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Report of the Secretary-General on human rights in the administration of justice, including juvenile justice*

* This report was submitted late in order to incorporate the latest information.

Summary

In its resolution 2004/43, the Commission on Human Rights requested the Secretary-General to submit a report to the Commission at its sixty-third session on “systemwide practical measures taken and planned activities to assist countries in strengthening their systems of administration of justice, in particular juvenile justice, including in post-conflict situations, with special focus on the need to strengthen the role of judges”. The present report provides examples of practical measures undertaken by the Office of the United Nations High Commissioner for Human Rights (OHCHR) alone, or in cooperation with other United Nations agencies, to assist countries in the strengthening of their systems of administration of justice, inter alia juvenile justice, and including in post-conflict situations, that have been undertaken or planned. Although not an exhaustive account of all activities undertaken by OHCHR, the report covers a substantial number of situations (Angola, Afghanistan, Azerbaijan, Burundi, Bhutan, Cameroon, Colombia, Democratic Republic of the Congo, Ecuador, Ethiopia, Fiji, Georgia (Abkhazia), Guatemala, Iraq, Lebanon, Nepal, Nicaragua, Palestine, South Africa and Tajikistan) where OHCHR has been involved in activities relating to the administration of justice, and covers activities undertaken from 2004 through 2006, and, where available, includes information on planned activities in 2007. Activities undertaken by OHCHR in the field of the administration of justice, including juvenile justice, can be categorized as providing knowledge on human rights standards and, where appropriate, international humanitarian law, through training, workshops and seminars; assistance in the context of legal reform; specific technical cooperation projects, and monitoring of the judiciary, prisons and police.

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Introduction

1. The Human Rights Council, by its decision 2/102 of 6 October 2006, requested the Secretary-General and the High Commissioner for Human Rights to “continue with the fulfilment of their activities, in accordance with all previous decisions adopted by the Commission on Human Rights and to update the relevant reports and studies”.
2. In its resolution 2004/43, the Commission on Human Rights requested the Secretary-General to submit a report to the Commission at its sixty-third session on “systemwide practical measures taken and planned activities to assist countries in strengthening their systems of administration of justice, in particular juvenile justice, including in post-conflict situations, with special focus on the need to strengthen the role of judges”.
3. Although not covering all countries in strengthening their systems of administration of justice, this report covers a substantial number of situations (Angola, Afghanistan, Azerbaijan, Burundi, Bhutan, Cameroon, Colombia, Democratic Republic of the Congo, Ecuador, Ethiopia, Fiji, Georgia (Abkhazia), Guatemala, Iraq, Lebanon, Nepal, Nicaragua, Palestine, South Africa and Tajikistan) where the Office of the United Nations High Commissioner for Human Rights (OHCHR) has been involved in activities relating to the administration of justice.¹
4. This report covers activities undertaken from 2004 through 2006, and, when available, contains information on plans for 2007, and includes situations where the contribution of OHCHR has been made through a human right component in a peace operation, a human rights office within a mission of the United Nations Development Programme (UNDP), a stand alone OHCHR field office or through an activity implemented in a country where there is no OHCHR field presence. This diversity of experiences, as well as geographic diversity in countries represented, is intended to provide insights into the different types of assistance provided at the country level, taking into account widely different conditions that vary considerably from country to country.
5. This report does not focus on transitional justice mechanisms specially created to address issues of gross violations of human rights such as truth and reconciliation commissions, hybrid tribunals or related initiatives. Information is available on such situations in separate thematic reports on transitional justice (A/HRC/4/87) and impunity (A/HRC/4/84) that are also submitted to the Council at its fourth session, as well as in country reports.²

¹ The information in this report is based on information gathered from the field presences of OHCHR, information available at OHCHR Geneva and official reports and documents.

² Cambodia, for example, is in the process of establishing a hybrid international tribunal, and Liberia has established a truth and reconciliation commission. See, respectively, Report of the Special Representative of the Secretary-General for human rights in Cambodia, Yash Ghai (A/HRC/4/36); and Report of the independent expert on technical cooperation and advisory services in Liberia, Charlotte Okola (A/HRC/4/6).

6. Institutions involved in systems of administration of justice include the courts, including specialized courts such as juvenile and military courts, and legal professionals such as judges, prosecutors and lawyers as well as support personnel such as court administrators and social workers; the police, military and intelligence services. Similarly, government institutions also participate in the administration of justice, for example the ministries of justice, interior, defence, human rights, as well as subdivisions which have responsibility for the institutions mentioned above; independent institutions having public financing such as ombudpersons and national human rights institutions (NHRI); and civil society institutions such as bar associations and non-governmental organizations (NGOs) involved in litigation or working for reform and improvement of the administration of justice. The legislative branch and specially created institutions for constitutional reform engaged in issues relating to the administration of justice are covered as well.

I. THE POLICY FRAMEWORK

7. The policy framework for undertaking practical measures to assist States in strengthening their systems of administration of justice is based on the High Commissioner's Plan of Action and the Strategic Management Plan for 2006-2007, calling, inter alia, for greater country engagement by OHCHR to close implementation gaps at the national level, and the decision by the Secretary-General to establish a Rule of Law Coordination and Resource Group within the Secretariat consisting of the key United Nations Actors (Office of Legal Affairs, Department of Peacekeeping Operations, OHCHR, United Nations Office on Drugs and Crime (UNODC), UNDP, United Nations Development Fund for Women (UNIFEM) and United Nations High Commissioner for Refugees (UNHCR)) (see A/61/636 - S/2006/980).

