ITEM 12. INTEGRATION OF THE HUMAN RIGHTS OF WOMEN AND A GENDER PERSPECTIVE

Following Resolution 1994/45 "The question of integrating the rights of women into the human rights mechanisms of the United Nations and the elimination of violence against women", the Commission on Human Rights called for the integration of the equal status of women and the human rights of women into the mainstream of UN activities, bodies and mechanisms. Correspondingly, in Resolution 2003/44, the Commission welcomed the joint work plans of the Office of the High Commissioner for Human Rights, the Special Adviser on Gender Issues and Advancement of Women, and the Division for the Advancement of Women.

1. Integrating the human rights of women into the human rights mechanisms of the UN

A. Joint work plan of the Division for the Advancement of Women and the Office of the High Commissioner for Human Rights

The Division for the Advancement of Women (DAW) and the Office of the High Commissioner for Human Rights (OHCHR) jointly prepare an annual work plan based on the Commission on the Status of Women (CSW) Resolution 39/5 of 31 March 1995 and Commission Resolution 1997/43 of 11 April 1997. This plan calls for co-operation and co-ordination between the two offices to "strengthen attention to the human rights of women and the mainstreaming of gender perspectives in all human rights activities" in areas of "support for human rights treaty bodies; support for intergovernmental bodies and special procedures; technical co-operation, advisory services and meetings; awareness-raising and outreach; and inter-agency co-operation" (para. 15). This report by the Secretary-General highlights some of the major activities jointly planned by the DAW and the OHCHR.

The Secretary-General’s report first assesses the implementation of the current joint work plan of the DAW and the OHCHR for 2003 before delving into the substantive activities planned for 2004. The Secretary-General reported that the OHCHR, the DAW, and the Special Adviser on Gender Issues and Advancement of Women continued to exchange information regarding women’s human rights during that period. The Secretary-General noted that "the Division and the Support Services Branch of the Office of the High Commissioner continued to work closely on reporting and other matters relating to human rights treaty bodies" (para. 3). The Secretary-General explained that the DAW and the OHCHR also exchanged various documents, reports and information regarding the work of the human rights treaty bodies. He also reported that the DAW and the OHCHR both continued their co-operation regarding the Optional Protocol to the Convention on the Elimination of All forms of Discrimination against Women.

The Secretary-General observed that the DAW also co-operated with the Committee on the Elimination of Discrimination against Women (the "Committee") during the period of the current work plan. The Director of the DAW and two members of the Committee participated in a "brainstorming meeting on reform of the human rights treaty body system" in May 2003 (para. 5). Likewise, the Chairperson of the Committee and the DAW both contributed to and participated in "the meeting of persons chairing human rights treaty bodies" (para. 5). The members of the Committee and the staff members of the DAW participated in a workshop on the "preparation and presentation of reports to international human rights treaty bodies held in Tegucigalpa, Honduras, from 28 May to 5 June 2003" (para. 6). They also took part in other activities sponsored by the OHCHR such as "training for trainers on human rights treaty bodies" (para. 6) which took place in Geneva, Switzerland from 17 to 21 February 2003.

The Secretary-General noted that the DAW and the OHCHR provided support to improve co-operation between the CSW and the Commission. He noted that, for the first time, the Chairperson of the Commission addressed the CSW at the latter’s 47th session (3 to 4 March 2003). Likewise, the Chairperson of the CSW addressed the Commission at its 59th session (17 March to 24 April 2003).

Lastly, the Secretary-General’s report details the DAW and the OHCHR’s follow-up on the "commitments regarding women’s rights and the adoption of a gender perspective contained in the Declaration and Programme of Action adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance" (para. 12) held in Durban, South Africa on 31 August through 7 September 2001. The Secretary-General noted that the OHCHR and the DAW collaborated in expanding and revising the 2001 publication entitled "Gender Dimensions of Racial Discrimination" produced for the conference.

The Secretary-General reported that the joint work plan for the year 2004 calls for the DAW and the OHCHR to continue the practices of the previous years of "co-ordination, co-operation and information exchange between treaty bodies" and that the activities will include "the exchange of documents, reports and the results of the treaty bodies, and the circulation of those documents to the chairpersons and members of the treaty bodies" (para. 16). The Secretary-General noted that both the DAW and the OHCHR plan to follow up on the 15th meeting of the Chairpersons of human rights treaty bodies and offer aid to the preparation and conduct of the 16th meeting of the Chairpersons planned for 21 and 22 June 2004.

The Secretary-General’s report of the joint work plan of the DAW and the OHCHR mentions that the two entities will continue to provide support for intergovernmental bodies and special procedures. The Secretary-General noted that they will support the Chairpersons of the CSW and the Commission during their respective sessions in 2004, and that they will also aid in the participation of the Chairperson of the Committee during its 2004 sessions. The Secretary-General further described the proposal of the two offices to enhance co-operation in the preparation of "reports on similar issues to be submitted to intergovernmental bodies, such as those relating to trafficking in women and girls and to violence against women" (para. 20). The Secretary-General explained that the DAW and the OHCHR would also request and provide reports regarding the "situation of women and girls in Afghanistan, the situation of and assistance to Palestinian women, and the integration of the human rights of women and the gender perspective" (para. 20).

The Secretary-General’s report mentions that the DAW and the OHCHR will advocate early information exchange and will improve technical co-operation, especially regarding training activities on reporting under international human rights instruments. He claimed that the two offices also plan to co-operate in "preparing and piloting training packages on international human rights instruments" (para. 21). He also noted a jointly-planned meeting of the two offices and the Committee to address the issue of the elimination of sexual discrimination.

