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**Annual report of the United Nations High Commissioner  
for Human Rights and reports of the Office of the  
High Commissioner and the Secretary-General**

## **Annual report of the United Nations High Commissioner for Human Rights**

### *Summary*

The present report provides an update of the key activities of the Office of the United Nations High Commissioner for Human Rights in 2012. It focuses on the six thematic priorities established by the Office for the period 2010-2013.

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## **I. Introduction**

1. The past year has been characterized by daunting crises, particularly in the Syrian Arab Republic, the Occupied Palestinian Territories, the Democratic Republic of the Congo, in Mali and the Sahel region. These have resulted in thousands of deaths, massive displacement and grave violations, marked by a climate of impunity. Twenty years after the haunting memories of Rwanda and Bosnia and Herzegovina, the international community remains helpless to prevent and end such situations. The economic crisis is relentless, increasing poverty, often aggravated by stringent austerity measures, particularly in Europe and North America.

2. At the same time, the human rights system faces significant budget constraints and an ever-growing workload, particularly in the form of unfunded new mandates from the Human Rights Council. I pay tribute to my staff for their professionalism and dedication in carrying the extra work and appeal to States to provide resources commensurate with the high expectations placed on the system.

3. In December, the Office of the United Nations High Commissioner for Human Rights (OHCHR) was running and supporting 57 human rights field presences: 12 country and stand-alone offices; 13 regional offices, 15 human rights components of peace missions; and 17 human rights advisers within United Nations country teams. In September 2012, I signed an agreement with the Government of Yemen for the establishment of a country office in Yemen. In addition, the OHCHR Regional Office for North Africa was temporarily established in Tunisia. The OHCHR Office in Nepal has closed, following the Government's decision not to extend its mandate.

4. Country visits are critical to engage directly in and strengthen dialogue with national counterparts. In 2012, I undertook missions to (in chronological order) Guatemala, Barbados, Sweden, South Sudan, Zimbabwe, Belgium, Pakistan, Brazil, Kyrgyzstan and Kazakhstan, Algeria, the Netherlands and Indonesia. The Deputy High Commissioner visited Chad, the Niger, Tunisia, Lebanon, Malawi, Mongolia, Morocco and Jordan. The Assistant Secretary-General visited Ethiopia (to attend the Africa Union Summit), Burundi and the Democratic Republic of the Congo, Haiti, Mali, Côte d'Ivoire and Liberia. He also accompanied the Secretary-General on missions to Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Montenegro, Serbia and Slovenia.

## **II. Thematic priorities**

### **A. Discrimination**

#### **1. Racial discrimination**

5. The current year has unfortunately seen a perpetuation of racial discrimination, including racist hate speech. OHCHR and human rights mechanisms have taken steps to combat this. In 2012, one of the main pillars of the anti-discrimination work of OHCHR was the provision of advice to Member States on the formulation of policies and programmes, including national plans of action to eradicate racism and promote equality. OHCHR provided support to Benin, Bolivia (Multinational State of), Burkina Faso, Costa Rica, Ecuador, Mauritania, Nigeria and Panama. It also worked on the creation of a database on practical means to combat racism.

6. Following the series of expert workshops in 2011 on the prohibition of incitement to national, racial or religious hatred, OHCHR organized a final expert meeting in Morocco in

October. Building on previous workshops, the meeting adopted a plan of action to move forward in this area.

7. For Nelson Mandela International Day, OHCHR organized a high-level panel discussion on the promotion and protection of human rights through tolerance and reconciliation. It also organized a panel discussion on the promotion of a culture of tolerance and peace. These events fostered global dialogue and shared good practices to address racial discrimination. OHCHR organized with the Inter-Parliamentary Assembly of the Commonwealth of Independent States a seminar on racism in cyberspace, cybercrimes and human rights.

8. The Working Group of Experts on People of African Descent elaborated and submitted to the General Assembly a draft programme of action for the Decade for People of African Descent (2013–2022). The Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action addressed the role of politicians and political parties in combating racism and the enhancement of regional and international cooperation with regard to the implementation of the Durban Declaration and Programme of Action.

9. The Committee on the Elimination of Racial Discrimination held a day of general discussion focusing on the theme of “racist hate speech”, a topic that has attracted the keen interest of the international community. The day of discussion aimed at enhancing the understanding of the causes and consequences of racist hate speech, and will assist the Committee in its reflection on possibly preparing a general recommendation.

## **2. Discrimination on the basis of indigenous or minority status**

10. This year marked the twentieth anniversary of the Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities. In this context, OHCHR held regional meetings to raise awareness of the Declaration, including a Human Rights Council panel discussion on the Declaration (in March); an expert seminar on enhancing the effectiveness of human rights mechanisms in promoting the rights of religious minorities (Vienna, in May); a consultation on the participation of minorities in poverty reduction (Bangkok, in September); an expert workshop on the effective participation of minorities in law enforcement (Bishkek, in October); and a consultation on how to reflect diversity in constitutional reforms (Doha, November). OHCHR coordinated the United Nations network on racial discrimination and the protection of minorities, established by the Secretary-General in March 2012 to enhance dialogue and cooperation among United Nations entities. The network marked the twentieth anniversary, developing a guidance note on addressing racial discrimination and the protection of minorities.

11. OHCHR supported the implementation of the United Nations Declaration on the Rights of Indigenous Peoples, including through support to the Expert Mechanism on the Rights of Indigenous Peoples. In May, OHCHR issued guidelines for the protection of indigenous peoples living in voluntary isolation in the Americas. OHCHR supported the drafting and implementation of legislation aimed at advancing participation in decision-making and other rights of indigenous peoples in countries in Africa and Latin America. It provided guidance on the Declaration for national human rights institutions. In Guatemala, OHCHR provided support for 18 cases before courts, six of which led to landmark decisions promoting the rights of indigenous peoples.