8. The Rule of Law Coordination and Resource Group will act as the Secretariat's focal point for coordinating systemwide attention to the rule of law so as to ensure quality, policy coherence and coordination. As the Secretary-General indicated in his report (A/61/636), OHCHR is designated to lead the United Nations system in a number of areas, notably on advocacy, training and education on human rights law; general transitional justice issues in the post-conflict phase including human rights investigations, establishment of national institutions; and monitoring and integrating human rights during the post-conflict and development phase. In the strengthening of national justice systems and institutions in the context of long-term development, OHCHR will work closely with UNDP and the United Nations Office on Drugs and Crime (UNODC), and will continue to have the lead role in integrating human rights norms and standards across all areas.

II. TRAINING MATERIALS

A. Administration of justice training materials

9. OHCHR has developed human rights training materials intended for use by United Nations staff, intergovernmental and non-governmental organizations, and civil servants of countries receiving technical cooperation in the field of the administration of justice. These include a *Manual on Human Rights for Judges, Prosecutors and Lawyers*; a *Handbook of International Standards relating to Pre-trial Detention*; a *Manual on Human Rights Training for the Police* (plus a pocket handbook on human rights standards for police and a trainer's guide);

a *Manual on Human Rights Training for Prison Officials* (plus a pocket handbook on human rights standards for prison officials and a trainer's guide); a *Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*; and a *Training Manual on Human Rights Monitoring*.³

10. OHCHR has also published a series of five *Rule of Law Tools for Post-Conflict States*⁴ designed to ensure long-term institutional capacity within United Nations field presences, transitional administrations and civil society on the following subjects: mapping the justice sector, undertaking national prosecution initiatives, creating truth commissions, vetting public officials and monitoring legal systems. Additional tools on maximizing the legacy of hybrid courts and best practices with regard to reparations programmes will be published shortly.

11. OHCHR field presences have developed locally tailored material or had existing documentation translated into local languages. For example, the field office of OHCHR in Colombia published a manual for classification of conduct that violates human rights, a practical guide for evidence in disciplinary investigations on violations of human rights and international humanitarian law, and on human rights protection for persons deprived of their liberty. In Nepal, in the context of advice to the police on human rights standards, a joint committee of OHCHR officials and Nepalese police reviewed material used by the police, and a new booklet was drafted and will be distributed to all police officers. In Azerbaijan, OHCHR *Handbook of International Standards relating to Pre-trial Detention* was translated into Azeri. In Burundi, internal prison rules have been translated into Kirundi. In Ethiopia, OHCHR *A Manual on Human Rights Training for Prison Officials* was translated into Amharic.

12. Other United Nations offices, bodies, departments and programmes have developed material that can be used to strengthen systems of administration of justice. For example, in 2006, UNODC has developed a comprehensive *Criminal Justice Assessment Toolkit*,⁵ which consists of a series of 16 assessment tools covering the entire criminal justice system. It has recently developed a *Handbook for Law Enforcement Responses to Violence against Women*. It has also updated its *Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice*.⁶

13. The Department of Peacekeeping Operations has development materials on lessons learned, studies and guidance materials in both the prisons and judicial areas. A *Prison Support Policy Directive* and *Prison Support Guidance Manual* provide best practice guidance concerning the principles, planning, management operations and technical requirements for the

³ OHCHR training and educational material is available online at <http://www.ohchr.org/english/about/publications/training.htm>.

⁴ See OHCHR website (<http://www.ohchr.org/english/about/publications>).

⁵ Available online at http://www.unodc.org/unodc/criminal_justice_assessment_toolkit.html.

⁶ The updated version is available online at <http://www.unodc.org/unodc/compendium.html>.

support of national prison systems within United Nations peacekeeping operations. The *United Nations Primer for Justice Component in Multidimensional Peace Operations: Strengthening the Rule of Law* provides guidance for justice sector field officers. The Office of Legal Affairs, the Department of Peacekeeping Operations, OHCHR, UNODC and UNDP are presently collaborating in the development of a United Nations rule of law index.

B. Juvenile justice training materials

14. UNICEF is the principal source of publications relating to juvenile justice and has issued a number of materials, including compilations of good practices, global indicators on juvenile justice, and documentation on children and transitional justice. Many of these materials are applicable in the context of long-term development, but can also be used in post-conflict situations. UNICEF, when appropriate, also develops training materials in local languages. For example, in Tajikistan, a compilation of United Nations standards on juvenile justice was published in Tajik in 2004. In 2005, a special issue of the *Children of Tajikistan Bulletin* was devoted to juvenile justice. And in 2006, a manual on “Adolescents and the Law” was published for use in the police academy, training modules on the *United Nations Minimum Standards on Juvenile Justice* were published for use in training judges, and a manual for pilot projects on juvenile justice alternatives was developed.

15. UNODC and UNICEF are jointly publishing a manual for the measurement of juvenile justice indicators and are collaborating on materials to promote the use of United Nations guidelines and materials on matters of justice involving child victims and witnesses. OHCHR *Manual on Human Rights for Judges, Prosecutors and Lawyers* contains a chapter on “The rights of the child in the administration of justice”, which sets out the normative human rights framework and addresses key questions from a human rights perspective.

III. EXAMPLES OF PRACTICAL MEASURES TO ASSIST COUNTRIES IN STRENGTHENING THEIR SYSTEMS OF ADMINISTRATION OF JUSTICE

A. Training, workshops and seminars

16. Training, workshops and seminars are core activities of OHCHR and its field presences to strengthen systems of administration of justice. The objective of these efforts is to transmit knowledge concerning human rights standards, jurisprudence, declarations, principles, guidelines and rules. Major themes of training, workshops and seminars include arrest and pretrial detention, conditions of detention, torture, fair trial, and the independence of the judiciary. Where relevant (e.g.: Afghanistan, Colombia, Iraq, Nepal), training is also provided on international humanitarian law.

