 'public order,' it represents an uncontroversial move towards an approach that focuses on building a stronger democratic citizenry, while making clear that the central objective of the policies established is the human person, and not the security of the State or a given political system. The expression 'citizen security' emerged, for the most part, as a concept in Latin America, as Governments made the transition to democracy, as a way to distinguish the concept of security under a democracy from the notion of security under the earlier authoritarian regimes. In the latter case, the concept of security was associated with concepts like 'national security,' 'internal security' or 'public security,' all of which refer specifically to the security of the State. Under democratic regimes, the concept of security against the threat of crime or violence is associated with 'citizen security' and is used to refer to the paramount security of individuals and social groups. By contrast to other concepts used in the region, namely 'urban security' or 'safe city,' citizen security refers to the security of all persons and groups, both urban and rural. Nevertheless, it is worth highlighting that the concept of 'public security' is still widely used in the United States and Canada to also refer to the security of the individuals and groups who make up society" (OEA/Ser.LV/II. Doc.57, 2009, p. 7).

## Human rights mainstreaming within the United Nations

*EA 11 - Increased integration of human rights standards and principles, including the right to development, into UN policies and programmes with respect to development, humanitarian action, peace and security and economic and social issues*

The Office endeavours to mainstream human rights into humanitarian action and advocate for a human rights-based approach in planning, preparedness, response and recovery activities.

OHCHR strengthened its efforts in 2011 in the area of conflict-related sexual violence. In addition to field-based monitoring, investigating and reporting on sexual violence and providing assistance to ensure that legislative and policy developments are in compliance with international standards, OHCHR continued to actively contribute to the implementation of Security Council resolution 1888 which urges Member States to take effective steps to halt the use of sexual violence as a tactic of war. In partnership with other members of the United Nations system, OHCHR supported the development of the Conceptual and Analytical Framing of Conflict-Related Sexual Violence, the Guidance Note on Monitoring, Analysis and Reporting Arrangements (MARA) and the terms of reference of Women Protection Advisers (WPA). Continued efforts are underway to support the implementation of UN Security Council resolutions 1325 and 1820. OHCHR worked closely with the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict and other partners in UN Action against Sexual Violence in Conflict to develop policy and operational guidance for the implementation of these resolutions. OHCHR's participation in these processes aimed to ensure that policy and operational guidance built on and reinforced existing human rights work in the field and was guided by and anchored in human rights norms and principles.

During 2011, OHCHR enhanced its partnerships with the humanitarian community, especially through the IASC and the Global Protection Cluster (GPC). OHCHR contributed to the IASC's endorsement of the Accountability to Affected Populations Framework which recognizes the primary responsibility of the State for people affected by emergencies. On 13 December 2011, the High Commissioner hosted and delivered the opening address at the IASC Principals meeting held at Palais Wilson. At the meeting, the IASC Principals adopted the Transformative Agenda, notable for its focus on empowered leadership, more effective coordination and an operational framework for accountability.



The Assistant Secretary-General for Human Rights addresses the Security Council in a meeting on the protection of civilians in armed conflict, May 2011.

OHCHR also contributed human rights analysis to the IASC Early Warning - Early Action report, a tool to strengthen preparedness capacities. The Office also ensured the integration of human rights considerations into the revision of the Inter-Agency Standing Committee Handbook for Regional Coordinators and Humanitarian Coordinators on Emergency Preparedness and Response and the GPC development of a Rapid Protection Assessment Toolkit. The Office assisted in the design and review of training events and training materials, including an OCHA-organized series of regional workshops, on, inter alia, using international legal frameworks in humanitarian advocacy; working with partners in humanitarian contexts; the GPC training on protection coordination; and a training package on protection in natural disasters.

The Operational Guidelines on the Protection of Persons in Situations of Natural Disasters developed by the Special Rapporteur on the human rights of IDPs were presented to the Human Rights Council in 2011 (A/HRC/16/43/Add.5). The Guidelines have been widely disseminated, translated into several languages and are increasingly used by relevant stakeholders for guidance in the field and as a key reference and training tool.

In the field, the OHCHR Pacific Regional Office in Suva helped raise awareness about interest in considering displacement from a human rights point of view through its contributions to two studies on displacement in the Pacific; one by the Office and one by the Protection Cluster (co-chaired by OHCHR and UNHCR). In Nepal, OHCHR contributed to Protection Cluster contingency planning and the development of a protection assessment checklist. Similarly, the Office in Nepal promoted the application of a human rights-based approach in

other Clusters, including Food, Education, Shelter, Camp Coordination and Camp Management Clusters, by providing substantive briefings on mainstreaming human rights protection into their respective Cluster planning and response strategies.

In Chad, the work of the Human Rights Adviser, in coordination with UNDP, enabled the inclusion of human rights issues relating to impunity and gender-based violence in a joint Project on Justice, Gender and Human Rights that was submitted to the Peacebuilding Fund. The work of the Regional Office for Central Asia (ROCA) in Kyrgyzstan resulted in human rights standards and principles being increasingly reflected in country policies, agency programming and advocacy by the international community. OHCHR currently co-chairs two working groups under the Development Partners' Coordination Council on the Rule of Law and on Reconciliation and Peacebuilding. This aims at coordinating activities, strategizing and providing recommendations for advocacy for the broader international community. In Sri Lanka, OHCHR continued to play an active role as a member of various inter-agency fora where human rights and protection issues are addressed, such as the IDP Working Group and Advisory Task Force, the 1612 Task Force on Children in Armed Conflict, the Gender-Based Violence Forum and the Working Group on Demobilization, Disarmament and Reintegration.

In the context of peace and security, human rights are mainstreamed through the work of 16 human rights components integrated in DPKO and DPA-led peacekeeping and political missions. OHCHR provides substantive and operational support to these human rights components and maintains a direct reporting line with their respective Heads. Additionally, OHCHR engages with the peace and security agenda by mainstreaming human rights into the policies and operational guidance developed at the global level by DPKO, DPA, DFS and other actors, which are applicable to all peace missions.

In an important development towards the maximization of the potential of peace operations and political missions to advance human rights, DPKO, DPA, DFS and OHCHR adopted a joint OHCHR-DPA-DPKO-DFS Policy on Human Rights in United Nations Peace Operations and Political Missions in August 2012. This Policy provides a coherent approach to human rights across peace operations by: capturing current institutional arrangements and good practices on the integration of human rights in peace operations in a single binding document; clearly outlining the human rights responsibilities of mission components, such as the military, police and senior mission leaders; and

indicating the role and scope of activity of the human rights component. OHCHR's responsibilities towards DPKO, DPA and human rights components are also clearly identified.

With regard to providing operational support to human rights integration in peace missions, OHCHR contributed to the establishment of two peace missions in Libya (UNSMIL) and South Sudan (UNMISS). The Office supported the integrated planning processes for the missions and participated in the transition planning for the mission in Burundi (BNUB). Through participation in the UNMISS and UNSMIL planning processes, OHCHR's efforts resulted in a solid human rights component in the peacekeeping operation with a strong and robust mandate for the promotion and protection of human rights.