12. I am pleased to highlight the positive impact of the missions conducted by the Special Rapporteur on the rights of indigenous peoples in Costa Rica in April 2011 and in March 2012, focusing on the impact of the Diquís hydroelectric project on the Térraba people together with my Regional Office for Central America. During the initial visit, the Government announced plans to suspend exploratory work for the construction of the dam.

During the second visit, the Special Rapporteur participated in a meeting between the Government and affected communities to discuss modalities for prior consultation with affected communities. The Special Rapporteur has, in close coordination with OHCHR and the United Nations country team, maintained discussions with the Government. OHCHR has developed a project to support consultations with the T  rraba people.

### 3. Gender equality and women’s rights

13. This past year has seen steady progress in addressing violence against women and maternal mortality and morbidity. OHCHR collaborated with the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, United Nations Action against Sexual Violence in Conflict and the Department of Peacekeeping Operations, including through the development and piloting, in South Sudan, of a training module on monitoring and investigating conflict-related sexual violence. OHCHR continued to promote reparations for women victims of violence. It launched projects in South Kivu to assist more than 1,000 women and girl survivors of sexual violence in their access to health care, education and training. OHCHR worked with authorities in El Salvador to develop a protocol for investigation of femicide.

14. OHCHR prepared technical guidance on the application of a rights-based approach to the implementation of policies and programmes for the reduction of preventable maternal mortality and morbidity, and organized a high-level launch event, with high-level representatives of United Nations agencies, States and civil society, to raise awareness thereon.

15. Women’s economic, social and cultural rights have also been a priority. OHCHR worked in partnership with United Nations entity for Gender Equality and the Empowerment of Women to enhance understanding of women’s rights to land and other productive resources, and developed promotional materials, such as a new publication on the right of women to adequate housing. The gender integration panel discussion held by the Human Rights Council at its twenty-first session, was an opportunity to expand knowledge about women’s enjoyment of these rights, and demonstrated the need to integrate gender perspectives in the post-2015 development agenda.

16. During the annual day of discussion on women’s rights hosted by the Human Rights Council at its twentieth session, OHCHR focused on remedies and reparations for women victims of violence, and women human rights defenders. In December, in Tunisia, OHCHR organized a meeting with women human rights defenders from the Middle East and North Africa to discuss the challenges they face and how the United Nations can support them.

17. OHCHR supported the Working Group on discrimination against women in law and in practice in Tunisia. The Working Group noted that the draft Constitution departed from the principle of “equality” between men and women, referring instead to the role of women as being “complementary” to that of men in the family. I reiterate the call of the Working Group on the Government to take all steps to safeguard the country’s achievements in equality and non-discrimination, and to further advance women’s rights.

18. OHCHR and other human rights mechanisms are also integrating a gender perspective. The Special Rapporteur in the field of cultural rights devoted her annual thematic report to the General Assembly to the enjoyment of cultural rights by women on an equal basis with men (A/67/287). In November, the Working Group on Enforced or Involuntary Disappearances adopted a general comment on women affected by enforced disappearances.<sup>1</sup> The Independent Expert on the effects of foreign debt and other related

<sup>1</sup> See A/HRC/22/45.

international financial obligations of States on the full enjoyment of human rights, particularly economic, social and cultural rights, the Special Rapporteur on the right to adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context and the Special Rapporteur on the right to food have focused their reports on gender issues.<sup>2</sup>

19. OHCHR contributed to the preparation of the United Nations System-wide Action Plan on Gender Equality and the Empowerment of Women endorsed by the Chief Executives Board in April 2012 by developing indicators and relevant reporting framework. The Office adopted a gender equality strategic plan as the implementation framework of its gender equality policy.

#### **4. Discrimination on the basis of sexual orientation and gender identity**

20. Discrimination on the basis of sexual orientation and gender identity continues to affect millions of people in all regions. OHCHR issued a study documenting abuses and proposing recommendations.<sup>3</sup> The Human Rights Council devoted a panel discussion to the issue at its nineteenth session. Continued dialogue and reporting are needed to overcome divisions of opinion among States and to mobilize support for measures, including the repeal of discriminatory laws, the prohibition of discriminatory practices and action to counter violence. OHCHR also published *Born Free and Equal: Sexual Orientation and Gender Identity in International Human Rights Law*, identifying States' obligations in this field.

#### **5. Discrimination on the basis of disability**

21. The United Nations Partnership to Promote the Rights of Persons with Disabilities, of which OHCHR is a member, marks an advance in combating disability discrimination. The Partnership funded its first eight projects aimed at strengthening national capacity for implementing the Convention on the Rights of Persons with Disabilities. The Committee on the Rights of Persons with Disabilities adopted its first views on an individual communication, finding a violation of the right to health for failure to grant building permission for a rehabilitation-related pool.<sup>4</sup> OHCHR submitted a report on violence against women and girls with disabilities to the Human Rights Council at its twentieth session.<sup>5</sup>

#### **6. Discrimination on other grounds**

22. OHCHR continued its efforts to advocate for stronger protection of the rights of older persons. Efforts focused on supporting the Open-Ended Working Group on the Human Rights of Older Persons. OHCHR participated in the expert panel of the Working Group, submitting analytical papers and organizing, in collaboration with the Department of Economic and Social Affairs, an expert group meeting in support of the process. In my report to the Economic and Social Council, I advocated for stronger protection of the rights of older persons.<sup>6</sup>

23. Despite decades of struggle to combat discrimination on the basis of HIV status, discrimination unfortunately persists. The Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health sent a

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<sup>2</sup> A/67/304, A/HRC/19/53, A/HRC/22/50.

<sup>3</sup> A/HRC/19/41.

<sup>4</sup> CRPD/C/7/D/3/2011.

