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PROTECTING CHILDREN FROM VIOLENCE

NOW

A Study on the need to reinforce UN
mechanisms to address Violence against
Children

March 2003

**An up-date of the working document prepared for OMCT
Conference on “Children, torture and other forms of
violence”**

27 November – 2 December 2001, Tampere, Finland

Geneva, January 21, 2003 Case KAZ 210103.CC / Torture and other cruel, inhuman or degrading treatment or punishment / Due process including fair trial. The

International Secretariat of OMCT requests your URGENT intervention in the following situation in **Kazakhstan**. Brief description of the situation: The International Secretariat of OMCT has been informed by a reliable source that three children, Robert Molozhavskaia, Dauren Sherimbetov and Nurken Zhunisov, have been criminally convicted following proceedings affected by several violations of children human rights, and in particular resort to harassment, death threats, torture and other forms of ill-treatment. (...)

Geneva, 21 January 2003 Case HND 241001.4/HND 241001.4 CC/ Follow-up of cases HND 241001.CC /Extra-judicial killings. The International Secretariat of OMCT requests your URGENT intervention in the following situation in **Honduras**. The International Secretariat of OMCT has been informed by Casa Alianza, a member of the OMCT network, of the continuing killing of children and youths under the age of 23 in Honduras. According to the information received, another 64 children and youths were killed during December 2002 making it one of the bloodiest months of the year in the Central American country which comprises just over 5 million people. Fifty-nine males (92%) and five females were murdered, most of them by gunfire. Among the victims, Casa Alianza mentioned the case of two street children, Junior Edgardo Lopez (15) and Belsin Edgard Rivero Gonzalez (14), who were watching people celebrating Christmas as they wandered hungrily around the suburb of Barrio Sipile on 27 December 2002. A group of several unidentified males started running after them, shooting directly at them. The children were able to stay ahead for a few blocks in the vicinity of the general cemetery, but were then struck by the hail of bullets. They both died immediately. (...)

Geneva, February 10, 2003 Case ISR 050401.3 CC / Follow-up of Case ISR 050401.3 CC / Torture and cruel, inhuman or degrading treatment or punishment: The International Secretariat of OMCT has received new information regarding the following situation in **Israel/Occupied Territories**. The International Secretariat of OMCT has been informed by DCI/Palestine Section, a member of the OMCT network, that the situation of child detainees worsened in 2002 in Israel/Occupied Territories. The year 2002 was characterized by a 57% increase in the overall number of prisoners under 18, a 38% increase in the youngest prisoners (aged 13-14) and a 100% increase in sentences over one year of imprisonment imposed on children. By the end of 2002, figures indicate that the average number of child prisoner cases handled by DCI/PS throughout the year was 290, compared with 185 in 2001. Child prisoner living conditions have generally deteriorated over the last quarter of the year. Cells are often poor, cramped, cold and unhygienic, while the authorities do not provide enough food, leading to incidences of anemia as a result of malnutrition. Healthcare and education are frequently seen by the Israeli prison authorities as a luxury, rather than a legal right, for the child detainees. In addition, many of the children are traumatized either by physical or psychological torture or other forms of cruel, inhuman or degrading treatment, ranging from restraint in uncomfortable positions for a period of time, threats, and beating. Child prisoners also suffer from a lack of visits due to travel restrictions which prevent their relatives (apart from Jerusalem ID holders) from visiting Israel and from bringing them clothing or food from outside. Meanwhile, the Red Cross is also obstructed from bringing educational materials, pastimes and clothing into all the prisons. Telmond Prison : According to DCI/PS, on 21 January 2003, children detained in Telmond Prison were raided by around 100 prison guards and soldiers using batons, clubs and stun guns. Each child was taken to a different cell and those who objected or asked for the reasons for this raid, were beaten. Three children suffered various fractures from the attack. (...)

Geneva, February 19, 2003 Case GRC 190203.CC / Arbitrary detention/Fair trial. The International Secretariat of OMCT requests your URGENT. The International Secretariat of OMCT has been informed by Greek Helsinki Monitor, a member of the OMCT network, of the illegal proceedings against and arbitrary detention of a child seeking asylum in Greece. According to the information received, Hormez Wisam, 17 year old, has been sentenced to 4 months imprisonment for illegal entry in Greece, following the obstruction of his asylum-seeker application by Greek authorities. (...)

PROTECTING CHILDREN FROM VIOLENCE *NOW*

A Study on the need to reinforce UN mechanisms to address Violence against Children

Introduction

I **The Need to reinforce UN mechanisms to address Violence against Children**

1. The Committee on the Rights of the Child
2. UN Special mechanisms
3. Child focused UN special mechanisms
4. The UN study on violence against children

II **Proposal for a UN Special Rapporteur on Violence against Children**

1. The need for new ways of implementing the rights of the child
2. The need to address all forms of violence
3. The need to integrate the implementation of the rights of the child
4. The need for a holistic approach to violence against children
5. Scope of activities and mandate of the Special Rapporteur on Violence Against Children

III **OMCT recommendations**

Annexes

- A. OMCT study on violence against children within general UN Special Mechanisms
- B. Mandates of the UN Special Mechanisms

Introduction

Regularly, OMCT receives and acts upon information that tells of the significant and unbearable abuses against children. Its programme of action includes *urgent appeals*, targeted towards institutions and organisations, both national and international, that are capable of acting to stop and redress the violence. The appeals also aim at encouraging the rapid circulation of information to NGOs as well as intergovernmental and regional organisations liable to take action and to put pressure on national authorities responsible for those violations. OMCT's mandate covers torture, summary executions, disappearances, arbitrary detentions, psychiatric internment for political reasons, and all other cruel, inhuman or degrading treatment or punishment. In principle, the violations of children's rights reported in the urgent appeals fall under the existing special mechanisms of the Commission on Human Rights. In order to establish which mandate eventually covers a specific case, much depends on the definition of the violation in question. This is particularly true when it comes to defining *torture* in cases of violence against children.

A more general perspective of the problem of violence against children reveals that various forms of extreme violence constitute a part of a systematic phenomenon rather than isolated cases. As it has become apparent through OMCT's monitoring of government reports on the implementation of the Convention on the Rights of the Child, children suffer systematically from extreme forms of violence in different environments, including family, work place, street, private and public institutions, etc. As the former High Commissioner for Human Rights, Mrs Mary Robinson, noted at the 28th session of the Committee on the Rights of the Child in September 2001, "the human rights of children are violated not only when violence is exerted by agents of the State, but also when States fail to live up to their obligation to protect children from violence suffered at the hands of others".¹

In light of this, OMCT has undertaken the present study into the working of UN Human Rights mechanisms in order to analysis on how and to what extent the existing special mechanisms have addressed violations of children's rights within their mandates, at both a theoretical (definition of the relevant mandate) and a practical (outcome as described in their reports) level. This analysis led to the conclusions and recommendations presented in this paper.

¹ Committee on the Rights of the Child, 28th session, Discussion on "Violence Against Children, Within the Family and in Schools", 28 September 2001 (CRC/C/111), para. 8.

I The Need to reinforce UN mechanisms to address Violence against Children

Because of their particular vulnerability, children need special protection against torture and other forms of violence under international law. This means that specific children's rights standards must be applied to them when general human rights are not adequate. This is the main reason why the Convention on the Rights of the Child (the Convention) was adopted in 1989 (see para. 9 of the Preamble). This Convention enshrines a set of substantive provisions, that must be the basis for all UN mechanisms addressing the violence against children, be they child specific or general ones.

1. The Committee on the Rights of the Child

The mandate of the Committee is limited, since it only covers the examination of reports on the implementation of the Convention that States Parties must submit within two years of the entry into force of the Convention, and then every five years.² Contrary to other UN Committees³, the Committee is not allowed to receive individual complaints. Moreover, it has no mandate either to lead in-depth investigations on determined situations.

Hence, the Committee on the Rights of the Child is the central body for the monitoring of CRC implementation, but other mechanisms are needed for more direct protection of children against violence. Moreover, in OMCT's experience, most State parties reports' handling of the issue of torture and other forms of ill-treatment is insufficient. The reports provide very little information on *de facto* cases of torture or ill-treatment of children and *de jure* protection. Thus, OMCT believes that the Committee should be provided with much more information by State Parties on the issue of violence against children.