OHCHR's operational support to peace missions included assisting DPKO and DFS efforts to expand the pool of rapidly deployable and professional human rights staff in peace missions. This joint effort resulted in the significant expansion of available staff to serve in peace missions.

OHCHR assisted the efforts of the UNAMID Human Rights Component efforts to ensure that human rights were taken into account in the Darfur peace process. As a result of the advocacy work and active engagement by the human rights component of UNAMID, the Doha Document for Peace in Darfur, signed in May 2011 by the Government of the Sudan and the Liberation and Justice Movement, fully integrates human rights and justice concerns.

As a result of the HRS and Protection Cluster awareness-raising efforts on protection and forced evictions, the UNPOL developed internal guidelines which asserted that its personnel would not provide any support to the national police in Haiti in carrying out forced evictions and outlined the steps that should be undertaken in cases of alleged or threatened eviction.

With respect to mainstreaming human rights in system-wide activities related to the peace and security agenda, OHCHR's contribution ensured that a human rights perspective was reflected in emerging key UN policies and guidance on protection of civilians, assistance to national security actors, sexual violence in conflict and peacebuilding.

To ensure that a human rights dimension is a core component of the UN's support to national security actors, the Secretary-General adopted the Human Rights Due Diligence Policy in July 2011, the development of which was led by OHCHR and

DPKO. The Policy states that UN support cannot be provided to non-UN security forces when there is a risk that recipient entities may commit grave violations. OHCHR is currently working to ensure that the policy is implemented at the field level, notably in the context of conflict and post-conflict situations and that peace missions take the new policy into account in the implementation of their mandates.

OHCHR contributed to DPKO and DFS efforts to ensure more effective implementation of the mandates of peacekeeping operations to protect civilians. OHCHR contributed to the DFS/DPKO guidance document and Framework for the Drafting of Protection of Civilian Strategies in Peacekeeping Operations. The guidance document incorporates human rights throughout the work of peace missions on protection of civilians and guides missions in the development of sound strategies and contingency planning to prevent and respond to crises and human rights violations.

The Office provided input into the DPKO Early Peacebuilding Strategy to ensure that a human rights-based approach is successfully incorporated in the guidance it provides. OHCHR also provided substantive support to the DPKO/DFS Early Peacebuilding Strategy and contributed to other draft guidance on child protection, corrections and the police.



UNOCI human rights team investigating alleged human rights violations in Abidjan, March 2011.

The DPKO training course for Military Experts on Mission, an important tool to integrate human rights into the work of military components, has been made available to peacekeeping training centres in draft. The Office provided text, advice and support for the development of the DPKO training course. OHCHR also updated materials, coordinated and delivered human rights training in courses organized by DPKO for 70 current and potential UN senior mission leaders.

## Challenges and lessons learned

Security, crime and violence are complex and multidimensional issues and require holistic solutions with the concerted intervention of a wide variety of actors (Government, civil society, UN agencies and bilateral and multilateral funding agencies) and a high degree of coordination across sectors and areas of intervention (local, national and regional). OHCHR interventions are at the level of legislation and policy. Strong partnerships with a commonality of vision are required to help States establish coherent policies that are firmly based on human rights.

In the context of setting up commissions of inquiry/fact-finding missions, OHCHR systematically conducted lessons learned exercises to ensure greater cohesive planning and enable future commissions to be established in the light of best practices. For example, based on the experiences of the commissions of inquiry that were set up in 2011, the importance of developing a core secretariat team was emphasized, as was responsibility for developing a witness protection strategy and the inclusion of specific expertise, such as forensics or military advisers. Challenges to commissions of inquiry included: tight reporting deadlines; parallel investigations occasionally established by other UN bodies; multiple commissions of inquiry established simultaneously; and the lack of a readily available source of regular budget funding for these urgent and time-sensitive mandates, leading to ad hoc arrangements that complicated administrative procedures and undermined transparency. Member States must find a lasting solution for this unsustainable situation.

## Human Rights Day 2011



The High Commissioner at a global conversation on Human Rights Day streamed live on Facebook and Twitter, December 2011.

Human Rights Day 2011 (10 December) capped an historic year during which hundreds of thousands of individuals across the world decided that the time had come to claim their rights. Many of those protesting in the streets had been informed and galvanized through social media platforms.

Human Rights Day in 2011 explored the influence of the new communications platforms on movements for political and social change and hailed human rights defenders from all parts of the world who had stepped forward to demand their rights.

OHCHR worked with the international advertising agency, Lowe and Partners, which offered its services pro bono to provide a “microsite,” *Celebrate Human Rights*, to promote the work of the Office and the ideals encompassed in the Universal Declaration of Human Rights. Since its launch, the microsite has received approximately 15,000 visitors. The agency also provided a visual identity for the Office, in the six official languages of the UN, that was shared with OHCHR partners and served as the basis for the

development of special web pages on the OHCHR and UN websites. The OHCHR home page recorded nearly 1,250 unique visitors each day in the weeks leading up to Human Rights Day.

The “30 Days and 30 Rights” discussion that was launched on Facebook and Twitter, offered on Weibo in Chinese and Facebook in English, French and Spanish, attracted the attention of millions of followers. The Human Rights Day pages were viewed at least nine million times in the month leading up to 10 December.

In New York, the High Commissioner hosted a global conversation via Twitter and Facebook and attracted the attention of millions of people. Thousands of anticipatory questions were received from all over the world in Arabic, Chinese, English, French, Russian and Spanish. Many additional questions were submitted during the discussion.

The topics ranged from the current democracy protests in Egypt and protection of the rights of demonstrators, to the rights of minorities, and of women,

migration, racism and corporate responsibility.

“I hope this conversation started you on the road to becoming active in the global human rights movement,” Pillay said in conclusion.

In Geneva, bloggers from Egypt, Mexico, Tunisia and Uganda, as well as an expert from the United Kingdom, discussed the opportunities offered by communication technologies of the 21st century and the profound impact they are having on all of our lives and the protection of human rights. They debated issues such as corruption, freedom of expression, censorship and the need for new ethical standards.

OHCHR’s field operations also celebrated 10 December with a wide variety of activities and events, including a human rights film festival in Port Moresby, Papua New Guinea, a discussion of the role of human rights defenders in Kosovo, an examination of the role of bloggers and social media in Beirut and a public meeting held at a hospital in Benghazi, Libya, which focused on the victims of human rights violations.