<sup>5</sup> A/HRC/20/5.

<sup>6</sup> E/2012/51.

communication on HIV-related discrimination in the Moldovan legal framework to the Government of the Republic of Moldova.<sup>7</sup> This action supported OHCHR work encouraging the Government to revise laws related to HIV/AIDS, lift its restrictions on entry, stay or residence based on HIV status, strengthen prohibitions on HIV-related discrimination in the workplace and remove mandatory HIV testing for non-nationals and for couples before marriage.

24. OHCHR and the Joint United Nations Programme on HIV/AIDS jointly organized training for United Nations staff on integrating a rights-based approach into HIV programming. Legal reform support led to the lifting of HIV travel restrictions and mandatory testing of foreigners in some countries. Furthermore, OHCHR addressed human rights concerns at the International AIDS Conference; the High-level Policy Consultation on the Science and Law of Criminalization of HIV Non-disclosure, Exposure and Transmission; and the GlobalPOWER launch on accelerating action for women empowerment and gender equality on HIV and sexual and reproductive health and rights.

## **B. Impunity, rule of law and democratic society**

### **1. Rule of law and democratic society**

25. A key event in 2012 was the High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels. At the opening, I stressed that the rule of law is the backbone of legal protection of human rights, and called on the General Assembly to highlight the core human rights principles of legality, equality, accountability and participation in its work. In the historic declaration on the rule of law at national and international levels adopted on 24 September,<sup>8</sup> Heads of State and Government reaffirmed their commitment to these principles. I welcome the pledges that more than 32 States made following the High-level Meeting, many relating to human rights. OHCHR is committed to assisting States in meeting those pledges.

26. OHCHR has monitored the use and abolition of the death penalty. In July 2012, OHCHR convened a global panel in New York on “Moving away from the death penalty: lessons from national experiences”, and organized a workshop on the ratification of the Second Optional Protocol in Cambodia. The Special Rapporteur on torture and the Special Rapporteur on extrajudicial, summary or arbitrary executions included a focus on the death penalty in their reports to the General Assembly.<sup>9</sup>

27. OHCHR supported the design, establishment and functioning of transitional justice processes in, inter alia, Burundi, Colombia, Côte d'Ivoire, Guatemala, Guinea, Nepal, Sierra Leone, Timor-Leste, Tunisia, and Uganda. In November 2012, OHCHR, together with the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence and the Regional Centre of the United Nations Development Programme (UNDP) in Cairo, co-organized a consultation on transitional justice in the Middle East and North Africa region. In May, in Mogadishu, OHCHR and the United Nations Political Office for Somalia signed with the authorities a memorandum of understanding on technical cooperation in the field of human rights to enhance support for Somali counterparts in the post-transition phase. In June, the Office, together with the Inter-Ministerial Delegation for Human Rights and the Association for the Prevention of Torture of Morocco, held a regional workshop in Rabat on the prevention of torture in the context

<sup>7</sup> A/HRC/19/44.

<sup>8</sup> General Assembly resolution 67/1.

<sup>9</sup> A/67/279, A/67/275.

of transitions, to identify concrete action, including legislative and institutional reforms. In September, an OHCHR mission visited Sri Lanka to explore possible areas of cooperation. In Colombia, OHCHR supported the implementation of the Victims and Land Restitution Law of 2011, training judges. The first land restitution decision was issued in October.

28. OHCHR supported efforts by States to ensure that respect for human rights and the rule of law lay at the heart of effective counterterrorism strategies. OHCHR organized three regional expert workshops to contribute to the development of guidelines on ensuring due process and the right to fair trial in the context of countering terrorism. The Special Rapporteur on the promotion and protection of human rights while countering terrorism reported to the General Assembly on the impact of the Office of the Ombudsperson established by the Security Council on the 1267/1989 Al-Qaida sanctions regime and its compatibility with international human rights norms (A/67/396).

29. Demonstrating the impact of the international human rights system on regional systems, the European Court of Human Rights cited assessments by the Committee against Torture and the Special Rapporteur on torture in its judgement *Othman v. the United Kingdom* as supporting evidence concerning detention conditions and the administration of justice in Jordan, concluding that the applicant's deportation would be in violation of article 6 of the European Convention on Human Rights owing to the risk of admitting evidence obtained by torture of third persons at the applicant's retrial.

30. In Myanmar, the OHCHR Regional Office in South-east Asia together with the United Nations Office on Drugs and Crime provided advice on prison reform. The Human Rights Committee held its first day of general discussion, focusing on liberty and security of the person in preparation of a future general comment.

31. OHCHR, in cooperation with the International Bar Association, published *Human Rights in the Administration of Justice: A Facilitator's Guide on Human Rights for Judges, Prosecutors and Lawyers*, as a training tool to complement the manual for legal professionals.

32. The Special Rapporteur on the rights to freedom of peaceful assembly and of association reported on the negative impact of the amendments made in 2011 to the Organic Law on Political Unions of Citizens to the work of political parties and civil society organizations in Georgia. The Special Rapporteur was informed by the Government that, in May, new amendments were adopted after a process of consultations with civil society in order to ease some of the restrictions included in the previous version of the Law.

## **2. Combating impunity**

33. Combating impunity is quintessential to sustainable peace. In recent years, the Human Rights Council has increased the use of commissions of inquiry and fact-finding missions to investigate allegations of serious violations of human rights and international humanitarian law. OHCHR supported the commission of inquiry on the Syrian Arab Republic and the fact-finding mission to investigate the implications of the Israeli settlement activities on the rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem. The Commission of Inquiry for Libya concluded its work.