17. Field presences in Afghanistan, Angola, Azerbaijan, Burundi, Cameroon, Colombia, Democratic Republic of the Congo, Ethiopia, Guatemala, Lebanon, Nepal, Palestine, South Africa, and Tajikistan have, for example, organized training exercises, workshops and seminars relating to the administration of justice in the period 2004-2006. Although not an exhaustive account, some examples from these countries provide an idea of the types of trainings, workshops and seminars that have been organized by OHCHR field presences.

18. The Human Rights Unit of the United Nations Assistance Mission in Afghanistan (UNAMA) organized trainings for prison officials on the treatment of prisoners in August 2004 in Kabul and in Bamyán in May 2005. It also organized trainings for police and law enforcement officials in July 2004 in Jalalabad; and March 2005 in Faizabad/Badakhshan; in March 2006 in Kunar. The Unit worked with the Kunar Police to deliver human rights training in 21 districts of the Kunar and Nangarhar provinces from December 2005 to November 2006. The Unit organized trainings for judges and prosecutors in February 2005 in Kandahar, in May 2005 in Helmand, in October 2005 in Zabul, and in January 2006 in Gardez and Paktya. In addition to training on human rights standards, training was also provided on the Interim Criminal Procedural Code and the Criminal Code.

19. In Luanda, Angola, a conference was held on access to justice in May 2005, and a training of trainers in mediation was held in November of 2005 for judges, prosecutors, lawyers, social workers and civil society representatives. In September 2006, the Union of Public Prosecutors, with the support of the Human Rights Office, held a conference which addressed, inter alia, human rights issues in the combat against organized crime. Since 2003, the Office has regularly provided training on human rights standards for the national police, a programme subsequently extended to municipalities. Staff of security companies also participated in training sessions.

20. In Baku, Azerbaijan, a workshop for judges, prosecutors and lawyers was held in April 2006 on pretrial detention, conditions of detention, torture, fair trial, and included a review of efforts made by State institutions to follow up on recommendations made in concluding observations of treaty bodies.

21. In Burundi, in 2004 trainings on human rights standards for judges, prosecutors, administrators and other justice partners were organized. Training was also provided to the police in 2004. In June 2005, training was organized for magistrates and prosecutors. A workshop on the revision of the Criminal Code and the harmonization of the Penal Procedure Code was also organized in December 2005.

22. In Cameroon, a “subregional seminar on civilian-military cooperation during democratic transitions” was organized in Douala in September 2004; a subregional seminar on prison administration in Central Africa in November 2005; and a seminar on transitional justice in the French-speaking world in December 2006.

23. In Colombia, in 2004 several courses were organized to strengthen institutional capacity by developing networks of trainers. Courses to develop networks were organized for judges and magistrates with the Rodrigo Lara Bonilla School for legal professionals, for officials at the Military Criminal Justice School, and for officials at the Colombian Family Welfare Institute. Two courses on human rights and international humanitarian law were organized for prosecutors and judicial personnel in the department of Antioquia. A course for security personnel of the Office of the President was organized on human rights and international humanitarian law. Two courses were organized with the Ombudsman’s office to help them classify conduct that violates human rights and international humanitarian law, and a training programme was also organized for a large number of municipal ombudsmen.

24. In 2005, several training courses were provided to prosecutors. OHCHR and the Office of the Ombudsman carried out the first programme for the training on the use of the *Manual for Classifying Conduct that Violates Human Rights and International Humanitarian Law*. Seminars were conducted with the Procurator-General's Office on the application of the *Practical Guide on Evidence in Disciplinary Investigations into Violations of Human Rights and Breaches of International Humanitarian Law*. Training was also provided for participants from the College of Judges and Prosecutors of Medellin, and the Colombian Family Welfare Institute.

25. In the Democratic Republic of the Congo, in August 2004, a workshop on the penalization of torture was organized in Kinshasa; in May, July and October 2005, and January 2006, a series of workshops on sexual violence were organized in Goma, Kindu and Mbandaka which included judicial treatment of victims of sexual violence and techniques for investigation and interviewing persons regarding crimes of sexual violence. Workshops were also held in Mbuji Mayi (October 2005), Kindu (March 2006), and Mbandaka (December 2006) on national jurisdiction and the application of international treaties ratified by the State. Workshops addressed the relationship of human rights and international humanitarian law in November 2005 and June 2006 in Kisangani and Mbandaka, respectively. Seminars on the struggle against impunity were held in June and July 2006 in Bukavu. A workshop on the rights of persons arrested and detained and on taking the procès-verbal of detainees was held in Lubumba in April 2006. In 2005, training of law enforcement personnel took place in Equateur province and Kinshasa. Training on human rights standards for prisoners was also organized for penitentiary staff in Bandundu, Bas-Congo, Equateur, Katanga, Kasai Occidental and Kasai Oriental provinces, and Kinshasa, in 2005.

26. In Ethiopia, the OHCHR subregional office organized a series of training from October to December 2004 on human rights in the administration of justice in Addis Ababa, Dire Daw and Axum. In November 2004, a symposium for judges and lawyers was held in Dar es Salaam, Tanzania. In March 2005, a workshop on minimum standards for treatment of persons in detention was held in Sodere, Ethiopia.

27. In Guatemala, the OHCHR field office in 2006 participated in seminars and promoted workshops to disseminate the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

28. In Lebanon, the OHCHR regional office in April 2004 co-sponsored with the Dubai police a regional Arab human rights workshop for Arab police forces from 14 Arab countries. The regional office helped organize a second regional training workshop for police in the Arab region which took place in April/May 2005. In December 2006, the regional office took part in a workshop, organized by UNDP, on "Human rights and pretrial procedures: investigations, arrest and pretrial detention", held in Amman, Jordan. In February 2007, the regional office, in cooperation with the Beirut Bar Association, organized training for Lebanese lawyers.