# Support to human rights mechanisms

## *Strengthening human rights mechanisms and the progressive development of international human rights law*

### Background

Over the past five years, substantial reform of the international bodies and mechanisms that make up the UN human rights system has had wide-ranging implications for OHCHR's work. Key developments since the Commission on Human Rights was replaced by the HRC in 2006 include the 2008 launch of the Council's Universal Periodic Review (UPR) mechanism; an increase in the number of special procedures; and expanded mandates for existing special procedures, including in response to crisis situations and special sessions. The five-year review of the Human Rights Council in 2011 improved transparency in the selection of mandate-holders and provided a greater role for NHRIs. The Council dealt with emerging human rights situations in a timely and constructive manner, including by the use of special sessions, urgent debates, dispatching commissions of inquiry and regularly engaging with the High Commissioner for Human Rights. In addition, several new international human rights treaties were adopted and new treaty bodies were established, including the Convention on the Rights of Persons with Disabilities (CRPD) and the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED). Since 2011, all nine core international human rights treaties provide the possibility for individuals to claim their rights. Provisions relating to individual complaints in respect of three treaties have not yet entered into force.

Taken together, these changes represent a significant step forward for the human rights system and protection of human rights. Progress has been made in ensuring the coherence and consistency of the system but the growth of the various mechanisms and more frequent Council and treaty body sessions have, however, added greatly to OHCHR's workload. These additional responsibilities have not been matched by an equivalent increase in resources, creating acute management challenges for the Office.



PRESIDENT DE  
SEMBLEE GENERALE

DIRECTEUR GENERAL

UN Photo/Jean-Marc Ferré

The Human Rights Council in session.



© UN Photo/Pierre Albouy

The Deputy High Commissioner at the Human Rights Council's Special Session on Syria, April 2011.

## OHCHR's role

OHCHR's mandate includes support for UN human rights treaty bodies and mechanisms. The Office has expertise and experience in working with international human rights instruments and in-depth knowledge of the application of the procedures of the human rights mechanisms. OHCHR is uniquely positioned to identify strategies and measures designed to strengthen existing mechanisms. It is also the conduit for communication between the various human rights mechanisms and external partners, including parts of the UN system, regional human rights mechanisms, NGOs, civil society and other stakeholders. A report of the UN Office of Internal Oversight Services (OIOS) notes: "Based on stakeholder perceptions and OIOS' independent assessment, OIOS finds that OHCHR's comparative advantage lies in its position as the central reference point for international human rights standards and mechanisms. As such, it is the authoritative source of advice and assistance to Governments, civil society and other United Nations entities on compliance with those standards and on the human rights-based approach. More strategic utilization of this strength would enable OHCHR to implement its mandate more efficiently." Thus the strategies outlined in the OHCHR Strategic Management Plan 2010-2011 and OHCHR Management Plan 2012-2013 are built on and complements the activities of the human rights mechanisms and bodies.

## Ratification

*EA 2 - Increased ratification of international human rights instruments and review of reservations, with a focus on the conventions on Migrant Workers, Rights of Persons with Disabilities and Enforced Disappearance and the Optional Protocols to the CRC, CRPD, CAT and ICESCR and the second OP to the ICCPR*

OHCHR advocates for the ratification of human rights treaties and withdrawal of reservations through public statements by the High Commissioner, press articles and bilateral meetings with Governments as well as through highlighting recommendations and encouragements issued during the UPR and by human rights treaty bodies and special procedures.

In 2011, a total of 54 new ratifications were recorded. This number includes the ratification of treaties, optional protocols and acceptance of articles relating to individual communication procedures. OHCHR supported special procedures in their work with State officials and NHRIs to provide information, advice and technical assistance and thereby contributed to the promotion of ratifications generally and particularly in: Bangladesh, Cape Verde, Comoros, El Salvador, Indonesia, Iraq, Kyrgyzstan, Mauritius, PNG, the former Yugoslav Republic of Macedonia, Tunisia and Vanuatu.

As an example, OHCHR developed a set of "Advocacy and Action Points" for the United Nations in the former Yugoslav Republic of Macedonia to mobilize further joint action for the ratification and implementation of the CRPD. As a result of efforts undertaken by OHCHR in collaboration with CSOs, the State ratified the Convention in December 2011. It also encouraged a number of assessments of accessibility to UN premises as an example to be followed by partners.

OHCHR field presences worked with the Governments of Argentina, Brazil, Burkina Faso, Chile, Costa Rica, Mali, Peru, Senegal, Uruguay and Venezuela towards ratification of the Optional Protocol to ICESCR (OP-ICESCR); the Governments of Cambodia, Cameroon and Tajikistan towards ratification of the CRPD; the Governments of Papua New Guinea and Tanzania towards the ratification of CAT and its Optional Protocol; the Government of Indonesia towards ratification of the OP-CAT; the Government of Djibouti towards ratification of the Optional Protocols to the CRC; and the Government of Nepal towards ratification of the ICCPR. These ratifications are expected in 2012.

## State engagement with human rights mechanisms

*EA 6 - Increased compliance of States with their obligation under the human rights mechanisms and bodies, especially in terms of reporting and putting in place efficient mechanisms to ensure follow-up of their recommendations*

Throughout 2011, OHCHR continued to provide substantive and technical support to the work of human rights mechanisms and bodies. It supported them in identifying critical human rights situations and preventive measures. Furthermore, the Office facilitated the adoption of more precise and targeted recommendations and disseminated, in a variety of accessible formats, relevant outputs, decisions and recommendations. With a view to

assisting in the implementation of these recommendations, the Office supported and encouraged the sharing of good practices, experiences and cooperation among States and between States and civil society.

### Human Rights Council

In 2011, the Human Rights Council held four special sessions (compared with two in 2010) to deal with the human rights situations in Libya and Syrian Arab Republic. It held three regular sessions for a total of 10 weeks; two weeks of meetings of the Human Rights Council Advisory Committee; and four weeks of meetings of the HRC Complaints Procedure. OHCHR provided substantive support to all of these sessions.

#### Representatives from six countries discuss formulas for ratification during a seminar on the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights

On 3 and 4 November, representatives of the six countries covered by the Regional Office for South America shared ideas and experiences in a seminar on “The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights: Content and scope.” The purpose of the activity was to provide support and technical assistance to participating States to promote the process of ratification of the Optional Protocol. The event was organized by the Regional Office with the participation of the Institute for Human Rights Policy of MERCOSUR (Southern Common Market) and was attended by the human rights directors of various foreign ministries or human rights secretariats, as well as parliamentarians from Argentina, Brazil, Chile, Peru, Uruguay and Venezuela.

“The model chosen is very interesting, as it involved the Executive Powers as well as Parliaments, because these types of issues should be constructed as State policies rather than just Government policies,” said Victoria Balthar, International Advisor for

Brazil’s Human Rights Secretariat. Participants had the opportunity to analyse the content of the Optional Protocol to the ICESCR and discuss the State’s role in the promotion and specific protection of the rights related to basic needs like food, housing, education, water, employment, social security and cultural life, among others. OHCHR recalled that the Convention has not met the necessary ratifications to enter into force and that the region plays a key role in addressing this challenge. Latin America has been a major proponent of the instrument and out of the existing seven ratifications, four are in the region. OHCHR consequently decided to summon representatives of the countries covered by the Regional Office for South America to share the experience of those who had made progress in this area and provide opportunities for collaboration in efforts towards ratification.