In raising awareness of women’s rights, the Secretary-General reported that the DAW and the OHCHR would make efforts to update the electronic database covering the seven treaty bodies. He said that the two offices both seek to improve their websites and make available electronic information regarding the progress of "integrating gender perspectives in the work of intergovernmental and expert bodies and special procedures" (para. 25).

The report of the Secretary-General concluded that the DAW and the OHCHR, under the leadership of the Special Adviser in Gender Issues and Advancement of Women, promote inter-agency co-ordination in their joint work plan by continuing to "co-operate within the framework of inter-agency mechanisms" (para. 27).

B. Report of the Secretary-General

The Secretary-General submitted a report to the Commission detailing the activities of UN
bodies and other international organisations regarding the issue of the integration of human rights of women throughout the UN system. The report examines some of the steps and initiatives taken by the Commission, the human rights treaty bodies, and the OHCHR in their attempts to "integrate gender perspectives and the human rights of women into human rights activities" (summary, para. 1). It also details recent participation and activities of women in the various human rights mechanisms.

The report first focuses on the integration of women’s rights into the thematic special procedures and mechanisms of the Commission. The Secretary-General reported that the Commission renewed the mandate of the Special Rapporteur on violence against women for three more years and appointed Ms Yakin Ertürk (Turkey) as the new Special Rapporteur. The new Special Rapporteur subsequently reported on the situation of women and girls in Afghanistan to the 58th session of the General Assembly (A/58/421). The outgoing Special Rapporteur, Ms Radhika Coomaraswamy, also presented her final report to the Commission (E/CN.4/2003/75 and Add.1). Ms Coomaraswamy’s report provided a comprehensive review of the various developments "aimed at eliminating violence against women since 1994" (para. 6).

The report of the Secretary-General chronicled some of the recent activities of other special rapporteurs. The Secretary-General reported that the Special Rapporteur on the human rights of migrants allocated a section of his report to address the issue of "combating trafficking, especially of women and unaccompanied minors" (para. 7). The Secretary-General mentioned that the Special Rapporteur on freedom of religion of belief "dedicated a part of his preventive activities to the situation of women vis-à-vis religions" (para. 8). The Secretary-General referred to the Special Rapporteur on the right to freedom of opinion and expression and the Special Representative of the Secretary-General on human rights defenders, who jointly expressed their deep concerns over the conviction of Irene Fernandez, Director of Tenaganita, a women’s NGO based in Kuala Lumpur. The Secretary-General noted that the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples "held specific meetings with indigenous women and heard testimonies on their situation" (para. 13). The Secretary-General also mentioned the report of the Special Rapporteur on the right to education, who drew attention to the role of education with regard to gender discrimination in China. And finally, the Secretary-General reported that the Special Rapporteur on the situation of human rights in Myanmar addressed the allegation of rape of women in the Shan State.

In the second section of the report, the Secretary-General reviewed some of the steps taken by human rights treaty bodies in integrating "a gender perspective and the human rights of women and girls in their work" (para. 19). At its 30th session in January 2004, the Committee adopted Recommendation No. 25, dealing with its provision of Article 4, paragraph 1 in the Convention on the Elimination of All Forms of Discrimination against Women (the "Convention"). The Secretary-General also noted the adoption of several General Comments that relate to gender issues and the rights of girls by the Committee on the Rights of the Child. He highlighted the "adoption of General Comment No. 3 on HIV/AIDS" and "No. 4 on adolescent health and development" (para. 21) by the Committee on Rights of the Child.

The Secretary-General began the review of the OHCHR’s activities in his report by reiterating that the OHCHR "has a project to strengthen support to the integration of gender perspectives and women’s rights into all its activities" (para. 22). The Secretary-General flagged the OHCHR’s emphasis on capacity building to support and facilitate integration of gender and the human rights of women into its technical co-operation activities. By way of illustration, he cited the statement of the late Commissioner Sergio Vieira de Mello, who emphasised "gender equality and the human rights of women’s as one of the key priorities for his mandate" (para. 22). The OHCHR also adopted a project entitled "Gender Mainstreaming Strategy" in July 2002.

The Secretary-General commented that the OHCHR "continues to devote attention to women’s rights throughout its advocacy, research and other activities" (para. 23). The OHCHR commissioned a review of its technical co-operation programme in September 2003.
and concluded "that the Office is committed to gender mainstreaming" (para. 24). That study cited activities taken by the OHCHR in Bosnia and Herzegovina as good examples of the "positive impact of specific gender mainstreaming policies", specifically the OHCHR’s lead role in "addressing trafficking in Bosnia and Herzegovina, within a Gender Trafficking Subcommittee of the Inter-Agency Gender Co-ordination Group, since 1998" (para. 24). The study also cited to the technical co-operation guidelines provided by the OHCHR in their "manuals on needs assessment missions and technical co-operation, guidance on the content and format of project documents, advice on the preparation of terms of references and checklists for project formulation missions" (para. 27).

The Secretary-General’s report further addressed the issue of women’s participation in UN human rights mechanisms and activities. He encouraged member States of the Commission to nominate more women candidates for appointment to UN bodies in order to promote greater gender balance. In substantiating this proposal, he noted that only about a quarter of the 42 thematic and country-specific procedures mandate holders are women. He suggested that the Commission propose and implement steps to encourage greater gender balance in the "nomination, designation and election of experts and to give greater attention to the proportion of women participating in human rights meetings and benefiting from human rights activities" (summary, para. 3).