29. In Nepal, training exercises were held in March, July and August 2006 for police in Katmandu, and in December 2006 for police in Pokhara. Training was also organized for

lawyers and judicial staff in July 2006, and for the army in December 2006. Training on the subject of the prosecutions for war crimes, crimes against humanity and genocide, the International Criminal Court and impunity was also provided to members of the Nepal Bar Association and legal professionals in March and November 2006.

30. In January 2004, the OHCHR office in Palestine held a workshop on human rights standards for the police. In February 2004, the Gaza office participated in training sessions on the role of law enforcement officials in human rights protection organized by the Directorate of Training of Palestinian National Security. The Ramallah office of OHCHR conducted two training sessions on human rights for security forces in April 2004. In 2005, the office in Palestine began a programme of cooperation with police academies, and conducted training courses in July and November in Jericho. Other training courses were held for the police in June and September in Gaza. In February 2004, training was organized for prison officials on United Nations standards. Training for prison officials also took place in June and August 2005 in Gaza, and in September in Ramallah. In February 2004, a seminar on the right to fair trial was held for judges in Ramallah.

31. The Southern African Regional Office of the High Commissioner for Human Rights has worked with the Southern African Development Community, by holding two regional stakeholders consultations, the first in Kasane, Botswana in 2004, and the second in Johannesburg, South Africa in 2006. The first meeting in Kasane was a chief justices conference on human rights, the independence of the judiciary and access to justice. The second meeting in Johannesburg focused on obstacles preventing judiciaries and legislatures from effectively addressing issues identified in the first conference; how to protect human rights and promote the rule of law, how to empower judges and parliamentarians in their work, and how to improve access to justice, taking into account the views of civil society.

32. The human rights component of the United Nations Tajikistan Office of Peace-building (UNTOP) organized training for judges in May 2006. Judges who receive training at the Institute of Training of Judges receive two days of training on human rights in their two-week curriculum. The human rights component of UNTOP is planning two training exercises for prosecutors in 2007, and to have a conference on the recommendations made by the Special Rapporteur on the independence of judges and lawyers.

33. The transmission of knowledge about human rights standards and principles includes, in certain situations, taking into account how human rights standards and principles interact with non-formal systems of justice. In Afghanistan, training relating to trial observation takes into consideration traditional justice systems. Additionally, OHCHR has developed expertise on human rights and sharia, with a view to providing advice to national authorities and other actors on the Islamic legal system and international human rights standards. In Angola where most disputes are handled outside the formal courts, including, inter alia, by traditional justice systems, efforts are being made to encourage legal professionals in the formal justice sector to interact with alternative mechanisms to the formal justice taking into account human rights norms. Similar issues concerning the relationship between human rights standards and

indigenous peoples' customary law and practice for administration of justice have been examined in certain countries of Latin America such as Ecuador, Guatemala and Mexico.⁷

B. Legal reform, constitutional, legislative and regulatory assistance

34. On request, OHCHR helps States that are undertaking efforts to engage in systemic legal reform. OHCHR also provides, on request, constitutional, legislative and regulatory assistance. The goal of assistance is to ensure that the legal framework of a State is compatible with human rights standards, and has institutions and the necessary tools to implement such standards in practice. Examples are given below where OHCHR has provided assistance to help States ensure their legal framework is consistent with human rights norms.

Systemic legal reform

35. In Iraq, in July 2005 the human rights component of the United Nations Assistance Mission for Iraq (UNAMI) organized a round table on justice reform in coordination with the Ministry of Justice, the Ministry of Human Rights, donors and other United Nations departments and offices such as UNODC to examine the needs of the Ministry of Justice and Ministry of Human Rights and to determine how best to meet them. Similarly, in a series of meetings from February to December 2006, it participated in meetings of the Rule of Law Sectoral Working Group, an entity under the President of the Supreme Judiciary Council, with participation of the ministries of Justice, Interior, Defence and Human Rights, as well as donors, United Nations agencies, programmes and funds, and the World Bank. The meetings mapped out Iraqi needs, took stock of current donor assistance in the rule of law sector, and formulated an overall strategy for strengthening the administration of justice and the rule of law.

36. Areas addressed by the Rule of Law Sectoral Working Group included support for the administration of justice, with reference to modernizing infrastructure and building capacity of personnel (police, prison administration, justice system); implementing human rights provisions in the Constitution; legislative reform, establishing a national human rights commission; ensuring human rights education and support for civil society organizations. Within the Rule of Law Sectoral Working Group, a core group on human rights was established to review continually the needs of the key Iraqi institutions, to discuss implementation, and track commitments of donors. A similar initiative took place in Basra.

⁷ These issues have been looked at by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people during his country visits to these three countries. The Special Rapporteur has identified the question of the cohabitation between national justice systems and indigenous justice systems, including indigenous customary law, as a theme to which he will devote attention. A seminar was organized by OHCHR and the Spanish National University for Distance Education (UNED) Faculty of Law in Madrid in November 2003, and the Special Rapporteur used the information and results of his discussion to prepare his main study on access to administration of justice for indigenous people that was presented to the Commission on Human Rights in 2004 (see E/CN.4/2004/80 and E/CN.4/2004/80/Add.4).

37. In Afghanistan, the Human Rights and Rule of Law Units of UNAMA, in coordination with UNDP, UNIFEM, UNODC and UNICEF, as well as donors, has undertaken a number of activities to enhance justice sector coordination, to support the development of a government strategy for the justice sector, to strengthen the legal framework, to improve the physical infrastructure of justice institutions, to improve access to justice including through the provision of legal aid, to improve the situation of women and children in the justice sector, to effectuate reforms of the prison sector, to address the legacy of gross human rights violations through the development, and to implement the “National Action Plan on Peace, Reconciliation and Justice”.