34. OHCHR has been conducting a review of its work in supporting the above-mentioned mechanisms. I hosted a meeting of former members of mechanisms to seek their views on how to improve their impact and effectiveness, and convened a lessons-learned meeting of former coordinators and secretariat staff. At the review key issues for OHCHR focus were identified, including the formulation of guidelines on methodology, procedures and practice to improve support for members; and increasing the pool of support staff



through improved training. The need for sufficient resources and enhanced follow-up on reports and recommendations to improve impact was also highlighted.

35. OHCHR continued to monitor and report on individual human rights violations. It rolled out the Human Rights Case Database, a case management system designed to systematize, harmonize and improve the collection, documentation and analysis of violations, to the United Nations Stabilization Mission in Haiti, the United Nations Integrated Peacebuilding Office in Guinea-Bissau and the OHCHR Office in Tunisia. A customized version of the Database was developed for use by commissions of inquiry and fact-finding missions, and was used by the commissions on Libya and the Syrian Arab Republic. OHCHR published eight chapters of the new OHCHR manual on human rights monitoring.

36. In October 2012, I released a report documenting and analysing serious violations of international law during the 10-year (1996-2006) conflict in Nepal,<sup>10</sup> together with a database of approximately 30,000 documents, designed as a tool for Nepalese institutions and civil society in seeking truth, justice and reconciliation. Unfortunately, six years since the signature of the Comprehensive Peace Agreement, the transitional justice mechanisms envisaged are still to be established, and successive Governments have withdrawn cases before the courts.

37. OHCHR provided technical advice to national authorities in Maldives, South Sudan and Guinea-Bissau on the establishment of national commissions of inquiry to investigate gross violations of human rights. In Brazil, the office organized seminars to share regional experience on transitional justice. As part of its work on developing victim and witness protection programmes, OHCHR supported national authorities in Burundi, Kosovo and Uganda.

38. The United Nations Educational, Scientific and Cultural Organization (UNESCO), with advice from OHCHR, developed a United Nations Plan of Action on the Safety of Journalists and the Issue of Impunity, endorsed in April 2012 by the Chief Executives Board. The Plan was designed to create a safe environment for journalists and media workers in conflict and non-conflict situations through enhanced coordination and collaboration among United Nations agencies.

## **C. Poverty and economic, social and cultural rights**

### **1. Human rights and development**

39. The full integration of human rights, including the right to development, into the work of United Nations system and in its support for States and other stakeholders remains a priority. In the lead-up to the United Nations Conference on Sustainable Development (Rio+20), I launched a campaign to urge all States to support the full integration of human rights into the Rio process. I welcomed the broad inclusion of human rights provisions in its final outcome document.<sup>11</sup> OHCHR is actively contributing to an ongoing process to elaborate the post-2015 development agenda, which will continue to be prioritized. The United Nations System Task Team on the Post-2015 Development Agenda, of which OHCHR is an active member, recommended that human rights be one of three fundamental principles for the post-2015 development agenda, alongside with equality and sustainability.

<sup>10</sup> See [www.ohchr.org/EN/NewsEvents/Pages/NepalConflictReport.aspx](http://www.ohchr.org/EN/NewsEvents/Pages/NepalConflictReport.aspx).

<sup>11</sup> General Assembly resolution 66/288, annex.

40. OHCHR and UNDP are leading the post-2015 global thematic consultation on governance, which includes outreach to States and parliamentarians, civil society organizations and media in different regions, as well as technical work on measuring governance and human rights in a new global development agenda. OHCHR is contributing to other thematic consultations on inequality, health and water. The Special Rapporteur on the human right to safe drinking water and sanitation led discussions on ways to address inequalities in the post-2015 development agenda, focusing on access to water and sanitation. The results of these efforts will serve as input for the work of the High-level Panel of Eminent Persons on the Post-2015 Development Agenda and the open working group on sustainable development goals, as well as intergovernmental discussions on this matter.

41. OHCHR supported Member States in integrating human rights into their development and poverty reduction policies by providing technical advice and conducting capacity-building activities. OHCHR supported Ecuador in piloting the guide on rights-based approaches to sectoral policies and further integrating human rights into the formulation of its national development strategy. In Togo, OHCHR organized a workshop on budget monitoring and human rights in the context of formulating a new national development plan.

42. Further progress was made in integrating human rights into the United Nations system, particularly through the work of the Human Rights Mainstreaming mechanism of the United Nations Development Group. OHCHR, by means of the mechanism, will further intensify system-wide efforts to strengthen the Organization's capacity and coordinated responses to support national capacity-building when requested by Member States. Human rights items have now been added to the agendas of both the Chief Executives Board and the High-Level Committee on Programmes.

43. In 2012, OHCHR continued to develop resource materials and practitioners' tools, and to conduct workshops on the use of indicators to assist national and international human rights stakeholders in assessing progress in human rights implementation. The Office published *Human Rights Indicators: A Guide to Measurement and Implementation*. At the request of and in collaboration with national stakeholders, OHCHR organized workshops on human rights indicators in Togo and the Philippines, and continued to provide technical support to, inter alia, Brazil, Bolivia (Plurinational State of), Ecuador, Kenya, Mexico, Nepal, Paraguay, Sweden and the United Kingdom of Great Britain and Northern Ireland. OHCHR also conducted a series of workshops on the relevance of indicators as tools for fostering the assessment and implementation of recommendations from United Nations human rights mechanisms.

## **2. Economic, social and cultural rights**

44. The year under review was challenging for the enjoyment of economic, social and cultural rights. In particular, the austerity programmes introduced by several countries in response to the financial crisis had serious implications for the recognition and enjoyment of these rights. In recognition of this, the Committee on Economic, Social and Cultural Rights addressed a letter to States to remind them of their obligations to use the maximum available resources to fulfil these rights, even in times of crisis.