2. UN Special mechanisms

The current way of dealing with violence against children within UN special mechanisms is totally decentralized and unsystematic. The monitoring of this type of violations of children's rights is distributed between various mechanisms whose main mandates focus on different human rights. As a result, there is no clear allocation of responsibility and, consequently, accountability is lost and leadership is lacking. In addition, the following findings of OMCT's study (See Annex A) highlight that most of these mechanisms still do not sufficiently integrate children's rights within their activities. Several of them do not examine the situation of children or propose inconsistent or ad hoc analysis:

² See article 44 of the Convention on the Rights of the Child.

³ The Human Rights Committee, the Committee against Torture, the Committee on the Elimination of Discrimination against Women, the Committee on the Elimination of Racial Discrimination.

- ***The Special Rapporteur on the question of torture*** takes up individual cases of torture or other cruel, inhuman or degrading treatment or punishment of children. He has also declared that extreme forms of abuse and neglect in institutions could possibly fall under his mandate and he has issued specific statements on the corporal punishment of children. He also takes up cases of arbitrary detention of children, where the risk of torture is very high. In 2000, approximately 7,5 % of cases covered by the SR on torture concerned children. This is probably the non child focused special mechanism that most regularly addresses extreme forms of violence against children. Yet his mandate is too broad to focus systematically on children, to have a specific child rights approach, and to address individual cases of less extreme forms of violence against children.

- ***The Special Rapporteur on violence against women*** covers issues of violence against girls in the family, in the community and by the state. Recently, the SR has also given a lot of attention to acts of violence committed against girls in armed conflict situations. This mechanism is very useful to highlight gender based factors and situations of violence against girls, but it does not take up individual cases and, by definition, it cannot address cases committed against boys.

- ***The Special Rapporteur on extrajudicial, summary or arbitrary executions*** includes under her mandate all life threats to children, including death sentences. She also considers crimes committed in the name of “honour”. In 2000, cases involving children constituted 6-10 % of her work. In 2001, she continued to take several cases of violations of the right to life of children in some 10 countries. In 2002, she particularly concentrate on the issue of extrajudicial killings of children in the streets of Honduras, thus contributing to international and national attention to the phenomenon that should lead to the fight against impunity of perpetrators and preventive measures. This special mechanism is therefore important for the protection of children against the most extreme forms of violence, but has inherent limitations in the attention it can give to children’s cases and, as the SR states it herself, “*there is a need to reprioritize resource allocations so that children are placed at the centre of all budget planning so that priority is given to the protection and promotion of the (...) rights of children*”

- ***The Working Group on Arbitrary Detention*** hardly considers cases concerning children. This is disturbing considering the high instance of cases of arbitrary deprivation of liberty of children, in particular in pre-trial detention, in many countries. This special mechanisms could and should help to highlight one of the most common systematic violations of children’s rights by the State, but unfortunately has neither develop its capacity nor its competence to do so.

- ***Other general special mechanisms:*** The OMCT study further reveals that most other mechanisms (SR on contemporary forms of racism, SR on internally displaced persons, SR on human rights of migrants, SR on the use of mercenaries) do highlight many cases of violence against children, but mention most cases within group situations that are not child-specific and admit to not being able to follow them up.

Hence, the mainstreaming of children's rights among the UN Commission on Human Rights mechanisms is insufficient to fully protect children from violence, since it ignores the need for an integrated approach. Moreover, without any mechanism to specifically ensure that their interests are mainstreamed, children fall through the system yet again.

However, considering the extent of the phenomenon of violence against children and its direct impact on the protection of all human rights for both the present and the next generation, all kinds of efforts and forces are needed to address cases and prevent further abuse. OMCT therefore applauds efforts made by some existing general special mechanisms, notably the Special Rapporteur on torture, the Special Rapporteur on violence against women, and the Special Rapporteur on extrajudicial, summary or arbitrary executions to address violations of children's rights and recommends that further support be given to them to do so. OMCT also urges other general special mechanisms to start better focussing on children within their general mandates.

3. Child focused UN special mechanisms

The Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography

This special mechanism has been instrumental in the international fight against the sexual exploitation of children, including in the organisation of two world congresses on the issue⁴ and in the adoption of subsequent international Declarations and Plan of action that have largely raised international standards on this issue. The SR has also been largely involved in the preparation of the optional protocol to the CRC on the same issue.

This mechanism has therefore been of utmost importance to develop the international action and agenda to combat violence committed against children through prostitution, pornography and child trafficking. However, as recognised by the SR himself and by the above mentioned international fora and texts, sexual violence against children goes far beyond its commercial form and sexual abuse is actually one of the root causes of child prostitution and child pornography.

Thus, OMCT would urge that the Special Rapporteur on the sale of children, child prostitution and child pornography be supported to consider all forms of sexual violence and abuse, whether or not they constitute commercial sexual exploitation, as an important part of his mandate, given the undisputable link between abuse and exploitation through prostitution, and to intervene whether or not the child or other party receives financial benefit or other sort of consideration out of the child's abuse and exploitation.

⁴ The 1996 Stockholm Congress and the 2001 Yokohama Congress Against the Commercial Sexual Exploitation of Children.

The Special Representative on Children and Armed Conflict

So far, the Special representative has had a central role in advocacy and awareness-raising on the plight of children in armed conflict at the highest international political level, which has led to the adoption of four Security Council resolutions related to the issue⁵ calling for measures to protect children in armed conflict. In addition, his work has also been key to the adoption of the Optional Protocol to the CRC on the involvement of children in armed conflicts.

But despite growing international attention to the phenomena and to the level and extent of violence against children that it discloses, the situation of children recruited by armed forces, of internally displaced children and of refugee children continues to be unbearable.

While encouraging the continuation of his important work at the international level, OMCT would recommend that the special representative develop the capacity to take up and act on individual cases, on a large scale.

4. The UN study on violence against children

Violence perpetrated against children may be very complex, including both socio-economic and civil and political factors. In its Thematic Discussion Day on “Violence Against Children, Within the Family and in Schools”, the Committee on the Rights of the Child urged “agencies and bodies of the UN system to adopt a more integrated multisectoral approach to the prevention of violence against children, including inter alia through public health and epidemiological approaches, consideration of poverty and socio-economic marginalization, and the impact of multiple forms of discrimination”.⁶ Such an approach may only be adopted by a mechanism able to globally examine violence against children and to propose responses integrating all the factors contributing to it.

This necessity has also been pointed out by the Special Rapporteur on extrajudicial, summary or arbitrary executions herself in a particular case, when she noted that violence against street children deserves “special attention”. In para. 67 of her 2001 report,⁷ she emphasized that “these killings are symptoms of deeply rooted and complex social, economic and political problems...” and that “[street children] need special attention for survival”.

The Special Rapporteur also noted that “policies and action are required to identify and address the underlying causes of this problem, which include a wide range of social and economic issues” (para 68). That is, the Special Rapporteur believes that a holistic approach to violence against street children is needed. Obviously, the same conclusion may be applied to violence affecting other children than street children, such as violence in the family or in institutions.

⁵ Security Council resolutions 1261 (1999), 1314 (2000), 1379 (2001) and 1460 (2003)

⁶ Committee on the Rights of the Child, 28th session (CRC/C/111), Discussion on “Violence Against Children, Within the Family and in Schools”, Friday 28 September 2001, Part II para. 10.

⁷ E/CN.4/2001/9, 11 January 2001.

OMCT is thus very concerned that the initial phase of the process to carry out the UN study on Violence Against Children has been so slow. It welcomes the recent appointment of the independent expert and urges him to get the study underway as soon as possible.

OMCT recalls the importance for the study of the recommendations of the two theme days of the Committee on the Rights of the Child and calls on the independent expert to collaborate closely with the Committee on the Rights of the Child in the course of the study.

The study is an opportunity not only for the UN system to revise its approach towards the issue but also to impact society at large while it is being carried out. For that purpose, collaboration should be sought with as many partners as possible at all levels, including with local, national and international NGOs as key agents of change. Moreover, full participation of children themselves in the process must be adequately sought, prepared and accompanied. In order to guarantee and support such collaborations, UN member States must support the study with financial contributions and encourage national and local level research initiatives on violence against children.

However, OMCT believes that the international community must not wait for the outcome of the UN study to start addressing directly and systematically individual and systemic instances of violence against children. The scope and seriousness of the phenomenon requires urgent action and additional resources, mechanisms and political will NOW.

II Proposal for a UN Special Rapporteur on Violence against Children

1. The need for new ways of implementing the rights of the child

The creation of a Special Rapporteur would set up the first international mechanism entitled to address all forms of violence against children, that would complement, enhance, support and multiply the impact of all existing UN mechanisms that address different forms and cases of violence committed against children worldwide.