The Secretary-General concluded that the Commission, the human rights treaty bodies and the OHCHR are all taking steps to address gender and women’s rights issues in their respective works. He highlighted the OHCHR's pursuit of the "implementation of its gender mainstreaming strategy" (para. 49). However, the Secretary-General also noted that the UN human rights system as a whole needs to provide additional efforts to "ensure the thorough and systematic integration of the human rights of women and gender perspectives in the United Nations human rights system" (para. 49). The Secretary-General specifically emphasised for the OHCHR "more systematic monitoring of the integration of gender and women’s rights into technical co-operation activities and those of the human rights field presences" (para. 50). More generally, the Secretary-General encouraged the Commission itself to reiterate to State parties "the need for gender balance in the election, as well as the nomination, of treaty body members" (para. 51). He called for more gender balance and gender expertise in the designation of experts by the Commission. Finally, the Secretary-General challenged "all relevant actors, including Governments, United Nations agencies, the OHCHR and non-governmental organisations" to "work for more gender-balanced participation in human rights activities, including technical co-operation projects" (para. 53).

2. Violence against women

In Resolution 1994/45, the Commission established the mandate of the Special Rapporteur on violence against women, its causes and consequences. The current Special Rapporteur, Ms Yakin Ertürk (Turkey) began her mandate in July 2003, subsequent to Commission Resolution 2003/45. In Resolution 2003/77, the Commission specifically asked Ms Ertürk to continue to review the situation of women and girls in Afghanistan and to report on her findings to the 60th session of the Commission.

A. Report of the Special Rapporteur

In its Resolution 2003/45, the Commission renewed the mandate of the Special Rapporteur violence against women for three more years. In her first report as Special Rapporteur, the present mandate holder, Ms Yakin Ertürk, noted that violation of women’s rights and violation of the right to bodily integrity continue despite progress at normative and legal levels. She reconfirmed that the main activities of the Special Rapporteur include seeking and receiving credible and reliable information from Governments, treaty bodies, specialised agencies,
intergovernmental and non-governmental organisations, making urgent appeals to Governments, transmitting to Governments information on needed legal and administrative measures, carrying out country visits with the consent of the Governments concerned, and reporting and recommending to the Commission. In implementing this mandate, the Special Rapporteur noted her intention to collaborate with other mandate holders, treaty bodies of the OHCHR, intergovernmental bodies such as the CSW and other entities of the UN system.

Since her appointment, Ms Ertürk has held consultations and participated in various meetings on the subject matter of violence against women. From 15 to 18 September 2003, she held consultations in Geneva with the Acting High Commissioner for Human Rights and the Committee on the Rights of the Child. She also met with permanent representatives of Turkey, the Russian Federation, Nigeria, Libya and Canada. She also organised a meeting with the Secretary-General of Amnesty International on 19 September 2003.

On 4 and 5 November 2003, the Special Rapporteur attended a meeting of special experts in Stockholm, Sweden, at which she presented a speech entitled "Violence in the name of honour within the context of international regimes". She also presented her report on the situation of women and girls in Afghanistan (A/58/421) to the General Assembly in New York and held bilateral meetings with permanent members (Japan, Mexico, the Netherlands, Canada and Nigeria), the Special Adviser on Gender Issues and Advancement of Women the United Nations Populations Fund (UNFPA) and the United Nations Children’s Fund (UNICEF). Later that month, she attended the International Day for the Elimination of Violence against Women in Bern, Switzerland and held consultations in Geneva with permanent representatives from Guatemala and El Salvador and the World Health Organisation (WHO).

On 5 and 6 December 2003, Ms Ertürk made a presentation entitled "Crimes committed in the name of honour" at a symposium organised by the Consulate of Sweden at Bilgi University in Istanbul, Turkey. Also, while in Istanbul on 7 and 8 December 2003, she convened an agenda-setting meeting with the Chairperson of the Committee, representatives of the OHCHR, the DAW and the United Nations Development Fund for Women (UNIFEM), scholars, and NGO representatives.

On 10 December 2003, the Special Rapporteur organised a high-level dialogue on the reform of the Turkish Penal Code within the context of international human rights law. This meeting included members of the Turkish Government and Parliament, representatives of the international community in Ankara and civil society actors.

The report then conveys that the Special Rapporteur has paid particular attention during the last year to the situation of women and girls in Afghanistan. Accordingly, she will submit a report to the General Assembly on this matter in the near future. The Special Rapporteur welcomes Afghanistan’s ratification of the Convention by the Government of Afghanistan on 5 March 2003 as a commitment to end gender discrimination.

However, Ms Ertürk expresses concern for the challenges that face Afghanistan in achieving this goal. In order to promote and protect the rights of women and girls, the Special Rapporteur urges that country to end impunity for perpetrators of violence against women and to establish legal and judicial reform in line with international standards. The Special Rapporteur emphasises that the drafting of a new constitution for Afghanistan provides a valuable opportunity to guarantee the principle of equality of rights for women. She urges the Transitional Administration of Afghanistan to capitalise on this opportunity by providing for specific provisions in the constitution to promote women’s rights in accordance with its obligations under international treaties, including CEDAW. She hopes to visit Afghanistan during 2004 in the context of her mandate.

The Special Rapporteur also started following up on earlier invitations received by her predecessor to visit the Russian Federation, Mexico, Algeria and Iran. She has requested invitations to visit Nigeria, the Democratic Republic of the Congo, Guatemala and El Salvador.

The Special Rapporteur begins her section of the report entitled "Turning Expectations Into Reality" (para. 23), by noting that 10 years have passed since the adoption of the Declaration on the Elimination of Violence against Women. She suggests that this milestone represents the UN’s acknowledgment that violence against women is a public human rights
matter instead of a private matter. She also suggests that the Declaration broadens the definition of violence against women such that "violence" now includes (but is not limited to) sexual and psychological violence occurring in the family, dowry-related violence, marital rape, traditional practices harmful to women such as female genital mutilation, sexual harassment and intimidation at work, trafficking in women, and forced prostitution. The Special Rapporteur acknowledges that the women’s rights agenda continues to move forward, as indicated by adoption of Resolution 1325 (2000) by the Security Council. That same year, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women came into force. In 2002 the General Assembly adopted Resolution 57/179 entitled "Working towards the elimination of crimes against women committed in the name of honour".