38. In Angola in 2005, UNDP, UNICEF, the United Nations Interregional Crime and Justice Research Institute (UNICRI) and the Human Rights Office of OHCHR in Angola jointly supported the work of the Commission on the Reform of the Justice System, established by the President of Angola and coordinated by the Ministry of Justice.

39. In Guatemala, OHCHR provided assistance to the Commission for the Support and Follow-Up on the Strengthening of the Justice Sector by drafting a sector report on access to justice by indigenous people.

Constitutional assistance

40. During the period 2004-2006, OHCHR provided advice in connection with draft constitutions or constitutional issues in a number of countries including Bhutan, Democratic Republic of the Congo, Colombia, Iraq and Nepal. In the case of Bhutan and the Democratic Republic of the Congo, comments were given on new draft constitutions in 2005 and 2004, respectively. In Nepal, in July 2006, the Interim Constitution Drafting Committee requested the Office to provide its advice with respect to human rights and specific comments on draft provisions relating to the National Human Rights Commission. The OHCHR Nepal office also provided comments on a subsequent draft to negotiating teams in September 2006. In Colombia, the Office made comments on the constitutional reform project in 2004.

41. This assistance was most institutionalized in the case of assistance in Iraq where UNAMI established an Office of Constitutional Support. OHCHR participated in activities organized by UNAMI and provided input on the draft Iraqi Constitution. This included comments on drafts, as well as on assistance in implementation. For example, in April 2006, the Office of Constitutional Support, with support from the human rights component of UNAMI, UNDP and the International Institute of Higher Studies in Criminal Sciences in Siracusa, Italy, organized a conference on “The Judiciary in Iraq: Competence and Perspectives for the Constitutional Review and Implementation Process”. Iraqi participants from political parties, the judiciary, the bar association and academia discussed issues including the Federal Supreme Court, the Supreme Judicial Council, the Shura Council, regional courts, conditions of service, special courts, the role of Islam in the Constitution, and transitional justice.

Legislative assistance

42. In Angola, in 2006, the Human Rights Office provided substantive input to a new draft of the new Penal Code on matters relating to juvenile justice, war crimes, crimes against humanity and genocide, and on issues relating to HIV/AIDS. OHCHR also provided contributions to a revised law on pretrial detention.

43. In Burundi, revision of the Criminal Code and harmonization of the Penal Procedure Code was a subject of a workshop in December 2005 for magistrates, lawyers, law professors and representatives of civil society organized by OHCHR.

44. In Colombia, OHCHR participated in a public hearing organized by Colombia's Senate in February 2004, and working meetings on draft legislation entitled "*Ley de Alternatividad Penal*". Its observations led to modification of the draft. It also undertook an analysis of the draft basic law for the Attorney-General's Office, designed to assist the Attorney-General's Office to respond appropriately and in accordance with human rights standards to the new accusatory system being adopted. In 2005, the office in Colombia also provided advisory documents during the drafting and debate on the draft justice and peace law, with a view to promoting victims' rights and the principles of truth, justice and reparation.

45. In Iraq, the work of the Sectoral Working Group on the Rule of Law, in which the Human Rights Office of UNAMI participates, includes legislative reform. Since 2004, the Human Rights Office in Baghdad engaged in consultations, with the Iraqi authorities, civil society and international experts, aimed at coordinating a process leading to the establishment of a National Centre for Missing and Disappeared Persons in Iraq. Those consultations produced a draft law for the establishment of the National Centre, as well as a draft law for the protection of mass graves.

46. In Guatemala, in 2006 OHCHR provided advice to the Congress on human rights standards applicable to prisons, which resulted in the adoption of a law by the Congress incorporating almost in its entirety this normative framework. The field office also provided advice to a committee established to draft a law on the establishment of a National Fact-Finding Commission on Disappearances in 2006.

47. In Nepal, in August 2006, OHCHR expressed concern and made recommendations regarding the bill to amend the Army Act that would allow military courts, rather than civilian courts, to exercise jurisdiction over Nepalese Army personnel who commit serious human rights violations such as extrajudicial executions, enforced disappearance and torture. Concern was expressed that the proposed law lacked provisions requiring the Nepalese Army to cooperate with civilian authorities empowered to investigate military personnel who commit serious human rights violations, and failed to safeguard the rights of defendants in court martial proceedings to a fair trial.

48. The office of OHCHR in Palestine participated in a series of workshops organized by the Palestinian Independent Commission for Citizens' Rights on a draft law for the judiciary, which was adopted in September 2005.

Regulatory assistance

49. In Colombia, in 2004, in addition to providing advice on the basic law on the Attorney-General's Office, OHCHR provided advice with regard to draft regulations on examinations, as well as concerning draft regulations regarding the performance and evaluation of prosecutors from the technical investigation unit. In 2005, OHCHR provided advice on the Victim and Witness Protection Programme.

50. In Guatemala, in 2006, OHCHR provided assistance to the prosecutor's office in drafting a general instruction for prosecutors on the issue of trafficking of persons, with particular reference to the issue of irregular international adoptions.

51. More generally, in the context of training exercises for police and prison officials that are conducted in many field offices, issues relating to standing orders and internal rules are frequently covered in such training exercises. OHCHR publications on human rights and administration of justice provide a measure of regulatory guidance, and these publications are normally used in trainings, workshops and seminars.

C. Specific projects to strengthen the administration of justice

52. OHCHR undertakes specific projects that are designed to help establish or improve institutions, programmes or activities that are designed to promote and protect human rights. However, these specific projects cannot be categorized as training, workshops or seminars or as efforts to help a State change its legal framework. These projects are country specific and relate to particular circumstances. Examples are given below where OHCHR has undertaken specific projects.