45. OHCHR promoted the judicial protection of economic, social and cultural rights and the signature and ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights in Burkina Faso, Cape Verde, Costa Rica, Mali, the Republic of Moldova, Senegal, Slovenia and Uruguay. Its advocacy contributed to ratification by Bolivia (Plurinational State of) and signing by Burkina Faso.

46. OHCHR supported the work of the Committee on World Food Security to ensure consistency with human rights law in the development of Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, adopted by the Committee in May 2012. OHCHR conducted briefings on the Guidelines for the United Nations human rights mechanisms.

47. In September 2012, OHCHR participated in the sixth World Urban Forum, as well as a High-Level Inter-Agency Meeting at the Forum, and underscored the importance of human rights in the efforts to improve urban development and security of tenure. Under the OHCHR-UN-Habitat joint programme, OHCHR developed eviction impact assessment methodologies. It also highlighted the gender aspects of the right to adequate housing in its publication entitled “Women and the Right to Adequate Housing”.

48. At the country level, the Office has undertaken advocacy and provided technical assistance on economic, social and cultural rights. Its strategy for responding to the crisis in the Sahel in Africa includes the monitoring of laws, policies and programmes on building resilience against food and nutrition insecurity and climate shocks, as well as on promoting the equitable distribution of services and goods. Support for field presences and missions included technical assistance on the right to housing in Cambodia, Central Asia and Serbia; capacity-building for national human rights institution in Somalia and Eastern Africa; assistance to include economic, social and cultural rights in the draft national plan of action on human rights in Honduras; follow-up to treaty body and universal periodic review recommendations in Panama and the Republic of Moldova; and training for judges in Mexico and the Dominican Republic.

49. I am pleased to highlight a positive impact of visits conducted by special procedures. The Parliament of Timor-Leste debated the preliminary recommendations made by the Special Rapporteur on extreme poverty and human rights after her visit in 2011, whereby she called for increased public expenditure on social services and agriculture.<sup>12</sup> The final budget of 2012 allocated increases of almost 47 per cent to health and 35 per cent to education. Following up on the visit in 2011 of the Special Rapporteur on the human right to safe drinking water and sanitation to the United States of America,<sup>13</sup> members of the California State Assembly and Senate repeatedly referred to her report when debating the adoption of Bill 685 on 25 September 2012, which established the right of everyone in the State of California to safe, clean, affordable and accessible water, adequate for human needs.

50. OHCHR, the Food and Agriculture Organization of the United Nations (FAO) and the Special Rapporteur on the right to food contributed to the national protection of the right to adequate food through laws and strategies. OHCHR and FAO organized regional expert consultations convened by the Special Rapporteur in Nairobi, in April 2012, and in Bogotá, in June 2011. In our public statements, the Special Rapporteur and I encouraged progress, such as the explicit recognition of the right to food in national constitutions.

51. OHCHR issued two new human rights education resources: the documentary film “A Path to Dignity: the Power of Human Rights Education”, produced with two civil society organizations, and “Human Rights Education in Primary and Secondary School Systems: A Self-assessment Guide for Governments”, with UNESCO.

<sup>12</sup> See A/HRC/20/25/Add.1.

<sup>13</sup> See A/HRC/18/33/Add.4.

## **D. Migration**

52. In 2013, the General Assembly will hold a High-level Dialogue on International Migration and Development, which I view as a key milestone for the issue of migration and human rights. I hope to use this opportunity to call for greater attention to the human rights situation of all migrants and to encourage Governments and other stakeholders to prioritize the rights of migrants when designing, implementing and monitoring migration policy. As part of its preparations for the High-level Dialogue, OHCHR held an expert workshop in September 2012 on “An informal conversation on international migration, human rights and governance” to encourage greater attention to human rights in the field of governance of migration.

53. OHCHR increasingly engaged in migration-related human rights work at the country level through the promotion of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and other instruments, training activities, advocacy and technical advice, as well as monitoring and protection activities. OHCHR provided technical assistance to and cooperated with the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX) in the development of human rights training materials for border guards. The Office initiated a joint project with the National Migration Institute of Mexico to assess its human rights training programme. It provided practical support for human rights defenders working to promote migrants’ rights. In West Africa, OHCHR, together with the Mixed Migration Working Group of the United Nations country team, carried out a mapping of actors involved in mixed migration in Senegal, and is currently developing a leaflet for border guards on the rights of migrants.

54. In March 2012, OHCHR organized an expert meeting on the theme “Human rights at international borders: exploring gaps in policy and practice”. Participants in the meeting called on OHCHR to develop guidance on human rights at international borders. In partnership with the delegation of Mexico, OHCHR held a side event at the sixty-seventh session of the General Assembly on the theme “Human rights at international borders”.

55. OHCHR advocated for more attention to the human rights dimension of migration at the Global Forum on Migration and Development. At the sixth Forum, held in Mauritius in November 2012, OHCHR participated in round tables on “Improving public perceptions of migrants and migration” and “Migrant protection as integral to migration management”, and held a side event on the theme “Public perceptions: migration and human rights”. The Special Rapporteur on the human rights of migrants attended the Forum in preparation of his report on migration and global governance, to be submitted to the General Assembly in 2013.

56. OHCHR continued to work on the human rights of trafficked persons. As a member of the Inter-agency Coordination Group against Trafficking in Persons, OHCHR co-drafted two policy papers on “The intersection between International legal regimes to combat trafficking” and “Preventing trafficking through addressing demand”. Following requests by the Human Rights Council to strengthen activities in the area, OHCHR participated in the launch of the Recommended Principles and Guidelines on Human Rights and Human Trafficking in Cameroon, Jordan, Thailand and Tunisia, followed by regional capacity development events on a rights-based approach to combating trafficking for law enforcement officials. OHCHR is currently developing a toolkit for practitioners and stakeholders for the application of the rights-based approach to trafficking, includes a compilation of good practice, a fact sheet on human rights and human trafficking, and a compilation of relevant jurisprudence.