Despite the increased awareness of violence against women, the Special Rapporteur remains concerned and claims that there must now be a further expansion of the concept of violence against women. The report contends that the first step in this endeavour is a recognition of the "institutionalisation of the link between male power and violence" (para. 35). It suggests that three broad conceptual categories where violence against women occur (within the family, within the community, and perpetuated by the State) should be expanded to "embrace the whole spectrum of activities from the domicile to the transnational arena" (para. 40). This may allow to "locate acts of violence that may not immediately be apparent, as well as those that emerge and gain visibility as a result of dialectics of global change" (para. 40).

In this vein, due to the intricate interplay between gender inequality, violence against women, and the HIV pandemic, the Special Rapporteur intends to carry out extensive research on the issue of HIV/AIDS and "plans to report on the intersectionality of violence and HIV/AIDS in 2005" (para. 51).

The Special Rapporteur notes that "since violence is a multifaceted problem, strategies for the effective implementation of international law also need to be multifaceted and to include interventions at the level of the State, the community/non-State actors, and individual women" (para. 55). First, at the State level, the Special Rapporteur suggests that "the approach is, undoubtedly, international human rights law, which provides that States and their agents must observe due diligence to protect, prevent, investigate and punish by law perpetrators of violence against women" (para. 55a). Thus, it should not matter whether the perpetrator is an intimate partner or a stranger. And, accordingly, penal codes should reflect the broad definition that sexual offences are crimes against women’s bodily integrity.

At the community level (families and non-State actors), the Special Rapporteur stresses that the community must recognise the root causes of violence against women and understand the oppressive nature of many cultural practices. She claims that in doing so, non-State actors at the community level must work together with the State actors to "demonstrate the compatibility of culture and religion with universal rights of women" (para. 55b). At the individual level and community level, especially for those at high risk of violence, the Special Rapporteur suggests an "empowerment approach" supported by "protective and compensatory mechanisms" (para. 55c).

According to the report, effective implementation of international norms to end violence against women needs to ensure: 1) access to justice for women; judicial access that is not prejudicial and that takes into account factors such as women’s poverty, women’s lack of economic autonomy, women’s legal illiteracy, exclusion of women from public and political life, and derogatory attitudes towards and practices affecting women; 2) State compliance with international law, as well as State accountability for non-compliance, complicity and conspiracy especially in times of armed conflict; and 3) development of monitoring mechanisms to measure and evaluate progress in securing State compliance. She also notes that gender budgeting will ensure Governments’ adequate resources for their activities related to the elimination of violence against women.

The Special Rapporteur concludes by propounding a broad definition of violence against women that encompasses a "continuum of acts that violate women’s basic human
rights, resulting in devastating consequences for women who experience it, traumatic impact on those who witness it, de-legitimation of States that fail to prevent it and the impoverishment of entire societies that tolerate it" (para. 69). She regrets that the movement to end violence against women is taking place in a "less than enabling" environment (para. 72). The report also itemises some of the critical issues that require further attention, research, examination and elaboration. These include: 1) the promotion of a constructive "Dialogue among civilizations" in order to achieve "unity within diversity based on respect for the human rights of each individual" (para. 73a); 2) the impact of transnationalism on women as well as reflection on the "formation of new transnational legal regimes and regulatory institutions governed by private or multinational economic actors" (para. 73b); 3) the need to strengthen the ability to comply with international law in light of the realities of globalisation; 4) a call for research on the intersection of HIV/AIDS and violence against women; 5) a need for analysis of factors that inhibit women’s access to justice; and finally 6) gender budgeting.

B. Communication with Governments

In accordance with her mandate, the Special Rapporteur on violence against women transmitted communications to and sought information from various Governments regarding specific cases of violence against women. The addendum (E/CN.4/2004/66/Add.1) to her annual report includes summaries of individual and general allegations against various Governments. It also includes brief summaries of urgent appeals made to the Governments of: Bangladesh, China, Egypt, India, Indonesia, Iran, Israel, Malaysia, Mexico, Nepal, the Sudan, Switzerland, the United Arab Emirates and Uruguay. The Special Rapporteur notes in the addendum that the Commission has encouraged the continued co-operation among the Special Rapporteur on violence against women and other special rapporteurs, special representatives, independent experts and chairpersons of working groups in their communications to and from Governments.

In the addendum, the Special Rapporteur reports that during the period under review, she transmitted communications to the Governments of: Angola (2), Argentina (1), Azerbaijan (1), Bangladesh (3), China (4), the Democratic Republic of the Congo (1), Egypt (1), Greece (3), India (1), Indonesia (2), Iran (4), Israel (2), Malaysia (1), Mexico (2), Nepal (3), Peru (1), Sri Lanka (2), the Sudan (3), Switzerland (1), Thailand (1), Turkey (2), the United Arab Emirates (1) and Uruguay (1).

The report also contains an overview of replies from the Governments of Argentina, Azerbaijan, Bhutan, China, Egypt, Greece, Iran, Israel, Mexico, Singapore, Spain, Switzerland, Turkey and Uruguay in regard to the allegations submitted for the period under review. The Governments of Australia, China, India, Mexico, Myanmar, Nepal, Pakistan and Sri Lanka responded to the Special Rapporteur concerning cases submitted in previous years.

In her observations, the Special Rapporteur reiterates her interest in receiving replies in regard to the allegations submitted from the Governments of: Angola, Bangladesh, the Democratic Republic of the Congo, Indonesia, Iran, Israel, Nepal, Peru, the Sudan, Thailand and the United Arab Emirates. She expresses her wish to have China, Greece, India, Mexico, Spain and Turkey provide more information about cases either for which she has not yet received a response or for which she has not received a full and adequate response.