While praising the structure of the workshop, the representative of the Venezuelan Foreign Ministry, Ileana Gomez, said, “it is interesting to see how we are all looking for our own formula for ratification. We are not

the only ones facing this challenge and each country has its legislative peculiarities. There is no single model; each country must find its own dynamic.” During the meeting, participants agreed on the need to broaden the perspective of human rights in the region, which tends to be limited to civil and political rights. “In our countries, human rights remain connected only to the problems we had during dictatorships. We must work to see that economic, social and cultural rights are also seen as human rights and we must work to install them on the agenda,” said Uruguayan Member of Parliament Pablo Iturralde. Meanwhile Constance Argentieri, a representative of MERCOSUR’s Institute for Human Rights Policy, said “this type of event is a reminder that social rights are human rights and it helps to create the necessary bridge to social policies. We have to further strengthen these channels of dialogue between States, international organizations and human rights protection systems, while continuing to generate joint positions of the South American block at the international level.”

## Universal Periodic Review

By the end of October 2011, all 193 Member States had been reviewed in the UPR with a 100 per cent participation rate. Of these, 80 per cent were represented at the ministerial level, highlighting the importance States attached to the process.

The first cycle of the UPR, which was officially concluded in March 2012, took stock of the human rights situations in all Member States and provided recommendations on ways in which they can be addressed. States and stakeholders from 158 countries built their capacity to prepare inputs and reports through, *inter alia*, 25 interregional, regional and national workshops organized by OHCHR.

In close to 40 countries, UPR recommendations were specifically followed up with national plans of actions/frameworks/road maps on implementation elaborated, with OHCHR's support in, *inter alia*, Armenia, Belarus, Guinea, Kazakhstan, Kenya, Madagascar, Mongolia, the Republic of Moldova, Rwanda, Sierra Leone, Somalia and Togo.

Preparations for the second cycle of the review began in Djibouti, Spain, Thailand and Tunisia. OHCHR organized four pre-session briefings on the modalities for the second cycle, allowing States to discuss the preparation of national reports and the follow-up to UPR recommendations. The briefings were attended by 210 participants, including Government officials and representatives of stakeholders, NHRIs and UN agencies.

## Special procedures

OHCHR continued to support the work of special procedures mandates (36 thematic and 10 geographically related as of 31 December 2011, including six five-member working groups). The special procedures are essential in providing the Council with timely and reliable information, including at its special sessions.

In 2011, the Council established a working group on transnational corporations and other business enterprises; a Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; an Independent Expert on Côte d'Ivoire; a Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence; and an Independent Expert on the promotion of a democratic and equitable international order. At its 18th special session, the Human Rights Council also created a Special Rapporteur on the situation of human rights in Syria whose work will start once the mandate of the

commission of inquiry is concluded. The Council also expanded the scope of the mandate on toxic waste to encompass the human rights implications of environmentally sound management and disposal of hazardous substances and wastes.

The number of States which issued standing invitations to special procedures steadily increased in 2011 to a total of 90 States, compared to 78 at the end of 2010. Special procedures issued 604 communications in 2011, the same as in 2010. The number of visits to States increased to 82, compared to 67 in 2010. Each visit resulted in a set of recommendations for the respective State to follow up on in order to demonstrate its commitment to international human rights undertakings and the protection of rights-holders. This indicated the increasing interest of States to engage with the special procedures.

Following its country visit to the United States of America in 2009, the Working Group on the use of mercenaries recommended, *inter alia*, that the Government "carry out prompt and effective investigation of human rights violations committed by private military and security companies and prosecute alleged perpetrators" and "ensure that the United States criminal jurisdiction applies to private military and security companies contracted by the Government to carry out activities abroad." In 2011, the United States Government reinstated the case against former employees of the private military and security company, Blackwater, who were charged with the killing of civilians in Baghdad in 2007. Draft legislation was introduced in the United States Congress (the Civilian Extraterritorial Jurisdiction Act (CEJA)), to extend United States criminal jurisdiction to non-Department of Defence contractors working for the United States abroad. If adopted, CEJA will be a positive step towards implementing the recommendations of the Working Group on the use of mercenaries.

Mauritania implemented the recommendation of the Special Rapporteur on contemporary forms of slavery by enforcing the 2007 Anti-Slavery Law. Six persons were tried and convicted for slavery practices on the basis of this Law. This was the first trial and conviction for slavery in Mauritania. The Office provided advice to the NGOs that initiated the judicial process and strongly advocated for the full implementation of the Law.

To abolish the practice of secret detentions and strengthen independent domestic and international monitoring mechanisms in relation to domestic detention facilities in Tunisia, the Special Rapporteur



The Special Rapporteur on the human right to safe drinking water and sanitation, Ms. Catarina de Albuquerque, meets with a member of an indigenous community during her mission to the United States of America, February 2011.

on the promotion and protection of human rights and fundamental freedoms while countering terrorism recommended during his May 2011 follow-up visit to Tunisia that the Government accept the OP-CAT. Tunisia acceded to the OP-CAT on 29 June 2011. In the same month, it also acceded to the first Optional Protocol to ICCPR and the Rome Statute of the International Criminal Court and ratified the ICPPED.

Following visits to Colombia and Viet Nam undertaken by the Independent Expert on minority issues in 2010, these Governments took the opportunity in March 2011 to update the Independent Expert and the Human Rights Council on their activities to promote and protect the rights of minorities. The Government of Colombia highlighted the adoption of legal mechanisms and policy measures since the visit to foster dialogue and consultations with Afro-Colombian and other disadvantaged communities in addition to new policies for social and economic inclusion, access to land and justice and compensation for victims of violence. The Government of Viet Nam acknowledged the challenges facing minorities and committed to continue working with the Independent Expert in relation to areas such as development, education and health.

In a joint urgent appeal sent to the Government of Afghanistan on 14 January 2011, the Chair-Rapporteur of the Working Group on arbitrary detention, the

Special Rapporteur on extrajudicial, summary or arbitrary executions, the Independent Expert on minority issues, the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on torture expressed their concern about the detention of two Christian converts. It was feared that in one case the person concerned would face the death penalty on charges of apostasy. Although the second case was dismissed, the individual remained in detention. No official response to the communication was received, but information received indicates that the two individuals have now been released.

In 2011, 11 States extended standing invitations to the special procedures in conjunction with their review under the UPR (India, Japan, Lebanon, Madagascar, Marshall Islands, Nauru, Palau, Panama, PNG, Rwanda and Thailand). Panama extended a standing invitation to special procedures and established an inter-institutional commission to follow up on the recommendations formulated by international human rights mechanisms. The Office advocated with the Ministry of Foreign Affairs for the implementation of these recommendations, as well as to ensure the participation and inclusion of civil society organizations, and provided technical inputs to the presidential decree establishing the commission.