57. The Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families adopted the outline for a general comment on the rights of

migrant workers in an irregular situation and members of their families. In September 2012, the Committee on the Rights of the Child held a day of general discussion on the theme “The rights of all children in the context of international migration”, during which participants stressed that all children in the context of migration, regardless of their immigration status, should be treated as children first and foremost. The Special Rapporteur on the human rights of migrants is currently completing a year-long study on the management of the external borders of the European Union.

## **E. Violence and insecurity**

### **1. Human rights, peace and security**

58. In 2012, the Assistant Secretary-General for Human Rights and I briefed the Security Council on critical situations demonstrating the intrinsic link between human rights, peace and security. Accordingly, integrating human rights in United Nations peacekeeping operations and special political missions, improving the operational capacity of OHCHR to respond to crises and bringing relevant decisions of the Human Rights Council to the attention of the Security Council continue to be a priority.

59. The international community has remained unable to prevent and solve situations of widespread violence and conflict. The failure continues in the Syrian Arab Republic. There, as in northern Mali, the limited access and presence of the United Nations on the ground adds to the challenges of understanding and addressing the situation. These challenges have recently become more complicated, as crises have developed at a faster pace and are compounded by such destabilizing factors as organized crime, the proliferation of weapons and the illicit exploitation of natural resources, with transnational dimensions. In such situations, the concept of protection, at the core of many Security Council resolutions, remains a serious challenge. The consequence is prolonged suffering for those caught in such violence and widespread impunity.

60. OHCHR deployed short-term missions in the aftermath of violence, including as part of United Nations broader efforts, such as the United Nations Supervision Mission in the Syrian Arab Republic (UNSMIS). Despite particularly challenging circumstances, they played a key role in implementing the UNSMIS mandate on detention, peaceful demonstrations and protection of civilians, allowing it to provide prompt and credible information. In Jonglei State, South Sudan, human rights officers conducted investigations into alleged abuses during recent violence and assessed the human rights situation with a view to informing the strategy for the protection of civilians of the United Nations Mission in South Sudan. A team was deployed to Maldives to follow up on concerns after the change of Government on 7 February 2012. In August, OHCHR posted a staff member with the Resident Coordinator in Mali to integrate human rights into the response of the United Nations to the deteriorating situation. In November, an OHCHR team undertook a mission to Mali and neighbouring countries with a view to collecting information for my report to the Human Rights Council at its twenty-second session. In the context of protracted conflicts, OHCHR supported the engagement of a Senior Human Rights expert in Transnistria, in accordance with my general mandate to protect human rights for all, including by seeking access to de facto authorities to ensure that there is no protection gap in areas under their effective control.

61. In an effort to further delivery of human rights mandates and more coherent approaches to human rights across peace operations, OHCHR continued to work closely with the Department of Peacekeeping Operations to develop policies and the training of military, police and civilian peacekeepers. OHCHR designed and delivered a comprehensive human rights induction to the 300 unarmed military observers deployed to the Syrian Arab Republic.

62. OHCHR worked to enhance the implementation of Security Council mandates for the protection of civilians. It worked closely with the Department of Peacekeeping Operations on a review of joint protection teams and related protection of civilians' mechanisms established by the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo to gather lessons to inform possible replication in other mission settings. Human rights components have been central actors in designing, reviewing and implementing strategies for the protection of civilians. In addressing the Human Rights Council at its twentieth session, I urged it to continue to include explicit provisions on accountability and civilian protection.

63. OHCHR supported the implementation of the human rights due diligence policy for support of the United Nations to non-United Nations security forces, including by identifying and sharing best practices and lessons learned. United Nations entities and field presences made significant progress in implementing the policy. States receiving support also benefited from the policy, using it as an opportunity to improve the behaviour of security forces. For example, the policy was identified as a key element in the planning of military operations in northern Mali.

64. In November 2012, the Secretary-General released a landmark report on the action of the United Nations in the final months of the war in Sri Lanka in 2009 in relation to its humanitarian and protection mandate.<sup>14</sup> The report concludes that the United Nations system failed to meet its responsibilities, highlighting the role played by the Secretariat, the agencies and programmes, as well as the Security Council and Human Rights Council. The initiative of the Secretary-General is remarkable and the findings and recommendations of the review should allow the whole system to be more responsible, transparent and accountable.

65. Criminal or social violence and organized crime are increasingly affecting the rights of entire populations. The casualties due to violent crime now equal or exceed casualties in conflicts in some countries. Governments sometimes rely on counter measures leading to violations, such as excessive use of pretrial detention, lowering the age of criminal responsibility, and the death penalty. OHCHR worked with MERCOSUR on a tool on the use and administration of information on violence for the design of security policies, and with the Central American Integration System on a forum on institutional strengthening at its Summit on Security in June. In Cambodia, Guatemala, Libya, Papua New Guinea and Tunisia, OHCHR also worked on such issues as juvenile justice, legislation, penitentiary and security sector reform, and security legislation or training for relevant officials.

## **2. Humanitarian action**

66. OHCHR strengthened its engagement in humanitarian action at the global and field levels with a view to ensuring free, active and meaningful participation of affected populations as rights-holders instead of beneficiaries of charity.

67. Globally, OHCHR engaged in humanitarian mechanisms and processes, in particular in the Inter-Agency Standing Committee. OHCHR contributed to humanitarian reform efforts through the Committee's transformative agenda to strengthen the integration of human rights into humanitarian leadership and coordination, and to place human rights at the centre of efforts to ensure accountability to affected populations. OHCHR participated in the visioning process of the global Protection Cluster Working Group, which culminated in the adoption of a strategic framework for 2012-2014 with a strong human rights focus. It continued to provide technical expertise and support on the development and delivery of

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<sup>14</sup> [www.un.org/News/dh/infocus/Sri\\_Lanka/The\\_Internal\\_Review\\_Panel\\_report\\_on\\_Sri\\_Lanka.pdf](http://www.un.org/News/dh/infocus/Sri_Lanka/The_Internal_Review_Panel_report_on_Sri_Lanka.pdf).

guidance and training under the auspices of the Standing Committee and the Working Group.