2. The need to address all forms of violence

As we have seen, there already exist many thematic mechanisms that can, according to their mandates, respond to instances of violence against children, such as torture, extrajudicial, summary or arbitrary executions, arbitrary detention, forced disappearances, sale of children, child prostitution and pornography or racism. However, there are many other forms of violence against children, such as violence in schools, orphanages and other institutions, in the home, in the workplace or on the streets, that still must be addressed. These forms of violence include abuses perpetrated both by state and non-state actors.

3. The need to integrate the implementation of the rights of the child

Creating a special mechanisms to address specifically violence against children would redress the current way of addressing the issue at the international level that is partial, insufficient and often random. Some provisions of the Convention on the Rights of the Child, such as article 19, which are aimed at ending this phenomenon, are not taken into account by the UN Commission implementation system. This may give the feeling that these provisions are less important than others. The nomination of a Special Rapporteur would ensure an equal implementation of the rights prohibiting all forms of violence against children. His/her mandate would include, among others, the right to seek and receive credible and reliable information on a permanent basis, to resort to urgent action procedure on individual cases or to make on-site visits to investigate allegations of violence against children.

The example of the international fight against torture shows that the mandates of the UN Committee against torture and of the UN Special Rapporteur on torture are complementary. Both mechanisms propose different ways of fighting the same phenomenon. The same would be true of the interdependence and collaboration between the Special Rapporteur on Violence against Children and The Committee on the Rights of the Child.

4. The need for a holistic approach to violence against children

The mandate of the Special Rapporteur on Violence against Children would be complementary to that of the expert of the UN Study on Violence against Children. While the latter would enable an in-depth understanding and plan of action to address root causes, trends and perspectives by the UN system, the former would act directly on the current situation and take up both cases already known and respond to the multitude of appeals that may be fostered by the research process. Finally, nominating a Special Rapporteur would keep the problem of violence against children on the international agenda beyond the end of the UN Study and consequently assure more long-term visibility to it. The Special Rapporteur would keep informing public opinion and maintain pressure on governments in the light of the findings of the study.

5. Scope of activities and mandate of the Special Rapporteur on Violence Against Children

Bearing in mind these preliminary remarks, the scope of the Special Rapporteur's activities could extend, *inter alia*, to:

- Physical and psychological violence in police custody and other places of detention
- Physical and psychological violence in schools, orphanages or other institutions
- Physical and psychological violence in the family
- Physical and psychological violence in the workplace
- Physical and psychological violence on the streets

- Extrajudicial, summary or arbitrary executions and threat or use of capital punishment for offences committed below the age of 18
- Enforced or involuntary disappearances
- Judicial guarantees before and during the trial
- Criminal sanctions (including life imprisonment)
- Reparation, including compensation, rehabilitation and reintegration

In order to fulfill this task, the Special Rapporteur would develop her/his activities in the light of the Convention on the Rights of Child, other international instruments and other relevant international standards, such as the UN Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”), the UN Guidelines for the Prevention of Juvenile Delinquency (“The Riyadh Guidelines”) and the UN Rules for the Protection of Juvenile Deprived of their Liberty.

The responsibilities of the Special Rapporteur could be fulfilled by:

- seeking and receiving credible and reliable information from governments, UN bodies, specialized agencies, regional intergovernmental organizations and NGOs, as well as medical, forensic and other experts;
- receiving individual communications;
- resort to urgent action procedure when a serious violation of children’s human rights is about to be committed;
- making on-site visits and/or appointing regional representatives to investigate allegations of violence and abuse and making reports and recommendations to the government involved;
- monitoring the implementation of existing standards, including States’ obligation to prevent, to stop, to investigate and to punish acts of violence perpetrated against children, as well as to provide adequate compensation and to promote recovery and reintegration of the victim;
- facilitating, through its good offices, the restoration of an attitude of respect for the Convention on the Rights of the Child and for other instruments aimed at protecting children against violence;
- educating and advising states on bringing their law, policy and practice into conformity with the Convention on the Rights of the Child and other relevant standards;
- making annual reports to the UN Commission on Human Rights, detailing findings, as well as conclusions and recommendations on ways and means to better protect children from violence;
- drawing particularly serious cases to the attention of the High Commissioner for Human Rights;
- cooperating closely with the UN Committee on the Rights of the Child and with other relevant UN bodies and specialized agencies, as well as regional organizations and NGOs;
- compiling and analysing existing rules and norms, root causes of the problem, prevention and long-term solutions, taking into account specific situations.

III OMCT recommendations

The Committee on the Rights of the Child

▶ OMCT urges State parties to the CRC to submit the Committee with much more information on the issue of violence against children in their country, on *de facto* cases of torture or ill-treatment of children and *de jure* protection.

UN special mechanisms

▶ OMCT applauds efforts made by some existing general special mechanisms, notably the Special Rapporteur on torture, the Special Rapporteur on violence against women, and the Special Rapporteur on extrajudicial, summary or arbitrary executions to address violations of children's rights and recommends that further support be given to them to do so and that other general special mechanisms start better focussing on children's rights within their general mandates.

▶ OMCT urges that the Special Rapporteur on the sale of children, child prostitution and child pornography be supported to consider all forms of sexual violence and abuse, whether or not they constitute commercial sexual exploitation, as an important part of his mandate, given the undisputable link between abuse and exploitation through prostitution, and to intervene whether or not the child or other party receives financial benefit or other sort of consideration out of the child's abuse and exploitation.

▶ OMCT recommends that the Special Representative on Children and Armed Conflict be encouraged to take up and act on individual cases of violence committed against children in armed conflict situations, on a large scale.

The UN study on violence against children

▶ OMCT is very concerned that the preparatory phase of the study has been so slow. It welcomes the recent appointment of the independent expert and urges him to get the study underway as soon as possible.

▶ OMCT recalls the importance for the study of the recommendations of the two theme days of the Committee on the Rights of the Child and calls on the independent expert to collaborate closely with the Committee

▶ OMCT believes that collaboration should be sought with as many partners as possible at all levels, including local, national and international NGOs and that the full participation of children themselves must be adequately sought, prepared and accompanied.

▶ OMCT urges UN Member States to support the study with financial contributions and encourage national and local level research initiatives on violence against children.

A new special UN mechanism on violence against children

▶ OMCT recommends that a Special Rapporteur be appointed to address all forms of violence against children, and thus complement, enhance, co-ordinate and multiply the impact of all existing UN mechanisms that address different forms and cases of violence committed against children worldwide.

Annexes

A. OMCT study on violence against children within general UN Special Mechanisms

The following statistics and comments are based on an analysis of the reports presented from the 56th to the 59th session of the UN Commission on Human Rights by various thematic and country mechanisms. These conclusions show that these mechanisms still do not or cannot sufficiently address the phenomenon and concrete cases of violence against children in a child rights perspective within their activities. Several of them either do not examine the situation of children or propose inconsistent or ad hoc analysis, or they face limitations that are inherent to their general mandate.

Special Rapporteur on Torture

In 2000, the Special Rapporteur sent 164 urgent appeals to 56 Governments on behalf of about 470 individuals and 11 groups involving about 1,000 persons with regard to whom fears that they might be subjected to torture and other forms of ill-treatment had been expressed. He also sent 66 letters to 60 countries on behalf of about 650 individuals and 28 groups involving about 2,250 persons. Among the individuals concerned by the urgent appeal procedure, 35 were known to be children. Among the individuals concerned by the letter procedure, 50 were known to be children. Therefore, the cases concerning children constituted approximately 7,5 % of the Special Rapporteur's work in the year 2000.

In the Interim Report of the Special Rapporteur on Torture presented by the Secretary General before the Commission in 2002, a section specifically addressed the "corporal punishment of children". In this section, the Special Rapporteur announced that he joined the Global Initiative to End All Corporal Punishment of Children launched in April 2001. He recalled main international and European instruments and guidelines. He stated that "*any form of corporal punishment of children is contrary to the prohibition of torture and other cruel, inhuman or degrading treatment or punishment*" and called "*upon States to take adequate measures, in particular legal and educational ones, to ensure that the right to physical and mental integrity of children is well protected in the public and the private spheres*".

Special Rapporteur on Violence Against Women

In her 2001 report, the Special Rapporteur offered extensive general observations about the situation of the girl child throughout the world, including common forms of violence and ill-treatment. In particular, the Special Rapporteur gave a lot of attention to violence committed against girl children, particularly during armed conflict. However, the 2001 report offered very few examples of individual cases of violence against children and of the Special Rapporteur's specific response to them.

In her report dated of January 31st 2002, the Special Rapporteur offered general observations about the girl child but still did not give any example of individual cases of violence against children.