53. In Afghanistan, UNAMA has worked closely with the International Bar Association and the Ministry of Justice with a view to establishing an independent Afghan Bar Association.

54. In Angola, the Human Rights Office co-financed the installation of a "case tracking system" that uses database technology to allow the monitoring of preventive detention periods. In addition to training on international human rights standards, training of trainers on mediation was conducted for judges, prosecutors, lawyers, social workers and civil society representatives as a first step to integrate mediation into the Angolan legal framework. Contributions were also made to the curriculum of the National Institute of Judiciary Studies that trains prosecutors and judges.

55. In Burundi, a legal assistance programme was carried out. Sixteen national lawyers worked on the programme and assisted 632 persons: 562 defendants and 70 plaintiffs. By 2005, the 16 national lawyers had been able to dispose of 375 out of 836 cases. All remaining cases were transferred to *Avocats Sans Frontières* and two national partners.⁸

56. In Colombia, OHCHR provided advice on implementing a career structure for prosecutors and other officials from the Attorney-General's Office, and strengthening the national unit for human rights and international humanitarian law. It also worked with the Government and other entities to ensure a better treatment of persons detained in Colombia's prisons. It provided advice to the human rights unit of the Attorney-General's Office for analysing possible links between members of security forces, civilian officials, private individuals and paramilitary groups. The Office worked with the School of Criminal Investigation and Forensic Sciences to develop an institutional training programme.

⁸ *Annual Reports 2004 & 2005: Implementation of Activities and Use of Funds*, OHCHR, Geneva.

57. In the Democratic Republic of the Congo in 2005, financial assistance was provided to non-governmental organizations assisting victims of sexual violence. OHCHR provided logistical and financial assistance to the Ministry of Human Rights. OHCHR intervened in more than 200 cases before the judicial authorities - civilian and military - to ensure the protection of victims of human rights violations.

58. In Iraq, the human rights component of UNAMI was involved in the planning for the establishment of a National Centre for the Rehabilitation of Victims of Torture, including the creation of an organizational structure and a budget for the first two years of its existence.

59. In Lebanon, the regional office, at the request of the secretariat of the United Nations Voluntary Fund for Victims of Torture, undertook an evaluation visit to two Lebanese centres for the rehabilitation of victims of torture.

60. In Nepal, OHCHR provided information to an NGO on human rights standards to assist it in its petition challenging the legality of preventive detention under the Terrorist and Disruptive Activities Ordinance before the Supreme Court. Similar assistance was provided to other non-governmental organizations on issues involving court challenges to a short time period for filing a criminal charge of rape, and the right of an accused person to an interpreter.

D. Monitoring of the judiciary, prisons and the police

61. Monitoring the actions of the judiciary, prison and police officials helps to assist States in assessing whether their judiciary is independent, impartial and competent, and whether prison and police officials are functioning within legal parameters fixed for their conduct. In the case of training on human rights standards, monitoring helps determine whether such training was appropriate, properly understood and is being applied in practice. When new constitutional provisions, laws or regulations are adopted, monitoring it helps assess whether new constitutional provisions, laws or regulations are being applied correctly, effectively and consistently. Many States have oversight bodies that supervise and correct inappropriate action by judicial, prison and police officials. States look to OHCHR to provide assistance to strengthen such oversight bodies and welcome OHCHR monitoring programmes, which provide practical information and insights on gaps in implementation.

Judicial monitoring⁹

62. In Afghanistan, UNAMA has undertaken some trial observation, and plans to establish in 2007 a more comprehensive Legal System Monitoring Project. It was concluded that without oversight, it would be difficult to evaluate the impact of efforts of legal reform, i.e. whether

⁹ Methodology and standards used for trial observation can be found in the following publication, *Training Manual on Human Rights Monitoring*, Chapter XIII: "Trial Observation and Monitoring the Administration of Justice", Professional Training No. 7, OHCHR, Geneva, 2001. Legal monitoring is the subject of a separate OHCHR publication. See *Rule-of-law tools for post-conflict states: Monitoring Legal Systems*, OHCHR, Geneva, 2006.

training is working, whether new laws are being implemented appropriately, whether there are divergences in practice, whether fair trial standards are being applied, and whether the judiciary is functioning independently.¹⁰

63. In the Democratic Republic of the Congo in 2004, several high profile trials were monitored, including the trial of persons accused of assassinating the former Head of State. Monitoring work, in this regard, was also found to lead to improvement of those held in detention.¹¹

64. The Human Rights Office in Sukhumi has reported that it monitors court trials in Abkhazia, Georgia.¹²

65. The regional office in Lebanon monitored the trial at the Benghazi Criminal Court in May 2004 of Bulgarian, Palestinian and Libyan doctors and nurses accused of involvement in varying degrees of intentionally infecting Libyan children with HIV/AIDS.¹³

66. OHCHR in Nepal regularly engages in the monitoring of judicial proceedings, including the monitoring of public interest litigation before the Supreme Court when human rights issues are raised; habeas corpus petitions filed by detainees; criminal cases involving serious human rights violations committed in the context of armed conflict; cases filed under the Compensation Relating to Torture Act; and cases which raise concerns concerning access to justice such as those relating to sexual violence, minorities and other vulnerable groups.¹⁴

67. Although OHCHR did not directly monitor the trials in 2005 of persons accused of crimes alleged to have been committed in relation to the events in Andijan, Uzbekistan, it followed the trial from a variety of sources, and the High Commissioner issued a statement in December 2005 urging Uzbekistan to comply with international standards in this regard.¹⁵

68. In Ecuador, OHCHR played a significant role in the monitoring of the judicial crisis that affected the country in late 2004 following the dismissal of the judges and members of the Constitutional Court, of the Supreme Court of Justice and of the Electoral Court. In this regard, OHCHR actively supported two official visits to Ecuador undertaken by the Special Rapporteur

¹⁰ Written contribution of UNAMA.