Tunisia similarly issued a standing invitation during the high-level segment of the Human Rights Council in February 2011. Five country visits were undertaken

by the special procedures thematic mandate-holders in 2011 as a result of recommendations of the UPR. These visits contributed to more effective follow-up to the recommendations of special procedures and the UPR and led to thematic reports that will be relevant to the UPR second cycle.

Advocacy efforts of the Office led to Cameroon's invitation to three special procedures mandate-holders (water and sanitation, freedom of expression and minorities). Regrettably, these missions could not take place during the period under review as the mandate-holders were unavailable. Kiribati issued an invitation to the Independent Expert on water and sanitation to visit as did the Solomon Islands in respect of the Special Rapporteur on violence against women.

### Treaty bodies

OHCHR supported the work of the 10 human rights treaty bodies. In 2011, the treaty bodies with a State Party reporting procedure received a total of 118 State Party reports, including 10 common core documents. Technical advice on the common core document, treaty specific guidelines, reporting, individual communications and follow-up to recommendations was provided by OHCHR to: Afghanistan, Belize, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, Congo, Côte d'Ivoire, Croatia, Djibouti, Gambia, Honduras, Lao PDR, Kenya, Kyrgyzstan, Mauritania, Mexico, Niger, Oman, Paraguay, Peru, Rwanda, Sao Tomé and Príncipe, Serbia, Seychelles, Singapore, South Africa, Thailand, the former Yugoslav Republic of Macedonia, Turkmenistan, Uganda, United Arab Emirates and Viet Nam. In 2011, approximately 20 reports were submitted as a direct result of OHCHR's support.

During 2011, the capacity to draft common core documents and understanding of the relatively new working method of issuing lists of issues prior to reporting (which was adopted by the Committee on Migrant Workers in April 2011, following the practice established by CAT in 2007 and the Human Rights Committee in 2009) was substantially increased in several European countries. The Office contributed to this result, inter alia, by organizing briefings on this subject for 27 countries, namely: Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, Greece, Italy, Liechtenstein, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, San Marino, Serbia, Spain, the former Yugoslav Republic of Macedonia, Turkey and the United Kingdom.

The treaty bodies adopted concluding observations on approximately 120 reports of States Parties. The Committees of CERD, CAT, ICCPR and CEDAW examined and adopted final decisions on 232 communications and issued close to 45 requests for interim protective measures in cases where lack of such protection could lead to irreparable harm for the alleged victims. Committee members were in contact, and held meetings, with the representatives of more than 10 States Parties concerning measures undertaken in response to findings of violations of CAT, CEDAW and ICCPR.

With the support of OHCHR, the Committee on Enforced Disappearances held its first session in November. The CRPD Committee considered its first State Party reports, namely: the initial reports of Spain and Tunisia. The SPT carried out three country visits to: Ukraine (May 2011); Brazil (September 2011); and Mali (December 2011). During the visits, the SPT met with national authorities and representatives of civil society and visited a number of police stations, prisons and juvenile detention centres, as well as mental health institutions. These visits resulted in recommendations to the authorities regarding effective safeguards against the risk of torture and ill-treatment in places of deprivation of liberty.

In order to support follow-up to CERD concluding observations, a seminar was organized by OHCHR in South Africa for representatives from Botswana, Namibia, South Africa, Zambia and Zimbabwe. The seminar deepened the understanding of delegates on specific issues relating to racial discrimination as defined in ICERD. Participants committed to following up on recommendations made by the CERD Committee and affirmed the importance of exchanging achievements, challenges and good practices in the implementation of its recommendations. OHCHR advocated for the creation of inter-ministerial structures or supported existing structures in submitting information to the human rights mechanisms and/or in following up on recommendations issued by the human rights mechanisms in: Belize, Cameroon, Congo, Costa Rica, Ethiopia, Gabon, Haiti, Madagascar, Panama, Sao Tomé and Príncipe, Serbia and Vanuatu. In Costa Rica, in response to a UPR recommendation, an inter-institutional committee was established through a presidential decree. The Office advocated with the Ministry of Foreign Affairs for the establishment of the committee and provided inputs to the drafting of the decree.

OHCHR supported the elaboration of national plans of actions, frameworks or road maps for the

implementation of recommendations deriving from all human rights mechanisms in: Bolivia, Burkina Faso, Cameroon, Cape Verde, Gabon, Honduras, Malaysia, Paraguay, Sao Tomé and Príncipe and Tajikistan. Two regional workshops on strengthening national implementation of recommendations of the treaty bodies, special procedures and UPR were organized in Brussels in March for representatives from Governments, NHRIs and CSOs from 24 European countries, namely: Albania, Cyprus, Czech Republic, Finland, France, Germany, Malta, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Serbia, Switzerland, the former Yugoslav Republic of Macedonia and the United Kingdom; and in Belgrade in December for: Albania, Bosnia and Herzegovina, Croatia, Montenegro, Serbia, the former Yugoslav Republic of Macedonia and Turkey.

Information technology tools were created to facilitate the implementation of recommendations by providing easy public access to them. In Mexico, OHCHR launched, together with the Foreign Ministry and the *University Centro de Investigación y Docencia Económicas A.C.*, an online search tool (<http://recomendacionesdh.mx>) which contains 1,496 human rights recommendations addressed to Mexico from international and regional human rights mechanisms. In Paraguay, a searchable internet portal was created for the same purpose. In Serbia, with the support of OHCHR and OSCE, a “Model for Implementation of the United Nations Treaty Body Decisions on Individual Cases” was developed and presented by the Ministry of Human Rights, State Administration and Local Self-Governance to relevant institutions.

#### CRPD expert Ms. Degener and inclusive education

Theresa Degener was born into this world without arms. She has learned to do everything with her feet. Needless to say, in carrying out her daily routine, she sometimes draws people's attention. “I have a visible and exotic disability. It makes me look different and that's a plus,” she says, revealing her sense of humour. Degener is an energetic person whose condition led her to become an advocate for the rights of the disabled. A Professor of Law and Disability Studies in Germany, Degener is also a member of the UN Committee on the Rights of Persons with Disabilities.

The Committee monitors national-level implementation of the Convention on the Rights of Persons with Disabilities, which came into force in 2008, and commits States Parties to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms of persons with disabilities and promote respect for their inherent dignity. Degener contributed to the preparation of the background material used in the drafting of the Convention and took part in the negotiation process leading to its adoption.



She recounts her experience growing up, the youngest of six children, in a small village in Germany. “My father was the doctor of the village,” she says. “When it was time for me to go to school, the authorities informed him that, according to the law, I had to go to a special school.” ‘Take me to prison,’ her father told the authorities, ‘but my daughter will go to regular school.’ “He even threatened not to treat the Mayor's children when they got sick if the authorities did not reconsider!” Degener said, smiling. Degener was admitted to regular school. “I have always attended regular schools,” she says. “If it were not for my parents and the opportunity I had to go to a regular school, I would not have become a lawyer.”