68. Nationally, OHCHR field presences continued to integrate human rights into humanitarian preparedness and response efforts by participating in and supporting humanitarian country teams, including by leading protection clusters in Haiti, the occupied Palestinian territories, the Pacific, Timor-Leste and Mauritania. OHCHR participated in initiatives concerning the humanitarian crisis in the Sahel to integrate human rights into humanitarian efforts. In Haiti, OHCHR was also instrumental in integrating human rights into the transition phase from emergency to development.

## **F. Human rights mechanisms and international law**

### **1. Treaty bodies**

69. In June 2012, I published my report entitled “Strengthening the Human Rights Treaty Body System”, the culmination of three years of consultations with Member States, treaty body members, civil society organizations, United Nations agencies and national human rights institutions. My report seeks a vision for an efficient, effective and timely treaty body system, building on the strengths of the system while dealing with its challenges, in particular insufficient resourcing. A key proposal is to develop a comprehensive reporting calendar that would operate on the basis of universal compliance with States parties’ reporting obligations. Other recommendations include a simplified reporting process, strengthened procedures for communications, inquiries and visits, strengthened independence and expertise of treaty body members, strengthened capacity for implementation and enhanced visibility and accessibility of the treaty bodies.

70. Since then, seven treaty bodies have taken action, welcoming my report and assessing its implications. At the annual meeting of the chairpersons of the treaty bodies in Addis Ababa in June, the 10 chairpersons took concrete action by endorsing the Guidelines on independence and impartiality of the human rights treaty bodies.

71. In February 2012, the General Assembly, in its resolution 66/254, established an open-ended intergovernmental process on treaty body strengthening, which it extended to its sixty-seventh session. I trust that this process will embrace a multi-stakeholder approach and respect the powers of the treaty bodies to decide on their working methods. In this context, a civil society forum, moderated by the co-facilitators of the intergovernmental process, was held on 4 September 2012 in New York and, through videoconference, also in Geneva.

72. On 6 March 2012, OHCHR officially launched the upgraded Universal Human Rights Index database, which has been redesigned to compile recommendations from the universal periodic review in addition to treaty bodies and the special procedures. OHCHR updated its fact sheet on the United Nations human rights treaty system, and also published the first volume of *Selected Decisions of the Committee on the Elimination of Racial Discrimination*, covering jurisprudence from August 1988 to August 2011.

### **2. Human Rights Council**

73. In 2012, the Human Rights Council continued to demonstrate its resolve to address human rights situations. In June, it held the fourth special session on the human rights situation in the Syrian Arab Republic since the crisis began. In September, it extended the mandate of the commission of inquiry for the fourth time, and strengthened it with two additional commissioners. In March, it established a fact-finding mission to investigate the implications of Israeli settlements on the human rights of the Palestinian people. I regret to report that the countries concerned have not granted these missions access. Furthermore, I

regret the decision of the Government of Israel to suspend cooperation with the Council and with OHCHR. I encourage the Government to reconsider its decision.

74. Panel discussions have become characteristic of the sessions of the Human Rights Council. Fifteen panel discussions were held on such topics as the realization of the right to development; reprisals against individuals and groups who cooperate with the United Nations and its mechanisms; people living with or affected by HIV/AIDS; discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity; participation in political and public life of persons with disabilities; the right to health of older persons; the promotion and protection of freedom of expression on the Internet; human rights mainstreaming; due diligence in prevention of violence against women the language and culture of indigenous peoples; and human rights in a multicultural context.

75. The Human Rights Council established two new intergovernmental working groups, on the right to peace and on the rights of peasants and other rural workers, mandated to elaborate instruments. In this context, I note that the Advisory Committee has produced several relevant studies and reports.

76. The Human Rights Council adopted new resolutions on country situations, requesting OHCHR to report (on Mali, South Sudan, Sri Lanka and Yemen) and strengthened technical assistance (on the Democratic Republic of the Congo, Iraq, Libya, Somalia, Sri Lanka and Yemen). At the twenty-first session, I reported orally on the situation of human rights in Mali, particularly in the northern part of the country, to the Council. I will present a written report on this subject to the Council at its twenty-second session.

77. Unfortunately, the calls made during the review of the Human Rights Council for a more rationalized programme of work have not materialized. In spite of the determination of OHCHR to address multiple human rights issues and challenges, and the commendable commitment of the Council to address protracted and emerging crises, it has become increasingly difficult to support the ever increasing number of new mandates, including reports, panel discussions and intergovernmental working groups.

### **3. Universal periodic review**

78. May 2012 witnessed the formal start of the second cycle of the universal periodic review. Two sessions were held and all States scheduled for review participated. OHCHR continues to strive for full participation, as in the first cycle. States that came before the Working group on the Universal Periodic Review for the second time prepared their review with great care, and many engaged in national inter-departmental and civil society consultations in the preparation of their reports. National reports and reviews balanced reviews of recent developments and the status of recommendations made during the first cycle. Although most States reported on the measures taken to implement the recommendations they had committed to implement, several reported on recommendations unsupported during the first review. This practice should be encouraged.