¹¹ *Annual Report 2004: Implementation of Activities and Use of Funds*, OHCHR, Geneva.

¹² *Report of the Secretary-General on the situation in Abkhazia, Georgia* (S/2007/15).

¹³ *Annual Report 2004: Implementation of Activities and Use of Funds*, OHCHR, Geneva.

¹⁴ Written contribution of OHCHR office in Nepal.

¹⁵ “High Commissioner for Human Rights Urges Uzbekistan to Respect Fair Trial Standards”, Press Release, 23 December 2005.

on the independence of lawyers and judges. Subsequently, and in close cooperation with the United Nations Resident Coordinator in Ecuador, OHCHR participated in the United Nations monitored selection process of judges for the Supreme Court.¹⁶

Monitoring of prisons and places of detention

69. In Burundi, OHCHR regularly conducts visits to prisons and other places of detention to assess conditions of detention and to receive complaints from detainees. For example, in 2004 8 of Burundi's 11 prisons were regularly visited to assess conditions and collect complaints from detainees. Regular visits were also conducted to 16 police detention facilities in Bujumbura-Mairie and secondary detention centres in other provinces. Information days were also held for detainees in 11 prisons, so that they could have a better understanding of their rights under national and international law. In 2005, 6 of the 11 prisons in the country were regularly visited to assess detention conditions and to collect complaints from detainees.¹⁷

70. In Colombia, in 2004 and 2005, OHCHR undertook efforts to strengthen institutions responsible for penitentiary policy, and control bodies responsible for monitoring the situation of detainees and prisoners, in cooperation with the National Institute of Prisons and Penitentiaries, the Ministry of Interior and Justice, the Office of the Ombudsman for Human Rights, the Procurator-General's Office and civil society organizations. Visits were made to seven pilot prison centres to observe progress made in implementing recommendations of OHCHR in 2005.¹⁸

71. The Human Rights Office in Sukhumi has reported that it visits places of detention in Abkhazia, Georgia.¹⁹

72. The office of OHCHR in Nepal regularly visits and inspects places of detention, and maintains an ongoing dialogue with authorities and provides technical assistance on the rights of detainees, including those related to access to family and legal counsel, legality of detention and conditions of detention. The office raises concerns and makes recommendations to penal authorities with a view to ensuring that the human rights of detainees are respected.²⁰

¹⁶ Written contribution of OHCHR headquarters unit covering Ecuador.

¹⁷ *Annual Reports 2004 & 2005: Implementation of Activities and Use of Funds*, OHCHR, Geneva.

¹⁸ *Annual Reports 2004: Implementation of Activities and Use of Funds*, OHCHR, Geneva.

¹⁹ *Report of the Secretary-General on the situation in Abkhazia, Georgia* (S/2007/15).

²⁰ Written contribution of the OHCHR office in Nepal.

Monitoring of police

73. In Afghanistan, the Human Rights Unit, together with the Kunar Police, is implementing from November 2006 to February 2007 a police monitoring project aimed at monitoring compliance by the district police with human rights standards and the human rights environment in 11 Kunar districts.²¹

74. In Nepal, OHCHR regularly monitors the Nepal Police and the Armed Police focusing on the legality of arrest and detention; the treatment of detainees and prisoners; disappearances; criminal investigations into allegations of serious criminal conduct committed by the police forces; internal investigations into allegations of human rights violations by the police forces; and the conduct of police forces during demonstrations, particularly with respect to the issue of excessive use of force. Monitoring activity included covering over 140 demonstrations in 2006 with follow-up interventions in respect of arrests and treatment of detainees. The Nepal office also published an extensive report in September 2006 entitled *Findings of OHCHR Nepal's Monitoring and Investigations: The April Protests: Democratic Rights and the Excessive Use of Force*.²² Since April 2006, the Nepal office has focused its monitoring on the registration of complaints alleging serious criminal conduct by the police forces and the Communist Party of Nepal (Maoist) (CPN-M), and the investigation of those complaints.²³

IV. EXAMPLES OF PRACTICAL MEASURES TO ASSIST COUNTRIES IN STRENGTHENING THEIR SYSTEMS OF JUVENILE JUSTICE

75. In Afghanistan, training provided to prison officials on human rights standards has normally referred to the treatment of particular groups, including juvenile offenders. Monitoring visits, using a generic monitoring checklist, are regularly conducted of juvenile detention facilities and other detention centres where juveniles might be placed with other detainees. Examples of successful interventions arising from these monitoring visits include the following: in January 2006, the intervention of the Afghan Human Rights Commission and UNAMA resulted in five juveniles being transferred from the adult prison in Herat to a juvenile facility; in March 2006, a juvenile who was being detained in the prison in Chegcharan, Ghor, was released after UNAMA's intervention; in January 2007, together with the Afghan human rights commission, UNAMA intervened in the cases of four (alleged) juvenile offenders detained in a provincial prison. UNAMA also played a coordinating and advocacy role in relation to the construction of a new Juvenile Correction Centre in Herat.

76. In the first of a series of joint activities aimed at reform of the juvenile justice system in Afghanistan, after the enactment of the new Juvenile Code in 2005 incorporating standards provided for in the Convention on the Rights of the Child (CRC), UNODC and UNICEF, together with the Ministry of Justice organized a training on the new code in Kabul in July 2005.

²¹ Written contribution of UNAMA.

²² Available online at <http://nepal.ohchr.org/reports.htm>.