Inspired by her personal experience, she now focuses on the rights of disabled children to receive a proper and inclusive education. Special schools are often established based on the belief that persons with disabilities are uneducable or a burden on the mainstream educational system. The practice of separating students with disabilities can lead to their greater marginalization from society, a situation that persons with disability face generally, thus entrenching discrimination. “Special education is less qualified than mainstream education,” says Degener. “Exclusion from the education system is a serious violation of human rights.”

Indicators for civil, cultural, economic, political and social rights were developed in Bolivia, Ecuador, Kenya, Mexico, Nepal, Serbia and the United Kingdom in the context of follow-up to recommendations from human rights mechanisms, national human rights action plans, development plans and/or the strengthening of capacity for human rights implementation. The methodology for these indicators was developed by OHCHR and they are increasingly recognized as an important practical tool for enhancing systematic implementation and follow-up to recommendations issued by treaty bodies, special procedures and the UPR. An increasing number of Government agencies, national and regional human rights institutions follow the OHCHR methodology for human rights indicators to implement and mainstream human rights.

### Civil society engagement with human rights mechanisms

*EA 7 - Increased number and diversity of rights-holders and national human rights institutions and civil society actors acting on their behalf, making use of United Nations and regional human rights mechanisms and bodies*

OHCHR continued to promote and facilitate interaction between NHRIs and civil society actors and UN human rights mechanisms and bodies. Civil society participation in the Human Rights Council increased in 2011 as shown, inter alia, by an increased number of side events organized by civil society (260 events compared to 202 in 2010); and maintenance of the number of submissions of written statements (286 in 2011, 282 in 2010).

NHRIs and CSOs were given increased access to information and improved knowledge of and capacity to interact with human rights mechanisms and bodies throughout the year. OHCHR contributed to this by developing and updating training materials and making public information on the human rights mechanisms available through NHRI networks and Civil Society Section broadcasts (i.e., weekly notes and newsletters) and other means. In 2011, the Civil Society Section held at least 50 briefings and capacity-building sessions with civil society in Geneva, distributed approximately 10,000 copies of OHCHR's civil society handbook and disseminated nearly 300 human rights updates through its global e-mail broadcast system, which includes 2,700 subscribers to broadcasts which are specifically designated to share information from the human rights mechanisms. As a result, a growing interest in the

work of the human rights mechanisms can be observed: the number of subscribers to OHCHR's updates increased by 700 in 2011; and in less than three years, the number of organizations requesting such information increased from approximately 300 (exclusively NGOs with ECOSOC status) to just under 3,000 organizations and individuals.

The UN Voluntary Trust Fund for Indigenous Populations continued to support indigenous participation in the session of the Permanent Forum on Indigenous and the Expert Mechanism on the Rights of Indigenous Peoples. In July, the mandate of the Fund was expanded to support participation in human rights treaty body sessions and the Human Rights Council. The Office actively called for applications to the various sessions and substantial participation of indigenous representatives was secured in the 18th session of the Human Rights Council and a session of the Committee on Economic, Social and Cultural Rights.

The Human Rights Council has expressed an interest in giving more visibility to, and ensuring the enhanced participation of, various stakeholders in the UPR process. To contribute to this objective, the Office has more closely involved NHRIs and representatives of civil society in briefings organized in relation to the preparation for the UPR process. Regional and national human rights NGOs in North-East Asia organized a forum to follow up on the UPR recommendations. As an outcome of the forum, with the support of OHCHR, an NGO network was established, which has already initiated discussions on recent developments related to the abolition of the death penalty in Japan and Mongolia.

Also in 2011, an increased number of national civil society submissions were submitted to the UPR, treaty bodies (especially CEDAW) and regarding individual cases (i.e., from the Pacific). To contribute to the achievement of this result, OHCHR provided capacity-building trainings on engaging with the different human rights mechanisms and advocating for implementation of recommendations to civil society organizations from: Argentina, Bolivia, Brazil, Cambodia, Chad, Chile, Ecuador, El Salvador, Fiji, Honduras, Kiribati, Kosovo, Madagascar, Mauritania, Mexico, Nepal, Occupied Palestinian Territory, Papua New Guinea, Paraguay, Peru, Sierra Leone, Solomon Islands, Sudan, Tajikistan, Tonga, Uganda and Vanuatu.

In 2011, the treaty bodies received nearly 710 submissions from civil society actors, compared to 680 submissions in 2010.

## International and regional laws and institutions

### *EA 8 - Advances in the progressive development of international and regional human rights law in selected areas of focus*

OHCHR continued to support the standard-setting activities of the UN human rights bodies.

On 19 December 2011, the General Assembly adopted the Optional Protocol to the CRC, permitting the Committee to receive and consider individual and inter-State communications and undertake inquiries. OHCHR supported the Intergovernmental Working Group that prepared the draft, including by sharing information with the Working Group on existing communications procedures and advising on good practices. When article 77 of the ICMRW and the OP-ICESCR come into force, all treaty bodies (except for the Subcommittee on Prevention of Torture (SPT)) will be able to receive individual communications; representing a significant step forward in improving human rights protection.

General comments adopted by treaty bodies are meant to provide assistance and clarification to States Parties with regard to treaty provisions. They provide detailed and expert clarity that enhance the understanding of treaty provisions. General comments are therefore authoritative statements to assist States in implementing their treaty obligations. OHCHR substantially contributes to these by providing experts with legal research, including for example:

- ▶ In February 2011, the Committee on the Rights of the Child adopted General Comment No. 13 on the rights of the child to freedom from all forms of violence. In September 2011, the Committee held a day of general discussion on the rights of children of incarcerated parents.
- ▶ In August, the CERD Committee adopted its General Recommendation No. 34 on racial discrimination against people of African descent following a day of thematic discussion on racial discrimination against people of African descent held in March 2011.
- ▶ In July, the Human Rights Committee adopted General Comment No. 34 on freedom of opinion and expression, providing the most up-to-date understanding of this freedom in light of the considerable jurisprudence the Committee has developed in this area.
- ▶ In November, the CAT Committee held a public consultation on its draft general comment on article 14 of the Convention (right to redress and adequate compensation of victims of torture).



Presentation of the report of the Special Rapporteur on the right to health on his mission to Guatemala.

- ▶ The Committee on Migrant Workers began developing General Comment No. 2 on the human rights of migrant workers in an irregular situation and members of their families with a view to improving understanding of the obligations of States Parties under the Migrant Workers Convention. A first draft will be discussed by the Committee at its 17th session in September 2012.

Various experts presented proposals on, and practical suggestions for, improved implementation of international human rights standards related to the prohibition of incitement to national, racial or religious hatred, as outlined in the ICCPR. This was the result of a series of expert workshops on the prohibition of incitement to national, racial or religious hatred organized by OHCHR in Bangkok, Nairobi, Santiago de Chile and Vienna. Together, the four workshops gathered 45 experts from different backgrounds and approximately 150 representatives from States and civil society, as well as UN departments, programmes and specialized agencies who participated as observers. The Special Rapporteurs on freedom of religion or belief, on the promotion and protection of the right to freedom of opinion and expression and on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, participated in and presented four joint submissions. To take stock of these rich results, OHCHR will convene a final expert meeting in the second half of 2012 and will subsequently produce a report for the consideration of all stakeholders.