79. The two trust funds to assist States to prepare for, participate in and implement the outcome of the universal periodic review have increasingly been supported by donors and used by States and other stakeholders. As requested by the Human Rights Council, OHCHR has reviewed the terms of reference of the fund to allow for strengthened support to countries, particularly least developed countries and small island developing States, for which the review process has proven challenging. Requests from all regions for OHCHR to provide technical cooperation in follow-up to the review are growing. OHCHR \ further developed its global approach and reorganized its limited resources dedicated to the review to strengthen its ability to support States and other stakeholders to implement the



recommendations made. In this regard, I highlight the fact that States bear the primary responsibility for the implementation of recommendations.

#### 4. Special procedures

80. The special procedures, while independent, play an important complementary role to the work of OHCHR. I value their thematic and country expertise and urge States to cooperate with them fully. The Human Rights Council established three new special procedures mandates: an Independent Expert on the issue of human rights obligations related to the enjoyment of a safe, clean, healthy and sustainable environment, and two new country mandates, to address the situation of human rights in Belarus and in Eritrea. With regard to the mandate on Eritrea, I welcome the decision of the complaint procedure to declassify testimonies received to allow the Special Rapporteur to follow these cases. I hope that this will be repeated in other situations.

81. At November 2012, there were 36 thematic and 12 specific country or territory special procedures. In 2011, special procedures conducted 82 visits; at November, 67 has been conducted in 2012. Some 91 States issued standing invitations for special procedures to undertake visits. Regrettably, not all States have that have issued standing invitations have responded in a timely manner. In 2012, special procedures issued 605 communications to 125 States, 75 per cent issued jointly by two or more mandate holders. The response rate to communications unfortunately remains at 45 per cent.

82. I am disturbed that reprisals continue against persons who have cooperated with the United Nations and human rights mechanisms. I have, together with the Secretary-General, the President of the Human Rights Council and several special procedures mandate holders, publicly condemned such acts. Guaranteeing the safety and security of witnesses and victims of human rights violations is imperative. OHCHR will do its utmost to ensure that States respect their obligation to protect and that there is accountability for suspected intimidation or reprisals.

#### 5. Progressive development of international law

83. OHCHR supports the progressive development of international human rights law, in particular by means of studies, consultations and supporting human rights mechanisms in elaborating guiding principles and general comments.

84. The Committee against Torture adopted general comment No. 3,<sup>15</sup> in which it detailed the content of State party obligations in implementing their duties to provide redress, including rehabilitation to the fullest extent possible, to victims of torture.

85. The Special Rapporteur on the right to food his presented guiding principles on human rights impact assessments of trade and investment agreements to the Human Rights Council at its nineteenth session;<sup>16</sup> the Independent Expert on foreign debt presented guidelines on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights to the Council at its twentieth session;<sup>17</sup> and the Special Rapporteur on extreme poverty and human rights presented draft guiding principles on extreme poverty and human rights to the Council at its twenty-first session.<sup>18</sup> The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment assessed and

<sup>15</sup> CAT/C/GC/3.

<sup>16</sup> A/HRC/19/59/Add.5.

<sup>17</sup> A/HRC/20/23.

<sup>18</sup> A/HRC/21/39.

presented principles on the use of solitary confinement with a view of minimizing or abolishing its use in his report to the General Assembly.<sup>19</sup>

86. OHCHR and the Special Rapporteur on the human rights of internally displaced persons with regional organizations in Africa have supported the promotion, ratification and implementation of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, now ratified by 14 States. One more ratification will make it the first binding regional instrument on displaced persons.

87. In August 2012, OHCHR supported the second session of the open-ended intergovernmental working group to consider the possibility of elaborating an international regulatory framework 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 on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination. The working group recommended the continuation of the mandate for two years to explore the issue further, including the option of elaborating a convention.<sup>20</sup> The Working Group on the use of mercenaries is undertaking a survey to identify trends and best practices in national regulatory frameworks relevant to private military and security companies.

88. In collaboration with the Working Group on the issue of human rights and transnational corporations and other business enterprises, OHCHR organized the first Annual Forum on Business and Human Rights in Geneva, in December 2012, with participation of some 800 representatives of States, civil society, business enterprises, national human rights institutions and experts from across the world. OHCHR led the preparation of a report,<sup>21</sup> welcomed by the Human Rights Council, on the role of the United Nations system in implementation of the Guiding Principles on business and human rights.

### III. Conclusions

89. **The past year has been a year of challenges as well as advances. The affirmation of the centrality of human rights to sustainable development in the Rio+20 Outcome is a remarkable step. OHCHR strongly urges States to adopt a balanced and comprehensive post-2015 development agenda that addresses freedom from fear and want and the right to development. Member States in the General Assembly reaffirmed their commitment to human rights in the context of work on the rule of law. The creation of new special procedures mandates and the establishment of commissions of inquiry and fact-finding missions demonstrate the willingness of the Human Rights Council to act responsibly and expeditiously to protect human rights. The second round of the universal periodic review has started with full participation of Member States. The treaty body strengthening process has increased visibility of this important element of the human rights system, as well as the obstacles it faces.**

90. **Nonetheless, we face impressive and daunting challenges, not least the ongoing conflicts in the Syrian Arab Republic and in Mali, and the intractable crisis in the occupied Palestinian territories. The financial crisis and the resulting austerity programmes have placed significant strains on economic, social and cultural rights. All of this has put growing pressure on OHCHR to respond effectively at a time when**

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<sup>19</sup> A/66/268.

<sup>20</sup> A/HRC/21/43.

<sup>21</sup> A/HRC/21/21.

finances are increasingly strained. OHCHR requires solid political and financial support if any meaningful engagement is to be possible.

91. More than ever, the imperative of putting people and their rights first is paramount. This is the *raison d'être* of the United Nations, and must be reflected both in the decisions of its intergovernmental bodies and throughout the work of the Organization. It must be at the very heart of the Organization's peace, security, development and humanitarian agendas. I encourage the Human Rights Council to continue to play its role to ensure that it does.

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