²³ Written contribution of the OHCHR office in Nepal.

The Ministry of Justice, with the support of UNODC and UNICEF, organized another training on juvenile justice in August 2005 for judges, prosecutors, police and social workers focusing on the new code. Training programmes were also held in Jalalabad, Mazar and Kandahar in 2005. Government officials, judges, prosecutors, defence lawyers, police, forensic doctors, and social workers throughout the provinces have been trained.

77. In August 2005, the Ministry of Justice with the support of UNICEF and UNODC conducted a seminar on CRC standards and legislation in Afghanistan covering, inter alia, juvenile justice. In June 2006, a task force to monitor and report on child rights violations and CRC was established pursuant to Security Council resolution 1539 (2004). Chaired by UNICEF and with the participation of UNAMA, the objective of the task force is the systematic gathering of objective, specific and reliable information on grave child rights violations committed in Afghanistan, and to assist the Government.

78. In Angola, a conference on access to justice organized by the OHCHR field office in May 2005 considered, inter alia, juvenile justice and the rights of the child. The conference adopted recommendations that, if implemented, would provide for the geographic extension of juvenile courts, the creation of capacities and facilities to assist minors in conflict with the law, and the criminalization of maltreatment of children. During the review of the draft new Angolan Penal Code in 2006, the office recommended changes that would provide for the establishment of a juvenile justice system for children between 14 and 18, and the incorporation of a clear prohibition of corporal punishment against children.

79. In Azerbaijan, OHCHR organized a training seminar on juvenile justice in December 2006 for government officials, judges, prosecutors, lawyers, representatives of the Ombudsman's Office and NGOs. The field office, which has a joint juvenile justice project with UNICEF, plans to organize two juvenile justice workshops in 2007. Planning for 2007 includes the development and implementation of child rights complaint and child friendly procedures in court, which will include the organization of 10 round tables with relevant partners; drafting and printing of a *Child Friendly Complaints Mechanisms Guide*; and the drafting and printing of a poster and brochure on application of alternative educative measures.

80. The production and printing of child friendly literature to explain court procedures and children's rights is also planned, and in particular, the development and printing of a *Child Friendly Guide on Juvenile-Police Interactions*; the development and printing of a *Child Friendly Guide on Court Procedures*; and the development and printing of a user-friendly *Guide on Juvenile Proceedings for Police, Judges, Prosecutors, Lawyers*.

81. In Suva, Fiji, a workshop was held in February 2006 on the implementation of the concluding observations of the Committee on the Rights of the Child, which considered the subject of juvenile justice. The workshop made recommendations to strengthen prevention strategies; to amend the Juvenile Act by raising the minimum age of criminal responsibility to 18 years; to ensure that progressively all districts of the country have juvenile courts or alternatively that ordinary courts periodically function as juvenile courts; to reverse the negative perception within the justice system and in society of juvenile justice as a "soft response to crime"; to strengthen the collection of data and indicators; to promote use of alternative sanctioning of children, such as community work programmes; to expand the model of family group conferencing as a potential alternative to judicial sanctions; to ensure that when traditional

justice is applied to children, the process and sanctions are entirely compatible with domestic legislation and procedures and that corporal punishment, such as flogging, is not used under traditional justice systems.

82. The workshop also recommended to continue to train judges, lawyers, police officers, social workers and other service providers in children's rights; to ensure systematic separation in institutional settings of young offenders from non-offenders; to ensure that deprivation of liberty of persons below 18 is only a measure of last resort and compliance with the *United Nations Rules for the Protection of Juveniles Deprived of their Liberty*; to take measures to guarantee that the right to privacy of children involved in the justice system; to ensure that the criminal records of persons under the age of 18 do not have any kind of negative impact during the rest of their life; to provide legal representation to all persons below 18 in conflict with the law, at all stages of the process (police, pretrial and trial), including increasing financial resources as appropriate.

83. In Nicaragua, in 2004 OHCHR assisted the police to develop a human rights strategy for police-community relations, and in particular to address growing public insecurity and juvenile gang activity, to improve conditions of pretrial detention, and to prevent and intervene effectively in cases of domestic violence. At the same time, OHCHR assisted the Ombudsman's Office in establishing channels of communication with the police to investigate allegations of human rights abuses by the police.

84. In Nepal, in December 2006, OHCHR and UNICEF submitted joint comments on the draft Child Rights (Promotion and Protection) Act to the Ministry of Women, Children and Social Welfare, recommending substantial changes in order for Nepal to fully comply with its international obligations, in particular, with respect to juvenile justice.

85. In Tajikistan, the consideration of Tajikistan's first report to the Committee on the Rights of the Child and the Government's reaction to the Committee's recommendations was a turning point for UNICEF's involvement in juvenile justice in the country. UNICEF's programme in the country is based, inter alia, on juvenile justice reform efforts that are coordinated through the Expert Group on Juvenile Justice, which was established by the National Commission on Child Rights. Specific programme components include reform of legislation; regulations for various facilities for juvenile offenders; establishment of child rights departments; and training of judges on international standards regarding juvenile justice. A focus has been on the development of non-custodial community-based alternatives. Efforts have also been devoted to the reform of residential facilities for juveniles accused or convicted of an offence. Training of judges is carried out through the Council of the Judiciary, and UNICEF has supported training of judges and social workers.

V. CONCLUSIONS

86. **This report highlights the wide variety of different types of assistance that have been provided to States in the field of human rights and the administration of justice, and gives a range of examples of how, under different conditions in different States, assistance is delivered. Frequently the Department of Peacekeeping Operation, UNDP and UNODC are important partners for OHCHR in these efforts. In terms of juvenile justice, UNICEF in particular is also a key partner in field activities.**