The Special Rapporteur thanks the Governments of Bhutan, China, Greece, India, Iran, Mexico, Myanmar, Pakistan, Singapore, Sri Lanka and Turkey for their responses and their willingness to co-operate with the mandate.

In its appendix, the Special Rapporteur’s addendum includes a standard reporting form for documenting alleged incidences of violence against women.

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C. Debate

The Chairpersons of the Committee and of the CSW, the Special Rapporteur on violence against women and the Director of the DAW each participated in the debate on women’s rights. Commemorating the 10th anniversary of the mandate, Ms Yakin Ertürk addressed the Commission for the first time in her capacity as the Special Rapporteur on violence against women. Presenting her reports (E/CN.4/2004/66, add. 1 and 2), she emphasised the intersectionality and the diversity of forms of discrimination against women and noted its pervasiveness in both domestic and transnational realms. Ms Ertürk welcomed Resolution 58/185 adopted by the General Assembly, which assigns the Secretary-General to undertake a comprehensive study on the multifaceted manifestations of violence against women. In an overview of the current impediments to women’s rights, she notably expressed worry over "the growing political conservatism" along with the "increased politicisation of culture". She observed that women are situated at the crossing point "where cultural boundaries are guarded, honour preserved and where wars are fought". She moreover deplored the widespread breaches of women’s reproductive rights and their vulnerability to HIV/AID not only due to their biological conditions but their socio-economic subordinate status as well.

To address these scourges, the Special Rapporteur suggested a holistic strategy conducted at State, community and individual levels. She argued that at the national level States eliminate impunity for crimes committed against women, notably when punishing sexual offences. At the community level, she continued by stating that civil society must strive to engage in a cultural negotiation to denounce the oppressive nature of certain traditional practices. And at the individual level the Special Rapporteur suggested an "empowerment approach" complemented with protective and compensatory measures. The Special Rapporteur also suggested that the development of two indices could assess her "three-tier approach": "VAW" an index on violence against women; and "SAV", an index on State accountability on violence. The implementation of these indexes would have the advantage of allowing for a much-needed comparison between States of the degree of violence committed against women.

With regard to country-specific situations, Ms Ertürk noted that violence against women and girls was widespread in El Salvador and Guatemala despite their adequate legal framework in international human rights law. The Special Rapporteur noted similarities between the situation of women in both countries due in part to their common history of prolonged armed conflict. The Special Rapporteur expressed particular concern over the fact that extreme violence committed against women was not considered a serious crime by authorities and often resulted in impunity. The Special Rapporteur also announced her upcoming visits to the Russian Federation and Nigeria later this year.

Speaking as a concerned country, El Salvador expressed regret over the fact that the conclusions of her reports failed to identify the specific circumstances of each country. The representative of El Salvador thus encouraged the Special Rapporteur to clearly delineate the conditions specific to his country. The representative ensured the Commission that the killing of women is neither systematic nor widespread and stressed that it is essentially committed by gang members not associated with the State. He instead emphasised El Salvador’s accomplishments to promote women’s rights including the creation of a family hotline, the construction of women’s shelters, and the implementation of the Salvador Institute for Violence against Women. Guatemala, also speaking as a concerned country, perceived domestic violence against women as an after-effect of armed conflict and pledged its commitment to the full realisation of women’s rights. As recommended in the report of Ms Ertürk, Pakistan acknowledged the need to further consider the limited access of women to justice and specifically expressed the need to examine the access to justice of women under occupation.

The Chairperson of the Committee, Ms Ayse Feride Acar, presented an overview of the 29th and 30th session of the Committee. On a positive note, she announced that 177 State parties have ratified the Convention. Echoing Ms Ertürk’s intervention, the Chairperson
expressed concern over the trend for vulnerable groups of women, such as refugee and minority women, to suffer from multiple manifestations of discrimination and violence. The Committee stressed the role of education in promoting the rights of women, notably of education campaigns targeting men and boys. In addition to emphasising the importance of attitudinal changes, Ms Acar clarified that even though cultural practices play important roles in society, they cannot constitute a pretext for infringements on women’s rights. The Committee attached particular attention to the condition of Iraqi women and stressed the importance of their integration in post-war reconstruction.

The Chairperson of the CSW, Ms Kyung-wha Kang, underlined the importance of gender mainstreaming, which "requires the consistent and systematic attention to gender perspectives in all areas of human rights". In its 48th and 49th session, the CSW acknowledged the role of men in promoting gender equality as well as in producing a change in attitudes. The sessions addressed the importance of property and inheritance rights. Ms Kang announced the upcoming assessment of the implementation of the Beijing Declaration and Platform for Action for the CSW’s 49th session, which will celebrates the 10th anniversary of Beijing (Fourth World Conference on Women, 1995), the 20th anniversary of Nairobi (World Conference to Review and Appraise the Achievements of the United Nations Decade for Women, 1985), and the 30th anniversary of Mexico City (World Conference of the International Women’s Year, 1975). The Chairperson encouraged further exchanges between the CSW and the Commission.

Ms Carolyn Hanna, Director of the DAW, expressed concern over the backlog of reports under consideration by the Committee and offered its assistance in coping with this challenge. Ms Hanna explained that the DAW is still involved in activities facilitating the implementation of the Convention, including a technical co-operation programme, a training workshop designated to Government officials from African countries and a colloquium for members of the judiciary to utilise the Convention as a means to achieve gender equality through domestic courts.