Special Rapporteur of the Commission on Human Rights on Extrajudicial, Summary or Arbitrary Executions

In 2000, the Special Rapporteur transmitted 116 urgent appeals. The urgent appeals transmitted concerned 339 individuals and groups of people. In addition, the Special Rapporteur transmitted allegations regarding violations of the right to life of more than 700 individuals.

During this period, the Special Rapporteur transmitted urgent appeals on behalf of 6 children. In addition, the Special Rapporteur sent allegations of violations of the right to life of 67 children. The Special Rapporteur further sent a letter to the Government of Burundi transmitting allegations of summary executions of a group of 43 persons, including a "large number" of children, by government soldiers in Kabezi on 31 December 1999. The cases concerning children constituted approximately 6-10% of the Special Rapporteur's work in the year 2000. The Special Rapporteur's report suggests that she is very concerned about the plight of children and recognizes the special risks they face. However, the fact that such a small percentage of her cases concern violations against children might reflect that insufficient resources are allocated to this mechanism to protect children's rights.

During the year 2001, the Special Rapporteur transmitted 147 urgent appeals on behalf of some 460 persons and a large number of groups of people to 43 States. She further transmitted allegations regarding violations of the right to life of more than 700 people to 41 States. Out of these, the Special Rapporteur sent urgent appeals on behalf of 13 identified children and several groups of minors to 10 countries. She further transmitted allegations of violations of the right to life of 39 minors to 10 countries.

In the Interim Report of July 2nd, 2002 of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Execution, there is a specific section concerning the "violations of the right to life of children". This section describes the fact-finding mission to Honduras the Special Rapporteur carried out. In fact, Honduras is where allegations of extrajudicial killings of children were received regularly. The Special Rapporteur reminds that the situation of children is a matter of great concern to her. She observed that in many countries, the allotment of national resources for child-related matters is not commensurate with the number of children and is grossly inadequate to protect their rights. Therefore, she affirms that "*there is a need to reprioritize resource allocations so that children are placed at the centre of all budget planning and so that priority is given to the protection and the promotion of the civil, political, economic, social and cultural rights of children*". Finally, she reminds that "*the lack of respect for the rights of children exposes them to exploitation*".

Working Group on Arbitrary Detention

The total number of cases dealt with by the Working Group during the period from January - December 2000 was 164. None of them reported cases of detention of children.

During the year 2001, the working group adopted 31 opinions concerning 94 persons in 23 countries. It also registered and transmitted to governments 36 communications concerning 167 cases. The WG transmitted a total of 79 urgent appeals concerning 897 individuals to 40 governments.

During the year 2002, the Working Group adopted 21 Opinions concerning 125 persons in 17 countries. It transmitted a total of 87 urgent appeals concerning 1658 individuals to 47 governments.

The Working Group does not precise whether or not these cases involve children.

Working Group on Enforced or Involuntary Disappearances

In 2000, the Working Group transmitted 487 new cases of disappearances which occurred in 29 countries; 120 of these cases occurred in 2000. During the year 2001, the Working Group transmitted 243 new cases of disappearance that occurred in 25 countries; 50 of these occurred in 2001. As at the last day of its sixty-fifth session, on 21 November 2001, the Working Group had 41,859 outstanding cases on its registers. During this period, the Working Group transmitted 58 cases under its urgent action procedure to the Governments of 15 countries. During 2001, the Working Group clarified a total of 4,419 cases of enforced disappearance, which is the largest number that it has clarified in its first 20 years of existence.

However, the 2001 report refers to "children" generally as among the several groups of persons who have been subjected to enforced or involuntary disappearance in Jammu and Kashmir, India (para. 60) and the 2002 report refers a very few times to cases involving children. The Working Group stressed in its report that it was understaffed and its available resources fell far short of what was needed to complete the tasks presently assigned to it by the Human Rights Commission (Introduction, para 7 and 8). With resources already extremely lacking, it is unlikely that the Working Group will increase its attention to cases involving children in the near future.

However, none of the cases that the Working Group on Enforced or Involuntary Disappearances dealt with, were identified cases of children victims disappearances.

Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance

There are no statistics in the 2001 report regarding the total number of cases in which the Special Rapporteur took action during the year 2000. However, it is mentioned that the Special Rapporteur on Racism took action on 2 cases involving children during the year 2000 and children are more often cited as perpetrators, than as victims, of racism.

Special Representative of the Secretary-General on Internally Displaced Persons

The 2001 Report does not give any statistics on the total number of cases taken up by the Special Representative or the total number of violations against children. More specific information on the types and numbers of violations, are available in the 2001 Report Addendums on Angola, Armenia, Burundi, and Georgia.

The 2002 Report does not give any statistics either on the total number of cases taken up by the Special Representative. The only information given is that the global crisis of internal displacement remains grave, affecting some 20-25 million persons in at least 40 countries worldwide, forced from their homes by armed conflict, communal and generalized violence, and human rights violations. There is no specific mention of the total number of violations

against children. More specific information on the types and numbers of violations, are available in the 2002 Report Addendums on Sudan, Turkey and Mexico.

Special Representative of the Secretary-General on Internally Displaced Persons 2001 Report Addendums: Angola, Armenia and Burundi.

Out of a total population of around 12 million in Angola, there are an estimated 3.8 million internally displaced persons, of whom 2.6 million have become displaced since January 1998. According to government figures, there are 192,000 internally displaced persons in Armenia. Finally, in Burundi there are 808,000 internally displaced persons or 12 per cent of the population.

The Special Representative offers no statistics regarding how many of these displaced persons are children.

Even though the language of the 2001 report suggests that the Representative is generally concerned about internally displaced children in Angola, the report lacks even basic statistics regarding the number of internally displaced children. This suggests that *no specific attention is being paid to the particular plight of children by this mechanism*. In addition, the report makes general reference to "reports" of torture, murder, and ill-treatment of children. However, *the report cites no specific cases of violence against children, nor is there any information about whether the Special Representative has taken concrete steps to remedy these incidents of ill-treatment of children*.

In other words, although the Special Representative acknowledges the ill-treatment of displaced children, he has taken little or no action to decrease the incidence of violence against children in particular.

In the entire 19 page Addendum Report concerning Armenia,, the Special Representative makes reference to children only twice. These excerpts merely describe the problems children face, without offering any proposed solution or response. In other words, the Special Representative has taken little or no action in Armenia to decrease the incidence of violence against children in particular.

In the entire 20 page Addendum Report concerning Burundi, the Representative makes reference to children only twice, both with regard to the country's education policies .In other words, the Special Representative has taken little or no action in Burundi to decrease the incidence of violence against children in particular.

Special Representative of the Secretary-General on Internally Displaced Persons 2001 Report Addendum: Georgia

According to government as well as NGO figures, there are in Georgia today some 280,000 internally displaced persons who have been uprooted as a result of armed conflict, out of a population of just over 5 million (para. 11). In addition, the Government reports that some 20,000 persons were internally displaced as a result of natural disasters, in particular floods, earthquake and landslides, which occurred in the Svanetia and Ajara regions between 1987 and 1989 (para. 12).

Of the current internally displaced population in Georgia, an estimated 36 per cent are children (para. 23). This report gives more attention to the plight of children than the Addendum reports of Angola, Armenia, and Burundi. However as with the other Addendum reports, this report cites no specific cases of violence against children, nor is there any information about whether the Representative has taken concrete steps to remedy these

incidents of ill-treatment of children. In other words, the Representative has taken little or no action in Georgia to decrease the incidence of violence against children in particular.

**Special Representative of the Secretary-General on Internally Displaced Persons
2003 Report Addendum: Sudan**

At the beginning of 2001, approximately 4 million Sudanese were displaced within Sudan. The primary cause of displacement in the country is the civil war that has raged since 1983 between successive Governments and the SPLM/A and the activities of various militia groups allied to one side or the other or acting independently. Another cause of displacement is natural disasters, in particular drought, famine and flooding. More recently, it has been reported that oil exploration is also causing displacement.

However, this Addendum Report cites no particular case of violence against children nor any information about children in general.

**Special Representative of the Secretary-General on Internally Displaced Persons
2003 Report Addendum: Turkey**

Displacement in Turkey of 378,000 to 4,5million persons, predominantly of ethnic Kurds, resulted from armed clashes, generalized violence and human rights violations, mostly in the context of the PKK insurgency and the Government's counter-insurgency operation in the south-east of the country from 1985 to 1999. Displacement should also be considered within the broader context of economically motivated rural-urban migration, in particular due to the economic disruption in the south-east resulting from the violence there. Displacement in Turkey is also due to the implementation of large-scale development projects in the context of the Government's ambitious Southern Eastern Anatolia Project (GAP). Finally, internal displacement in Turkey has also been caused by natural disasters, such as the Marmara earthquakes of August 1999 which displaced 600,000 persons in the north-western part of the country.