The members of the Working Group on the use of mercenaries participated as resource persons in the Open-ended Intergovernmental Working Group

(IGWG) held from 23 to 27 May 2011. The Working Group met to consider the possibility of elaborating an international regulatory framework, including, inter alia, the possibility of elaborating a legally binding instrument on the regulation, monitoring and oversight of the activities of private military and security companies, taking into consideration the principles, main elements and draft text proposed by the Working Group. The Working Group proposed a list of elements that could be included in a convention on private military and security companies and developed a draft text. The first session of the IGWG was attended by representatives from 70 Member States, the African Union, the European Union and various NGOs. The majority of stakeholders agreed on the need for the regulation of private military and security companies. Discussions will continue at the second session of the IGWG in 2012.

The 2011 report to the General Assembly on solitary confinement by the Special Rapporteur on torture contributes to the discussion of the definition of solitary confinement and prolonged solitary confinement and concludes that depending on the specific reason for its application, conditions, length, effects and other circumstances, solitary confinement can amount to torture or cruel, inhuman or degrading treatment or punishment. The report also highlights a number of general principles and internal and external safeguards to help guide States in re-evaluating and minimizing the use of solitary confinement and, in certain cases, abolish its use.

OHCHR provided substantial support to the Bureau of the Open-ended Working Group on Ageing for the purpose of strengthening the protection of the human rights of older persons and ensured a strong human rights agenda in the Working Group's two sessions (April and August 2011). The mandate of the Open-ended Working Group is to consider the existing international framework of the human rights of older persons and identify possible gaps and how best to address them, including by considering, as appropriate, the feasibility of further instruments and measures.

OHCHR provided support to the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises in the preparation of the Guiding Principles on Business and Human Rights, which were endorsed by the Human Rights Council in resolution 17/4. To support the effective implementation of the Guiding Principles, OHCHR produced an interpretive guide on the corporate responsibility to respect human rights. In collaboration with the Global Compact Office,

OHCHR produced a revised online learning tool on business and human rights and a guide for business enterprises on the development of corporate human rights policies.

OHCHR continued to support the intergovernmental Open-ended Working Group on the Right to Development, including through follow-up to the recommendations made at its 12th session held in November 2011.

In December, the Human Rights Council and the General Assembly adopted the United Nations Declaration on Human Rights Education and Training. It is the first UN instrument exclusively devoted to human rights education and training. OHCHR supported the Human Rights Council's initiative to develop the Declaration.

OHCHR continued to strengthen cooperation with regional human rights organizations. The Office supported the development of human rights mechanisms for the Association of Southeast Asian Nations (ASEAN). The OHCHR South-East Asia Regional Office was among the first UN agencies to be invited to hold a meeting in July with the ASEAN Intergovernmental Commission on Human Rights (AICHR) to agree on areas of support and collaboration in the context of AICHR's five-year workplan. This meeting was followed by interaction with the High Commissioner in November. The Regional Office has subsequently engaged with AICHR on important activities, such as the drafting of an ASEAN Human Rights Declaration, which is due to be adopted in 2012. OHCHR advised the African Commission on Human and Peoples' Rights in the elaboration of its Principles and Guidelines on Economic, Social and Cultural Rights, which were adopted in October. In November, a regional workshop was organized with the Inter-American Commission on Human Rights (IACHR), with a focus on the prevention of torture and the protection of its victims. Another meeting between OHCHR, IACHR, members of CAT and the SPT, as well as the Special Rapporteur on torture and the IACHR's Special Rapporteur on persons deprived of liberty was held to discuss ways to increase cooperation, collaboration and maximize impact. OHCHR held its 5th annual meeting with colleagues from the Council of Europe to improve information exchange and closer cooperation on a number of thematic issues.

As of October 2011, the Kampala Convention, the first legally binding regional instrument specifically focused on the protection of, and assistance to, IDPs in Africa, had 33 signatures and 13 of the 15 ratifications necessary for it to enter into force.

Over the course of 2011, the Special Rapporteur on the human rights of IDPs, supported by OHCHR, engaged closely with regional organizations in Africa for the national-level promotion, ratification and implementation of the 2009 Convention. In this context, the Special Rapporteur participated in numerous regional consultative meetings, workshops and high-level meetings, such as the first ECOWAS Ministerial Conference on Humanitarian Assistance and Internal Displacement in West Africa in July 2011 in Abuja, Nigeria and the Summit of Heads of States of the International Conference for the Great Lakes in Kampala, Uganda in December.

## Coherence among human rights mechanisms

### *EA 9 - Enhanced coherence and consistency in the system of human rights mechanisms*

OHCHR continued to facilitate dialogue among stakeholders aimed at developing proposals for strengthening the treaty body system. Through consultations organized by the Office, all major stakeholders (treaty body experts, States, NGOs, NHRIs, academics and UN agencies) provided input into this process which will culminate in a compilation of proposals that will be presented in a coherent framework by the High Commissioner in 2012.

As part of the harmonization process, treaty bodies continued refining the follow-up procedures to its concluding observations, decisions on individual communications and visits. The Human Rights Committee adopted a new format for its follow-up report. The Subcommittee on Prevention of Torture adopted a follow-up procedure regarding visit reports and established working groups on follow up to visits. Furthermore, as noted above, the Committee on Migrant Workers adopted the “list of issues prior to reporting” procedure, following the practice of CAT and the Human Rights Committee.

All treaty body chairpersons now interact with the Third Committee of the GA. This came about following a review by States of the traditional text of the resolutions related to CEDAW and the two Covenants and advice provided by OHCHR. Progress was also made regarding the idea that the resource questions of treaty bodies be consolidated into one functional resolution. This initiative is in line with OHCHR’s continued efforts to make efficient use of its resources to support the human rights mechanisms, including by encouraging them to improve coordination and harmonize their working methods. Induction sessions for newly appointed treaty body experts and special procedures mandate-holders have become routine.

OHCHR provided support to the 23rd annual meeting of chairpersons of the human rights treaty bodies (30 June and 1 July 2011) and the 12th inter-committee meeting (27 to 29 June 2011). The chairpersons considered a table which recorded implementation of recommendations that have been adopted by the inter-committee meeting since its first session. In this respect, concerns were raised about the low level of implementation, especially those pertaining to the harmonization of working methods. In addition, the chairpersons discussed the challenges resulting from limited financial resources and expressed concern that the thematic focus of the meeting of chairpersons and the inter-committee meeting were increasingly overlapping. The meeting agreed that the inter-committee meeting should be abolished in its current format. Instead, ad hoc thematic working groups would be established at the request of the chairpersons. Such working groups would discuss issues of common interest, including the harmonization of treaty body jurisprudence.