Numerous States acknowledged the significance of the Beijing Declaration and Plattform for Action, which recognises that "women’s rights are human rights" and commended the fact that more than 90% of UN member States were now party to the Convention. Delegations also welcomed Security Council Resolution 1325 adopting a gender perspective to security efforts, and the entry into force of the Rome Statue of the International Criminal Court (ICC). Despite the aforementioned steps forward, several States deplored the high number of reservations concerning the provisions of the Convention. Germany, Norway and Ireland, on behalf of the European Union (EU), noted that numerous States have entered more reservations on this Convention during ratification process than on any other international convention. In a joint statement with Canada and Australia, New Zealand deplored the increasing difficulty of consensus building among member States on women rights’ issues. A few delegations reminded the Commission that the past decade focused on standard setting and awareness raising and emphasised the need to focus now on the implementation of programmes and strategies for this second decade. Chile accordingly reminded the Commission of the high importance of the resolution it has been submitting for two years concerning the integration of women’s issues in the UN system.

Complementing these general observations, delegations more specifically mentioned legislative measures to improve the status of women adopted by their individual Government. Bhutan invoked its Inheritance Act of 1980 as well as its provisions protecting women from sexual abuse. The representative of Morocco evoked the changes undertaken by King Mohammed the 6th who has been putting women at the centre of his policy-making. He especially praised the adoption of a Family Code that puts an end to family inequality and preserves the interest of children while reconciling Islamic values with the rights of both spouses. He further noted that the family code equalises the minimum age for marriage and renders polygamy almost impracticable. Cameroon announced that its draft Family Code is under preparation.

Sri Lanka, Indonesia, Armenia, Nepal, and Oman reported the implementation of a
national plan of action, while Indonesia, Mexico, Nigeria, and Nepal have implemented affirmative action policies to improve the status of women in society. Yemen has made some amendments to the nationality and labour codes to enhance the role of women in its country. The representative of Malaysia enunciated a list of amendments made to its constitution to promote gender equality, including the amendments to the Penal Code to enhance penalties for rape and for offences relating to prostitution, the abolishment of immigration regulations discriminatory against Malaysian women married to non-citizens and an amendment to the Domestic Violence Act to provide protection for battered wives. Croatia announced the adoption of the Law on Gender Equality, which promotes a gender mainstreaming perspective at the national level, and the Law on the Protection against Domestic Violence. And Thailand stressed the importance of a 2002 constitutional court ruling that offers the option for women to retain their last names upon marriage.

Other delegations mentioned the creation of new institutions dedicated to promote and realise women’s rights. South Africa established specialised courts dealing with sexual offences, while Iraq and Nepal created independent national councils for women. Egypt announced the establishment of a women’s tribunal to ensure that women can now confer nationality to their children if married to non-Egyptians. Some delegations presented alternative strategies to empower women at the national level. India has engaged in campaigns for property rights and has provided credit facilitation and support services such as day care facilities. Some components of Governments’ comprehensive national strategies to promote the role of women also include specialised seminars as well as the organisation of training courses for social workers.

In addition to indicating constitutional changes and various policies, some delegations referred to alternative indicators suggesting improvements for women in their respective societies. India mentioned rises in female life expectancy, in the mean age of marriage and a decline in female death rate and, most importantly, in literacy rates and higher education levels. Algeria reported that enrolment rates of women surpass that of men at certain educational levels. Mauritania referred to a drop in fertility rate and higher education rates for women. In contrast to the ongoing “feminisation of poverty”, Cuba spoke of the “feminisation of rights” taking place in its country as illustrated by women’s substantial participation in the work force.

While some State representatives stressed the increased participation of women in the workforce, numerous delegations either focused their interventions on the increased participation of women in the decision-making process or on the need to ensure their full integration in the political domain. In light of Ms Ertürk’s plan to visit Afghanistan, Germany stressed the need to ensure a democratic environment for the upcoming elections in order to preserve the participation and safety of women voters. China underlined the urgency to integrate women into decision-making processes at the national level. It also mentioned the increased number of women national leaders in its country by way of asserting “Governments are duty-bound to provide for education and training to help women acquire the skills and competence to their participation in political and public life”. Pakistan and Eritrea reported the increased role of women in decision-making in their countries. Paraguay stipulated that women enjoyed increased access to key positions in decision-making processes and announced the appointment of the first women as a member of the High Supreme Court of Justice.

Numerous delegations asserted that their constitutions set quotas to allocate a certain number of seats to women in Parliament. South Africa announced that over 30% of the parliamentarians are women, while India announced the introduction of a bill in the parliament that reserves one-third of seats to women. Cuba stated that women occupy over 35% of leadership positions and of the country’s highest legislative body, thus placing Cuba in the top ten countries regarding women parliamentary representation. The representative of the United States of America (USA) reminded the Commission of its appointment of a female national security adviser. Algeria announced that for the first time, a woman would be a candidate for presidential elections there.
Aside from elaborating the various areas of improvement, most States also drew attention to several domains in which women suffer consistent violation of their rights. **Myanmar** distinguished itself for not acknowledging any form of injustice or harm done to women in its country. Instead, it insisted "the Myanmar culture, traditions, laws and practices have all safeguarded the equality of women in marriage, inheritance and other social affairs" and asserted "the status of women in Myanmar remains to be among the highest in the world". Myanmar also informed the Commission that investigations carried out by the authorities revealed that allegations of sexual violence perpetrated against women by members of the armed forces were unfounded. It furthermore charged that "some well-funded NGOs have been disseminating such false allegations against the Myanmar Government and the armed forces with a malicious intent".