While reports by Turkish NGOs claim that between 2 and 4.5 million Kurds have been displaced, outside observers contend that a "credible estimate" of the number of persons who remained displaced in 2001 was around 1 million.

In this Addendum Report, there is no mention of any particular case regarding children. However, the report points out the needs of children and their families to have access to adequate housing, health care and education.

**Special Representative of the Secretary-General on Internally Displaced Persons
2003 Addendum Report: Mexico**

Local NGOs and certain international organizations have estimated the numbers of the internally displaced population in Chiapas to be between 16,000 and 21,000.¹ Large-scale and long-term displacement in the state of Chiapas can be attributed to several developments: the armed confrontation between the Mexican military and the Zapatista Army of National Liberation (known as "Zapatistas"), which commenced in 1994; the 1995 counter-insurgency operations by the military; and the 1997 massacre in Acteal by paramilitary groups. While most of the displacement in the southern state of Chiapas occurred in the second half of the 1990s, continued smaller-scale displacement has been documented more recently, mainly due to ongoing harassment and intimidation of indigenous people by groups described by some as paramilitary and by the Government and others as armed civilian and criminal elements.

Forced displacement has occurred in Mexico for a variety of other reasons as well, including disputes over land, drug trafficking, religious intolerance, development projects and natural disasters (earthquakes, flooding, volcano eruptions) in states such as Oaxaca, Tabasco and Sinaloa.

In its report, the Special Representative of the Secretary-General notes that the majority of the internally displaced persons in Mexico are women and children. There is no mention though of specific cases involving children.

Special Rapporteur on the Human Rights of Migrants

In 2000, the Special Rapporteur transmitted 5 urgent appeals. In addition, the Special Rapporteur submitted 2 communications to governments through normal channels. None of those were related to children.

The Special Rapporteur exhibits significant concern for the rights of children and considers the unique problems of children to be a central part of her mandate. The Special Rapporteur refers to the Convention on the Rights of the Child as part of the legal framework for her mandate (para. 29). However, despite her general statements of concern for the welfare of children, the SPECIAL RAPPORTEUR failed to report on a single case involving children during the year 2000.

In the 2002 report, the Special Rapporteur does not give any information either about the number of cases she dealt with nor any information about cases involving children. However, she inserted in her report a section concerning unaccompanied children.

Special Rapporteur on the Use of Mercenaries

In the entire 2001 report on the Use of Mercenaries, the Special Rapporteur makes specific mention of the effect of use of mercenaries on children in one instance but he has taken no action to decrease the incidences of violence against children in particular.

The Special Rapporteur does not precise the number of cases he dealt with during 2001 and 2002, nor the number of cases involving children. He does not even use once the word children in his reports.

Special Rapporteur on the Democratic Republic of the Congo

The Special Rapporteur cites 218 cases of violations of human rights in his 2001 report. Of these, 6 cases concern violations of the rights of children.

The Special Rapporteur notes that the list of violations in his 2001 report is "non-exhaustive."

Special Rapporteur on Palestinian Occupied Territories

The 2000 report suggests that the Special Rapporteur is sensitive to the special needs and problems of children. For instance, he notes the serious psychological trauma of children who are exposed to violence (para. 38). He also uses a child-centered approach in analyzing violations of their rights: for example, in speaking of the arbitrary arrest of minors by Israeli forces, the Special Rapporteur notes that these acts violate the Convention on the Rights of the Child (para. 39). The Special Rapporteur also notes that in remedying human rights

violations, particular attention should be devoted to "especially vulnerable" groups such as children (para. 72). The 2000 report is exemplary in its use of concrete statistics on the numbers and types of violations against children. Nonetheless, the Special Rapporteur fails to report on individual violations and actions taken in response by the mechanism.

In his 2002 report, the Special Rapporteur recorded that since the start of the second intifada, in September 2000, nearly 1,000 Palestinians have been killed and about 17,300 injured. At the same time, more than 260 Israelis have been killed and about 2,400 injured. Over 200 of the Palestinians killed since the start of the second intifada have been children, while over 7,000 children have been injured. Of those injured, 500 will experience long-term disabilities.

In this Report, the Special Rapporteur largely takes into account children's rights. In fact, he has two sections concerning children (section XI entitled Children and section XII entitled Children and the administration of justice). Furthermore, in February 2002, the Special Rapporteur made a special study on the impact of the present crisis on children.

B. Mandates of the UN Special Mechanisms

Special Rapporteur of the Commission on Human Rights on the Question of Torture (1985), Mr. Theo C. van Boven (Netherlands) since 2001.

Resolution of the UN Commission on Human Rights, E/CN.4/RES/2001/62, 25 April 2001

“The Commission on Human Rights (...)

30. *Approves* the methods of work employed by the Special Rapporteur as set out in a previous report (E/CN.4/1997/7, annex), in particular with regard to urgent appeals, encourages him to continue to respond effectively to credible and reliable information that comes before him and invites him to continue to seek the views and comments of all concerned, including Governments, in the elaboration of his report;

31. *Invites* the Special Rapporteur to continue to consider questions concerning torture and other cruel, inhuman or degrading treatment or punishment directed against women and conditions conducive to such torture, to make appropriate recommendations concerning the prevention and redress of gender-specific forms of torture, including rape or any other form of sexual violence, and to exchange views with the Special Rapporteur on violence against women with a view to enhancing further their mutual cooperation;

32. *Also invites* the Special Rapporteur to continue to consider questions relating to the torture of children and conditions conducive to such torture and other cruel, inhuman or degrading treatment or punishment and to make appropriate recommendations concerning the prevention of such torture;

33. *Calls upon* all Governments to cooperate with and assist the Special Rapporteur on the question of torture in the performance of his task, to supply all necessary information requested by him and to react appropriately and expeditiously to his urgent appeals;

34. *Urges* those Governments that have not yet responded to communications transmitted to them by the Special Rapporteur to answer without further delay;

35. *Calls upon* all Governments to give serious consideration to the Special Rapporteur's requests to visit their countries and urges them to enter into a constructive dialogue with the Special Rapporteur with respect to the follow-up to his recommendations, so as to enable him to fulfil his mandate even more effectively;

36. *Requests* the Special Rapporteur to continue to consider inclusion of information in his report on the follow-up by Governments to his recommendations, visits and communications, including both improvements and problems encountered;

37. *Considers it desirable* that the Special Rapporteur continue to exchange views with the relevant human rights mechanisms and bodies, especially the Committee against Torture and the Office of the United Nations High Commissioner for Human Rights, in particular with a view to enhancing further their effectiveness and mutual cooperation, while avoiding unnecessary duplication with other special procedures, and that he pursue cooperation with relevant United Nations programmes, notably that on crime prevention and criminal justice; (...)”

“I. MANDATE AND METHODS OF WORK

3. No mandate-related issues have arisen during the year under review. The methods of work of the Special Rapporteur have been those followed previously, as approved most recently by the Commission in its resolution 1999/32, paragraph 21, and by the General Assembly in its resolution 54/156, paragraph 16. In particular, he has continued to seek cooperation with holders of other Commission mandates to avoid duplication of activity in respect with country-specific initiatives. Thus, he has sent urgent appeals, transmitted information alleging violations within his mandate to Governments and sought missions to Member States, in conjunction with the following mechanisms: the Working Groups on Enforced or Involuntary Disappearances and on Arbitrary Detention; the Special Rapporteurs on extrajudicial, summary or arbitrary executions; the independence of judges and lawyers; the promotion and protection of the right to freedom of opinion and expression; violence against women, its causes and consequences; the situation of human rights in the Democratic Republic of the Congo; the Special Representative of the Commission on the situation of human rights in the Islamic Republic of Iran; the Special Representative of the Secretary-General on internally displaced persons”.

Special Rapporteur of the Commission on Human Rights on the Sale of Children, Child Prostitution and Child Pornography (1990), Mr. Juan Miguel Petit (Uruguay)

The Special Rapporteur’s initial mandate was defined in the resolution E/CN.4/RES/1990/68.

Excerpt from Amnesty International, "Human Rights Thematic Mechanisms 2000", AI-index IOR 40/020/2000, 01/06/2000

“The mandate of the Special Rapporteur is to study the phenomena of the sale of children, child prostitution and child pornography and make recommendations for preventing such abuses. Her mandate is carried out within the framework of international human rights instruments relevant to children, particularly the Convention on the Rights of the Child (1989).