The joint meeting of the 17th meeting of special rapporteurs/representatives, experts and chairpersons of working groups of the special procedures with chairpersons and members of treaty bodies discussed a compilation of good practices of cooperation. It adopted joint recommendations in this respect, including on mutual follow-up and cross-referencing, holding of regular joint meetings and the timely sharing of workplans, as well as joint advocacy for the ratification of treaties.

In order to encourage enhanced coherence and consistency of the work of special procedures, OHCHR supported the implementation of the decision of the Coordination Committee of the special procedures to issue a single communications report, the first of which was submitted to the 18th session of the HRC in September 2011.

### Universal Human Rights Index

OHCHR continued to manage the Universal Human Rights Index ([www.uhri.ohchr.org](http://www.uhri.ohchr.org)), an electronic tool compiling recommendations from the treaty bodies, special procedures and the UPR. The web page was recently upgraded and is now available in all official languages of the United Nations and for persons with disabilities. By enabling users to analyse and compare the recommendations of the three human rights mechanisms mentioned above, the Index will assist States in adopting a coordinated approach to the implementation of recommendations, facilitate follow-up and simplify the work of those who use the conclusions and recommendations.

The report will be submitted to each session of the Council and will streamline documentation, avoid duplication and allow for strengthened and more targeted follow-up. Of the 604 communications sent in 2011, 452 were joint communications that two or more mandate-holders signed. The percentage of joint communications has increased from 60 - 66 per cent in recent years to 75 per cent in 2011.

OHCHR worked with the Project Appraisal Committee of the UN Trust Fund to End Violence against Women to encourage applications related to the implementation of the recommendations of the CEDAW Committee and the Special Rapporteur on violence against women. As a result, specific reference is made to these mechanisms in the Call for Proposals which went out in November 2011.

## Responsiveness of the international community

*EA 10 - Increased responsiveness of the human rights system, in particular the Human Rights Council, to chronic and urgent human rights situations and any other emergencies, including in thematic areas and to emerging issues*

The Human Rights Council responded to several human rights crises in 2011, holding four special sessions on the human rights situation in Libya and Syria. With the support of OHCHR, the Council established commissions of inquiry on Côte d'Ivoire, Libya and Syria to investigate violations of international law and to recommend actions. Following the 16th special session, OHCHR set up a fact-finding mission on Syria, as requested by the Human Rights Council in its resolution S-16/1. In June 2011, the Council adopted resolution 17/24 in

which it requested OHCHR to monitor and report on the human rights situation in Belarus.

OHCHR also provided support to an increasing number of panel discussions of the Council (six for the 18th session) addressing specific and emerging human rights issues, including the rights of victims of terrorism, the human rights aspects of terrorist hostage-taking, children working and/or living on the street, violence against women, integration of a gender perspective into the work of the Council, the right to adequate health of older persons, the role of international cooperation for the rights of persons with disabilities, languages and cultures of indigenous peoples, best practices in the fight against racism, the human rights of people of African descent, the promotion of a culture of tolerance and peace and the realization of the right to development.

In July 2011, the Commentary to the Declaration on Human Rights Defenders was released, which aims to “enhance States’ understanding of the responsibilities contained in the Declaration and to increase awareness among relevant non-State actors that can contribute to the development of a conducive environment for the work of defenders.” The Commentary which is being used by NGOs, including human rights defenders, consolidates positions taken by the current and previous mandate-holders in their respective reports. The Euro-Mediterranean Human Rights Network has translated the Commentary into Arabic and the OHCHR Office in Guatemala will translate the Commentary into Spanish during the first half of 2012.

## Challenges and lessons learned

Over the previous biennium, OHCHR provided substantive support to the Human Rights Council, in particular in its review process, and advocated for the Council to enhance its ability to address chronic and urgent human rights situations, inter alia, through cooperation with other human rights mechanisms and bodies. In its resolution A/RES/65/281, the General Assembly decided to align the annual cycle of the Council with the cycle of the General Assembly. This clarifies the relationship between the two bodies and facilitates a timely response to Council decisions and resolutions with urgent financial implications.

The review of the Human Rights Council also provided guidance to the 2nd cycle of the UPR on the need to strike a balance between reviewing the implementation of recommendations and the

### Arbitrary deprivation of liberty database

During its 20th Anniversary Commemorative Event in Paris on 14 November 2011, the United Nations Working Group on arbitrary detention launched a database freely and publicly available in English, French and Spanish at [www.unwgadatabase.com](http://www.unwgadatabase.com) containing over 600 opinions adopted since the 1991 establishment of the Working Group. Users are able to search the Working Group’s materials by theme, legal provisions, States, date of adoption of opinions, etc. The database provides a practical tool for victims, lawyers and academics in preparing and submitting cases of alleged arbitrary deprivation of liberty to the Working Group.

consideration of new developments. The UPR has gathered large support from different constituencies. It also poses several challenges, including as a result of the growth in the number of its recommendations and those of the UN human rights mechanisms which are sometimes duplicative or contradictory. OHCHR is therefore encouraging a coordinated approach by States to establish and/or strengthen new/existing coordination mechanisms to meet their reporting obligations and prioritize and implement recommendations deriving from all human rights mechanisms in a holistic manner.

The Human Rights Council review reaffirmed the obligation of States to cooperate with special procedures and urged States to cooperate with and assist special procedures and carefully study their recommendations. Special procedures are requested to foster a constructive dialogue with States, formulate their recommendations in a concrete way and pay attention to technical assistance needs in their reports. In addition, the outcome of the review indicates that the Council should continue to provide a forum to discuss cooperation between States and special procedures. The review process also highlighted the need for more transparency, in particular with regard to the selection process.

The review also calls on the Council to streamline its requests to special procedures, in particular regarding reporting, to ensure meaningful discussion on the reports. Ensuring implementation of, and follow-up to, the recommendations of special procedures remains another important challenge against which the efficiency and impact of special procedures is to be assessed.

Since the High Commissioner initiated an open process of reflection on how to strengthen the treaty body system, nearly 20 consultations were organized by different stakeholders in 2010 and 2011. The ultimate objective of the process is to improve the national-level impact of treaty bodies on



National Conference on the Universal Periodic Review in Sierra Leone, November 2011.

rights-holders and duty-bearers by strengthening their work while fully respecting their independence. As a first step, the process sought to heighten awareness among all stakeholders of the challenges facing the system and warn that a weakened treaty body system would have a far-reaching, detrimental effect on its immediate beneficiaries and the entire UN human rights machinery, including the UPR. The process also sought to bring about gradual improvements and the harmonization of working methods by the treaty bodies and to OHCHR in its support to treaty bodies; a process which is well underway. Lastly, the process aimed to secure the necessary resources to support the work of the treaty bodies and identify cost saving possibilities. In this context, OHCHR sought to raise awareness among States that the approach of “absorbing new mandates within existing resources” is not sustainable. Advances have been made towards achieving all of these objectives. In 2012, the High Commissioner will publish a compilation report of the proposals made throughout the process.