With the exception of Myanmar, delegations deplored women’s human rights violations within the specific contexts of domestic violence, conflict and post-conflict situations, trafficking of persons, poverty, HIV/AIDS and patriarchal cultural practices. **Algeria** reminded the Commission that violence against women gives rise to more deaths than road accidents and malaria. Delegations characterised violence against women as a paramount obstacle to gender equality and underlined the parallel occurrence of violence in both public and private spheres. **New Zealand**, on behalf of **Canada** and **Australia**, expressed particular concern over the high incidence of violence against indigenous women. **Chile** and the **Dominican Republic** reported an increase in the frequency of intra-familial violence. The latter specifically related an increase of 21% in the death of Dominican women due to domestic violence for the previous year. In regard to sexual violence, the **World Organisation against Torture (OMCT)** explained that abuses of a sexual nature often go uninvestigated and unpunished due to stigmas attached to sexual violence.

The **Dominican Republic** then outlined its comprehensive programme to prevent violence against women, including trainings, a documentation centre and psychological support services for victims. **Thailand** reported the recent establishment of 20 "One Stop Crisis Centres" to assist women and children suffering from domestic violence. The **WHO** recently invoked violence against women as one of its priorities. It has notably conducted its innovative "Multi-Country Study on Women's Health and Domestic Violence", which enables the examination of the pervasiveness of violence against women across-countries. The WHO is also involved in combating sexual violence through its "Guidelines for medico-legal care for victims of sexual violence" designed to ensure the medical and psychological treatment for victims of sexual assaults. **Germany** also applauded the efforts of **Amnesty International (AI)** for launching its campaign "Stop violence against women", thus focusing its activities for the next two years on the elimination of violence against women.

Several States focused their interventions on the dire situation of women in conflict and post-conflict situations. The **EU** considered that the integration of women in the process of conflict prevention and resolution constitutes a *sine qua non* condition to post-conflict rebuilding. The representative of the **USA** committed himself to assist women with their integration into political arenas in post-conflict societies, notably in Afghanistan and in Iraq. **Japan** similarly stressed the importance of gender equality in post-conflict Afghanistan as the basis of its USD 600 million aid allocated to nation building.

The general debate then focused on the issue of human trafficking. The **UNFPA** informed the Commission that between 700'000 and 4 million girls and women are trafficked worldwide every year. This organised crime annually generates up to USD 13 billions in Europe alone. Taking notice of its omnipresence, numerous delegations noted that all countries and regions are subject to human trafficking. **Poland** notably deplored the practice of organised prostitution taking place in its country as both a place of origin and as a final destination. Numerous delegations remarked that trafficking is a complex and multidimensional phenomenon and that its elimination lies in the recognition of its complexity. State representatives concurred that trafficking in persons involved both physical and psychological suffering. **Lithuania**, on behalf of the Baltic-Nordic countries, the **USA** and **Germany** qualified human trafficking as a modern form of slavery. States observed that
human trafficking violated the right to freedom of movement, the right to liberty and the right to freedom from violence, torture, and cruel and degrading treatment. The UNFPA and Lithuania, on behalf of the Baltic-Nordic countries, noted the link between the economic hardship of women and their vulnerability to trafficking. The USA remarked that post-conflict societies are particularly vulnerable to human trafficking.

Several States nevertheless identified positive developments in the international fight against human trafficking, specifically the United Nations Convention against Transnational Organised Crime, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime. Lithuania announced the creation of a new mechanism by the Council of Europe, the European Convention on Action against Trafficking in Human Beings, which aims to implement a comprehensive legal framework for the protection and assistance of both victims and witness of human trafficking. Japan reminded the Commission that some States have established legal frameworks for the protection and assistance of victims and witnesses of human trafficking. Several States, including the USA, remarked that the fight against human trafficking requires a comprehensive legal framework, including the establishment of new mechanisms by the Council of Europe.

At the national level, the Dominican Republic established seminars and conducted special training to prevent smuggling of women. The Government of Thailand has implemented a Prevention and Suppression of Trafficking in Women and Children Act. Ukraine asserted that its legislation provided for the criminalisation of human trafficking and that it is implementing a comprehensive programme from 2002 and 2005 to combat trafficking. Indonesia likewise established a national action plan to eradicate trafficking of women. Numerous States agreed that co-ordinated action at the national, regional and global level is a necessary condition to combat the problem. Sri Lanka and Nigeria called for the nomination of a special rapporteur on human trafficking.

A large number of delegations denounced the increasing feminisation of the HIV/AIDS pandemic. The UNFPA noted that women now constitute half of the infected population and observed that "it is a sad reality that the first instance where women have been able to achieve equality with men is among those infected with HIV/AIDS". The representative of the Joint United Nations Programme on HIV/AIDS (UNAIDS) stressed that women and girls are 2,5 times more likely to become infected with the virus than their male counterparts and noted that systematic gender discrimination impedes on their ability to deal with their own infections. According to the representative, this disproportionate vulnerability of women to HIV/AIDS is due to, inter alia, insufficient knowledge about the virus, inappropriate availability of HIV prevention services and difficulties for women to negotiate the terms of their sexuality. On this matter, Ireland, on behalf of the EU, encouraged the promotion of women's sexual empowerment and the full realisation of their reproductive rights and health. The USA delegation presented itself as the largest donor in the fight against AIDS and reiterated its "unprecedented global leadership and commitment" to this struggle.

The WHO, in addition to integrating gender dimensions into its HIV/AIDS programmes and promoting human rights related to sexual and reproductive health, noted its more general assistance to health workers in developing appropriate health indicators to address gender issues. It is also ensuring the integration of gender considerations into health research via a "resource kit". The UNFPA also committed to implementing reproductive health strategies, which "save and improve lives, slow the spread of HIV/AIDS and encourage equality", and noted that "these in turn help to stabilise population growth and reduce poverty". The UNAIDS announced the recently launched Global Coalition on Women and AIDS to empower women in their struggle against this disease.