The Special Rapporteur has studied the involvement of children in commercial sex, prostitution and pornography, considered issues definition, causation, international and national developments and their effects on children, the sale of children and made recommendations.

In earlier reports, the Special Rapporteur identified and analyzed the roles of three catalysts which she felt were indispensable in the fight for the protection of children, namely the justice system, education and the media. She has made extensive recommendations on how these catalysts could be most effective in responding to children who are entrenched in situations of abuse and in the prevention of such abuses. The Special Rapporteur has now identified another catalyst - perhaps the most fundamental catalyst needed to be examined - the family.

* Communications received from Governments between 15 December 1999 and 15 February 2000 regarding allegations transmitted by the Special Rapporteur in 1999 will be reflected in document E/CN.4/2000/CRP.2.

In June 1999 the Special Rapporteur circulated a questionnaire to governments, relevant UN bodies and agencies, intergovernmental and non-governmental organizations soliciting information to be used in her report to the Commission on the following issues:

- Studies that have been carried out about this subject, especially those linking abuse and neglect in the home and subsequent entry into prostitution;
- How cases of abuse and neglect come to the attention of Governments, agencies and organizations;
- Statistical information regarding the relationship between the abuser and the abused, the frequency of the abuse and the specific type or nature of abuse that the Government, or organization has had experience of ;
- Information concerning the legal structure to deal with situations of abuse and neglect including who can bring a complaint on behalf of the abused/neglected child and what legal or other resources are available to children who have been abused or neglected;
- Any national, regional and international initiatives that have been taken to reduce the incidence of domestic violence and neglect.”

The United Nations information sheet, 11 February 2003:

“By 1990, international awareness of the commercial sexual exploitation and the sale of children had grown to such a level that the United Nations High Commission on Human Rights created the mandate of the Special Rapporteur on the sale of children, child prostitution and child pornography. The mandate-holder is required to investigate the exploitation of children around the world and to submit reports on the findings to the General Assembly and the Commission on Human Rights, making recommendations for the protection of the rights of the children concerned. These recommendations are targeted primarily at Governments, other United Nations bodies and non-governmental organizations.

In its resolution 1990/68 entitled “Rights of the Child”, the Commission on Human Rights decided to appoint for a period of one year a Special Rapporteur to consider matters relating to the sale of children, child prostitution and child pornography. The appointment has been regularly renewed, most recently in 2001, when the Commission on Human Rights in its resolution 2001/75 on the “Rights of the Child” decided to renew the Special Rapporteur’s mandate for a further three years. Mr. Juan Miguel Petit (Uruguay) was appointed Special Rapporteur in July 2001.”

Special Representative of the Secretary-General on Children and Armed Conflict (1996), Mr. Olara Otunnu (Côte d'Ivoire)

The rights of the child, Resolution adopted by the General Assembly, A/RES/51/77, 20 February 1997

“*The General Assembly (...)*

35. *Recommends* that the Secretary-General appoint for a period of three years a Special Representative on the impact of armed conflict on children and ensure that the necessary support is made available to the Special Representative for the effective performance of his/her mandate, encourages the United Nations Children's Fund, the Office of the United Nations High Commissioner for Refugees and the office of the United Nations High Commissioner for Human Rights/Centre for Human Rights to provide support to the Special

Representative, and calls upon States and institutions concerned to provide voluntary contributions for that purpose;

36. *Recommends* that the Special Representative:

(a) Assess progress achieved, steps taken and difficulties encountered in strengthening the protection of children in situations of armed conflict;

(b) Raise awareness and promote the collection of information about the plight of children affected by armed conflict and encourage the development of networking;

(c) Work closely with the Committee on the Rights of the Child, relevant United Nations bodies, the specialized agencies and other competent bodies, as well as non-governmental organizations;

(d) Foster international cooperation to ensure respect for children's rights in these situations and contribute to the coordination of efforts by Governments, relevant United Nations bodies, notably the office of the United Nations High Commissioner for Human Rights/Centre for Human Rights, the Office of the United Nations High Commissioner for Refugees, the United Nations Children's Fund, the specialized agencies and the Committee on the Rights of the Child, relevant special rapporteurs and working groups, as well as United Nations field operations, regional and subregional organizations, other competent bodies and non-governmental organizations;

37. *Requests* the Special Representative to submit to the General Assembly and the Commission on Human Rights an annual report containing relevant information on the situation of children affected by armed conflict, bearing in mind existing mandates and reports of relevant bodies;

38. *Requests* Governments, the specialized agencies, relevant United Nations organs and regional, intergovernmental and non-governmental organizations, as well as the Committee on the Rights of the Child, other relevant human rights treaty bodies and human rights mechanisms, to cooperate with the Special Representative and to provide information on the measures adopted to ensure and respect the rights of children affected by armed conflict”.

The United Nations information sheet.

“THE MANDATE.

The Mandate of the Special Representative of the Secretary-General for Children and Armed Conflict is to promote the protection, rights and wellbeing of children at every phase of conflict: preventively before conflict erupts, in the midst of conflict, and in post-conflict situations.

SPECIAL REPRESENTATIVE FOR CHILDREN AND ARMED CONFLICT

Since his appointment by the Secretary-General in September 1997 as Special Representative for Children and Armed Conflict, Olara A. Otunnu has sought to ensure that the protection and rights of war-affected children are comprehensively addressed by key actors at international, regional and national levels. His role as public advocate and moral voice on behalf of the millions of children affected by conflict has centred on:

- Building greater awareness and mobilization action;
- Promoting initiatives and engaging key actors to protect war-affected children;
- Promoting the application of international norms and traditional value systems that provide for the protection of children in times of conflict;
- Proposing concrete initiatives to protect children in the midst of war and engaging parties to conflict to undertake specific commitments in that context;
- Making the protection of children a priority concern in peace processes and peace operations and in all efforts to consolidate peace, heal and rebuild in the aftermath of conflict.”

Special Rapporteur on Violence Against Women, Its Causes and Consequences (1994), Ms. Radhika Coomaraswamy (Sri Lanka)

Question of integrating the rights of women into the human rights mechanisms of the United Nations and the elimination of violence against women, Resolution of the UN Commission on Human Rights, E/CN.4/1994/45, 4 March 1994

“*The Commission on Human Rights (...)*

6. *Decides* to appoint, for a three-year period, a special rapporteur on violence against women, including its causes and its consequences, who will report to the Commission on an annual basis beginning at its fifty-first session;

7. *Invites* the Special Rapporteur, in carrying out this mandate, and within the framework of the Universal Declaration of Human Rights and all other international human rights instruments, including the Convention on the Elimination of All Forms of Discrimination against Women and the Declaration on the Elimination of Violence against Women, to:

(a) Seek and receive information on violence against women, its causes and its consequences from Governments, treaty bodies, specialized agencies, other special rapporteurs responsible for various human rights questions and intergovernmental and non-governmental organizations, including women's organizations, and to respond effectively to such information;

(b) Recommend measures, ways and means, at the national, regional and international levels, to eliminate violence against women and its causes, and to remedy its consequences;

(c) Work closely with other special rapporteurs, special representatives, working groups and independent experts of the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities and with the treaty bodies, taking into account the Commission's request that they regularly and systematically include in their reports available information on human rights violations affecting women, and cooperate closely with the Commission on the Status of Women in the discharge of its functions”.

UN Declaration on the Elimination of Violence Against Women (1993)

The SPECIAL RAPPORTEUR's mandate on gender-based violence against women is taken from article 2 of the UN Declaration on the Elimination of Violence Against Women (1993), which states:

"Violence against women should be understood to encompass, but not to be limited to, the following: Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;

Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;

Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs".

Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions (1982), Ms. Asma Jahangir (Pakistan)

The Special Rapporteur's initial mandate is defined in the resolution E/CN.4/RES/1982/29.

Resolution of the UN Commission on Human Rights, E/CN.4/RES/1996/74, 23 April 1996

"The Commission on Human Rights (...)

7. *Requests* the Special Rapporteur, in carrying out his mandate:

(a) To continue to examine situations of extrajudicial, summary or arbitrary executions and to submit on an annual basis his findings, together with conclusions and recommendations, to the Commission on Human Rights, as well as such other reports as the Special Rapporteur deems necessary in order to keep the Commission informed about such serious situations of extrajudicial, summary or arbitrary executions that warrant its immediate attention;

(b) To respond effectively to information that comes before him, in particular when an extrajudicial, summary or arbitrary execution is imminent or threatened or when such an execution has occurred;

(c) To enhance further his dialogue with Governments, as well as to follow up on recommendations made in reports after visits to particular countries;

(d) To continue to pay special attention to extrajudicial, summary or arbitrary executions of children and women and to allegations concerning violations of the right to life in the context of violence against participants in demonstrations and other peaceful public manifestations or against persons belonging to minorities;

(e) To pay special attention to extrajudicial, summary or arbitrary executions where the victims are individuals who are carrying out peaceful activities in defense of human rights and fundamental freedoms;

(f) To continue monitoring the implementation of existing international standards on safeguards and restrictions relating to the imposition of capital punishment, bearing in mind the comments made by the Human Rights Committee in its interpretation of article 6 of the

International Covenant on Civil and Political Rights, as well as the Second Optional Protocol thereto;

(g) To apply a gender perspective in his work”.

Report of the Special Rapporteur, Ms Asma Jahangir, submitted pursuant to Commission on Human Rights resolution 1999/35, E/CN.4/2000/30, 25 January 2000

“B. Violations of the right to life upon which the Special Rapporteur takes action

6. During the present reporting period, the Special Rapporteur acted in the following situations:

(a) Violations of the right to life in connection with the death penalty. The Special Rapporteur intervenes when capital punishment is imposed after an unfair trial or in the case of a breach of the right to appeal, or the right to seek pardon, or commutation of the sentence, and in cases where mandatory death sentences are imposed. The Special Rapporteur also undertakes action when capital punishment is imposed for crimes which cannot be considered “most serious crimes” as stipulated in article 6, paragraph 2, of the International Covenant on Civil and Political Rights. The Special Rapporteur may, moreover, intervene if the convicted person is a minor, mentally handicapped or ill, a pregnant woman, or a recent mother;

(b) Death threats and fear of imminent extrajudicial executions by State officials, paramilitary groups, private individuals, or groups cooperating with or tolerated by the Government, as well as by unidentified persons who may be linked to the categories mentioned above;

(c) Deaths in custody owing to torture, neglect, or the use of force, or life-threatening conditions of detention;

(d) Deaths due to the use of force by law enforcement officials or persons acting in direct or indirect compliance with the State, when the use of force is inconsistent with the criteria of absolute necessity and proportionality;

(e) Deaths due to the attacks or killings by security forces of the State, or by paramilitary groups, death squads, or other private forces cooperating with or tolerated by the State;

(f) Violations of the right to life during armed conflicts, especially of the civilian population and other non-combatants, contrary to international humanitarian law;

(g) Expulsion, refoulement, or return of persons to a country or a place where their lives are in danger, as well as the prevention of persons seeking asylum from leaving a country where their lives are in danger through the closure of national borders;

(h) Genocide;

(i) Deaths due to acts of omission on the part of the authorities, including mob killings. The Special Rapporteur may take action if the State fails to take positive measures of a preventive and protective nature necessary to ensure the right to life of any person under its jurisdiction;

(j) Breach of the obligation to investigate alleged violations of the right to life and to bring those responsible to justice;

(k) Breach of the additional obligation to provide adequate compensation to victims of violations of the right to life, and failure on the part of Governments to recognize compensation as an obligation”.

The United Nations information sheet.

“The Commission in Human Rights, by its resolution 1982/29 of 11 March 1982, recommended that the Economic and Social Council request the Chairman of the Commission to appoint an individual of recognized international standing as special rapporteur to submit a comprehensive report to the Commission at its thirty-ninth session on the occurrence and extent of practice of the practice of summary or arbitrary executions, together with his conclusions and recommendations. This resolution was subsequently adopted by the Economic and Social Council as resolution 1982/35 and established the mandate of the Special Rapporteur.

The Mandate of the Special Rapporteur has been regularly renewed by the Economic and Social Council. The Special Rapporteur has examined the issue from various aspects with a view to presenting a comprehensive picture of the phenomenon of summary or arbitrary executions in the contemporary world.

The Commission on Human Rights, in its resolution 1992/72, renewed the mandate of the Special Rapporteur and extended it for another three years. This resolution was approved by the Economic and Social Council in its decision 1992/242. It should be noted that in its resolution, the Commission widened the title of the mandate to include “extrajudicial” as well as “summary or arbitrary” executions. This change indicates that the members of the Commission have adopted a broader approach to the mandate on executions to include all violations of the right to life as guaranteed by a large number of international human rights instruments.”

Working Group on Enforced or Involuntary Disappearances (WGEID) (1980) (Resolution 20 (XXXVI)), Mr. Ivan Tosevski, (Chairperson-Rapporteur) (the former Yugoslav Republic of Macedonia), since 1980, Mr. Tan Sri Dato Anwar Zainal Abidin (Malaysia), since 2001, Mr. Agha Hilaly (Pakistan), 1980 – 2000, Mr. Diego García-Sayán (Peru), since 1988, Mr. Manfred Nowak (Austria), since 1993, Mr. Joel Adebayo Adekanye (Nigeria), since 2000

The Special Rapporteur’s initial mandate is enounced in the commission’s resolution E/CN.4/RES/1980/20.

Resolution of the UN Commission on Human Rights, E/CN.4/RES/2001/46, 23 April 2001

“The Commission on Human Rights (...)

2. *Stresses* the importance of the work of the Working Group and encourages it, in the execution of its mandate:

(a) To continue to promote communication between families of disappeared persons and the Governments concerned with a view to ensuring that sufficiently documented and clearly identified individual cases are investigated and to ascertain whether such information falls under its mandate and contains the required elements;

(b) To continue to observe, in its humanitarian task, United Nations standards and practices regarding the handling of communications and the consideration of government replies;

(c) To continue to consider the question of impunity in the light of the relevant provisions of the Declaration on the Protection of All Persons from Enforced Disappearance and of the final reports submitted by the Special Rapporteur appointed by the Sub-Commission on the Promotion and Protection of Human Rights;

(d) To continue to pay particular attention to cases of children subjected to enforced disappearance and children of disappeared persons and to cooperate closely with the Governments concerned in searching for and identifying these children;

(e) To pay particular attention to cases transmitted to it that refer to ill-treatment, serious threatening or intimidation of witnesses of enforced or involuntary disappearances or relatives of disappeared persons;

(f) To pay particular attention to cases of disappearance of persons working for the promotion and protection of human rights and fundamental freedoms, wherever they occur, and to make appropriate recommendations for preventing such disappearances and improving the protection of such persons;

(g) To continue to apply a gender perspective in its reporting process, including in information collection and the formulation of recommendations;

(h) To provide appropriate assistance in the implementation by States of the Declaration and of the existing international rules;

(i) To continue its deliberations on its working methods and to include these aspects in its report to the Commission at its fifty-eighth session;

(j) To continue to formulate comments on the draft international convention on the protection of all persons from enforced disappearance (E/CN.4/Sub.2/1998/19, annex) transmitted by the Sub-Commission in its resolution 1998/25 of 26 August 1998”.

Fact Sheet n° 6 (Rev.2), Enforced or Involuntary disappearances.

“ By resolution 20 (XXXVI) of 29 February 1980, the Commission on Human Rights decided to “establish for a period of one year a working group consisting of five of its members, to serve, as experts in their individual capacities, to examine questions relevant to enforced or involuntary disappearances of persons”. Since then, the mandate and terms of reference of the Working Group on Enforced and Involuntary Disappearances has been renewed by the Commission and approved by the Economic and Social Council each year. Since 1986, this has been done biennially and, since 1992, on a three-yearly basis.

(...)

The Working Group’s basic mandate is to assist relatives of disappeared persons to ascertain the fate and whereabouts of their missing family members. For this purpose the Group receives and examines reports of disappearances submitted by relatives of missing persons or human rights organizations acting on their behalf. After determining whether those reports comply with a number of criteria, the Working Group transmits individual cases to the Government concerned, requesting them to carry out investigations and to inform, the Working Group of the results. The Working Group deals with the numerous individual cases

of human rights violations on a purely humanitarian basis, irrespective of whether the government concerned has ratified any of the existing legal instruments which provide for an individual complaints procedure. It acts essentially as a channel of communication between the families of missing persons and Governments concerned with the aim of solving cases of disappearance.

With a view to preventing damage, the Working Group has also established an urgent action procedure under which its Chairman is authorized to act on reported cases of disappearance occurring between the Group's sessions, thus helping to avoid any delays in its attempts to save lives.

Cases of intimidation, persecutions or reprisals against relatives of missing persons, witnesses to disappearances or their families, members of organizations of relatives and other non-governmental organizations or individuals concerned with disappearances are also transmitted to the pertinent Governments, with an appeal to take the necessary steps to protect all the fundamental rights of the persons concerned."

Resolution of the UN Commission on Human Rights 1997/26: Question of enforced or involuntary disappearances.

"The Commission on Human Rights (...)

2. *Reminds* the Working Group:

- (a) That its primary role is to act as a channel of communication between families of disappeared persons and the Governments concerned, with a view ensuring that sufficiently documented and clearly identified individual cases are investigated and to ascertain whether such information falls under its mandate and contains the required elements;
- (b) That in its humanitarian task it must observe United Nations standards and practices regarding the handling of communications and the consideration of governments replies;
- (c) That it should continue to consider the question of impunity in close collaboration with the rapporteurs appointed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities and with due regard for the relevant provisions of the Declaration on the Protection of All Persons from Enforced Disappearance;
- (d) That it should pay particular attention to cases of children subjected to enforced disappearance and children of disappeared persons, and cooperate closely with the Governments concerned in searching for and identifying those children;
- (e) That it must apply a gender perspective in its reporting process, including in information collection and formulation of recommendations."

General Assembly resolution 49/193 of 23 December 1994.

"The General Assembly (...)

11. Expresses its appreciation to the Working Group on Enforced and Involuntary Disappearances for its humanitarian work;
12. Requests the Working Group, in the continued exercise of its mandate, to take into account the provisions of the Declaration and to modify the working methods if necessary;
13. Invites the Working Group to identify obstacles to the realization of the provisions of the Declaration and to recommend ways of overcoming those obstacles, taking into account the discussions of the Sub-Commission;

14. Furthermore encourages the Working Group to continue to consider the question of impunity, in close collaboration with the rapporteur appointed by the Sub-Commission and with due regard for the relevant provisions of the Declaration;

15. Requests the Working Group to pay the utmost attention to cases of children subjected to enforced disappearance and children of disappeared persons and to cooperate closely with the Governments concerned to search for and identify those children.”

Working Group on Arbitrary Detention (WGAD) (1991), Mr. Kapil Sibal, (India), Chairman-Rapporteur, since 1991, Mr. Louis Joinet, (France), Vice-Chairperson, since 1991, Ms. Soledad Villagra de Biedermann (Paraguay), since 2000, Mr. Tamás Ban (Hungary), since 2001, Ms. Leïla Zerrougui (Algeria), since 2001, Mr. Laity Kama, (Senegal) 1991-2000, Mr. Petr Uhl (Czech Republic and Slovakia) 1991-2001, Mr. Seyed Mohammad Hachemi (Islamic Republic of Iran) since 2002.

The Working Group’s initial mandate is described in the resolution E/CN.4/RES/1991/42.

Resolution of the UN Commission on Human Rights, E/CN.4/RES/1991/42 (Mandate found in Factsheets n°26)

The Commission on Human Rights has entrusted the Working Group with the following mandate:

“(a) To investigate cases of detention imposed arbitrarily or otherwise inconsistently with relevant international standards set forth in the Universal Declaration of Human Rights or in the relevant international legal instruments accepted by the States concerned provided that no final decision has been taken in such cases by domestic courts in conformity with domestic law;

(b) To seek and receive information from Government and intergovernmental and non-governmental organizations, and receive information from the individuals concerned, their families or their representatives;

(c) To present a comprehensive report to the Commission at its annual session.

The Working Group on Arbitrary Detention is the only non-treaty-based mechanism whose mandate expressly provides for consideration of individual complaints. This means that its actions are based on the right of petition of individuals anywhere in the world.

The mandate also stipulates that the Group must carry out its task with discretion, objectivity and independence. Against this background the group adopted the rule that when the case under consideration concerns a country of which one of the members of the Group is a national, that member shall not participate in the discussion”.

Representative of the Secretary-General on Internally Displaced Persons (1992), Mr. Francis Deng (Sudan)

The Special Representative’s initial mandate is defined in the resolution E/CN.4/RES/1992/73.

Excerpt from Amnesty International, "Human Rights Thematic Mechanisms 2000", AI-index IOR 40/020/2000, 01/06/2000

“This mandate was created in 1993 by the UN Secretary-General, at the request of the Commission, to seek views and information from all governments on the human rights issues related to internally displaced persons, including an examination of existing international, human rights, humanitarian and refugee law and standards and their applicability to the protection of and assistance to internally displaced persons.

As the Special Rapporteur notes in his report to the Commission in 1999, the development of a normative legal framework has been a major part of his work. He has so far published a two part compilation and analysis of legal norms and a report on Guiding Principles on Internal Displacement (Guiding Principles). (...)

The Representative of the Secretary-General on internally displaced persons does not take up individual cases. He has, however, produced a number of country studies entitled Profiles in Displacement”.

Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance (1993), Mr. Maurice Glèlè-Ahanhanzo (Benin), Mr. Doudou Diène (Senegal) since 2002.

The Special Rapporteur’s initial mandate is described in the resolution E/CN.4/RES/1993/20.

Excerpt from Amnesty International, "Human Rights Thematic Mechanisms 2000", AI-index IOR 40/020/2000, 01/06/2000

“The Special Rapporteur's mandate is based on the International Convention on the Elimination of All Forms of Racial Discrimination (1965). He is mandated to report on allegations of, and make general recommendations on, contemporary forms of racism, discrimination based on race, xenophobia and related intolerance. He has given particular attention to these violations in developed countries and to racism and discrimination directed against migrant workers and other vulnerable groups and the examination of measures adopted by governments to overcome racism and racial discrimination. (...)”

Special Rapporteur on the Human Rights of Migrants (1999), Ms. Gabriela Rodríguez Pizarro (Costa Rica)

Resolution of the UN Commission on Human Rights, E/CN.4/RES/1999/44, 26 April 1999

“The Commission on Human Rights (...)

Decides to appoint, for a threeyear period, a special rapporteur on the human rights of migrants to examine ways and means to overcome the obstacles existing to the full and effective protection of the human rights of this vulnerable group, including obstacles and difficulties for the return of migrants who are nondocumented or in an irregular situation, with the following functions:

(a) To request and receive information from all relevant sources, including migrants themselves, on violations of the human rights of migrants and their families;

- (b) To formulate appropriate recommendations to prevent and remedy violations of the human rights of migrants, wherever they may occur;
- (c) To promote the effective application of relevant international norms and standards on the issue;
- (d) To recommend actions and measures applicable at the national, regional and international levels to eliminate violations of the human rights of migrants;
- (e) To take into account a gender perspective when requesting and analysing information, as well as to give special attention to the occurrence of multiple discrimination and violence against migrant women;

4. *Requests* the Special Rapporteur, in carrying out his/her mandate, to give careful consideration to the various recommendations of the Working Group of intergovernmental experts aimed at the promotion and protection of the human rights of migrants, and to take into consideration relevant human rights instruments of the United Nations to promote and protect the human rights of migrants;

5. *Invites* the Special Rapporteur, in carrying out this mandate and within the framework of the Universal Declaration of Human Rights and all other international instruments, to request, receive and exchange information on violations of the human rights of migrants from Governments, treaty bodies, specialized agencies, special rapporteurs for various human rights questions and from intergovernmental organizations, other competent organizations of the United Nations system and nongovernmental organizations, including migrants' organizations, and to respond effectively to such information;

6. *Requests* the Special Rapporteur, in carrying out his/her mandate, to take into account bilateral and regional negotiations which aim at addressing, inter alia, the return and reinsertion of migrants who are nondocumented or in an irregular situation;

7. *Requests* the Chairman of the Commission, after consultations with the other members of the Bureau, to appoint as Special Rapporteur an individual of recognized international standing and experience in addressing the human rights of migrants;

8. *Requests* all Governments to cooperate fully with the Special Rapporteur in the performance of the tasks and duties mandated and to furnish all information requested, including by reacting promptly to his/her urgent appeals;

9. *Encourages* Governments to give serious consideration to inviting the Special Rapporteur to visit their countries so as to enable him/her to fulfil the mandate effectively;

10. *Invites* the Special Rapporteur to contribute to the preparatory committee for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, within the framework of the objectives of the Conference, including by identifying major issues to be considered by the Conference;

11. *Requests* the Special Rapporteur to submit a report on his/her activities to the Commission at its fiftysixth session;

12. *Requests* the SecretaryGeneral to give the Special Rapporteur all necessary human and financial assistance for the fulfilment of his/her mandate”.