Several delegations also discussed the feminisation of poverty and argued that poverty reduction and economic independence are prerequisites to the promotion of women's rights. Sri Lanka and Cuba invoked the lamentable statistic that women make up 70% of the world's poor. Eritrea observed "the empowerment of women is not only an end in itself but also a means for the eradication of poverty". As testimony to its dedication to combating female
poverty, Viet Nam announced its programme of allocating preferential loans and is offering business training to women. Aware of the way in which gender and class conspire to sequester women "at the very bottom of the rights hierarchy", South Africa noted its progressive implementation of labour legislation to achieve equality within the work place. Chile announced the decline of poor women in its country along with measures taken to render paid work and housework compatible. Likewise based on its general belief that gender equality promotes economic growth and poverty reduction, the World Bank recently co-hosted a workshop in Cambodia on "Gender Equality and the Millennium Development Goals" as part of its attempt to breach inequalities between men and women.

Several States openly frowned upon the invocation of cultural practices as a justification for violence against women and reiterated that human rights standards are compatible with every culture. More specifically, the traditional practices of female genital mutilation (FGM) and so-called "crimes of honour" received special condemnation. Several NGOs deplore the practice of FGM and invoked the "zero tolerance for FGM" international day. Japan and the Sudan as well as the UNICEF co-sponsored the "Regional Symposium on the Abolition of Female Genital Mutilation" in Khartoum in August 2003. Nigeria noted that the practice is now outlawed throughout the country. Bangladesh strongly condemned the practices of acid throwing and dowry-related violence. Some NGOs particularly denounced the propensity of honour killing in Pakistan and Iran such as in instances whereby killing occurs when women leave their marriages. However, Germany rightly observed "the global fight against genital mutilation, honour killings, forced marriages and other forms of gender specific persecution is... still far from being won".

3. Resolutions and decisions

A. Resolutions

- **Trafficking in women and girls (2004/45)**

In its Resolution 2004/45, the Commission recalls all previous resolutions on the problem of trafficking and welcomes the entry into force of the United Nations Convention against Transnational Organised Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. The Commission stresses the "urgent need to eliminate all forms of sexual violence and trafficking, including for prostitution" (PP 5) and recognises that "victims of trafficking are particularly exposed to racism, racial discrimination, xenophobia and related intolerance" (PP 6). The resolution recognises that need for "strong political commitment" by all Governments and stresses the need for global approaches to prevent and combat trafficking (PP 9, 10). In its operative paragraphs, the resolution notes with appreciation the work of the Special Rapporteur on the human rights of migrants, which focused attention on the problem of trafficking (OP 1). It furthermore encourages Governments to collaborate with NGOs to "develop and implement programmes, effective counselling, training and reintegration into society of victims of trafficking..." (OP 3). The resolution invites "Governments to consider preventing... victims of trafficking from being prosecuted for their illegal entry or residence..." and urges them to "take appropriate measures to address the root factors, including external factors, that encourage trafficking in persons, especially women and children, in particular girls, for prostitution and other forms of commercialised sex..." (OP 6 and 8). It calls upon Governments to criminalize trafficking "in all its forms" while "ensuring protection and assistance to the victims" and encourages them to "conclude bilateral, regional and international agreements to address the problem..." (OP 10 and 13). The resolution also invites Governments to "encourage Internet service providers to adopt or strengthen self-regulatory measures to promote the responsible use of the Internet with a view to eliminating the trafficking in persons..." and urges them to
"consider establishing mechanisms, where appropriate, in co-operation with the international community to combat the use of the Internet to facilitate trafficking in persons and crimes related to sexual exploitation..." (OP 16 and 17). Finally, the resolution "encourages the business sector, in particular the tourism industry and Internet providers, to develop codes of conduct with a view to preventing trafficking..." (OP 18).

- **Elimination of violence against women (2004/46)**

In a resolution that largely repeats that of previous years, the Commission strongly condemns all acts of violence against women and girls. It repeats the definition of violence against women given last year as "any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women... whether occurring in public or in private life" (OP 2). This definition includes "...domestic violence, crimes committed in the name of honour, crimes committed in the name of passion, trafficking in women and girls, traditional practices harmful to women, including female genital mutilation, early and forced marriages, female infanticide, dowry-related violence and deaths, acid attacks and violence related to commercial sexual exploitation as well as economic exploitation" (ibid.). As with previous years, the resolution stresses, "all forms of violence against women occur within the context of de jure and de facto discrimination against women and the lower status accorded to women in society..." (OP 6). Likewise, the resolution repeats recommendations to States to fulfil their obligations under relevant international instruments, including the Convention and its Optional Protocol. This year’s resolution specifically urges Governments to "strengthen initiatives that would increase the capacities of women and adolescent girls to protect themselves from the risk of HIV infection..." (OP10). The resolution stresses that women "should be empowered to protect themselves against violence and... that women have the right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence" (OP8). It calls upon States to "consider establishing appropriate national mechanisms for monitoring and evaluating implementation of measures taken to eliminate violence against women and girls..." and to co-operate closely along with relevant UN bodies, the Special Rapporteur on violence against women and relevant NGOs "in the preparation of the Secretary-General’s in-depth study on all forms of violence against women" (OP 23).

**Canada** made several oral amendments in introducing the resolution. The delegate amended OP 1 (c) so as to name the relevant "United Nations bodies, funds and programmes". In operative paragraph 7, he added "care" between the two words "health services" to which woman should have comprehensive access. In operative paragraph 17, he deleted "with appreciation" in the phrase "[t]akes note with appreciation of the work already undertaken to implement Security Council resolution 1325 (2000) of 31 October on woman, peace and security, (...)". To operative paragraph 25 he added the phrase "[b]earing in mind the need to develop with full participation of all member States an international consensus on indicators and ways to measure violence against woman and (...)" before the original phrase.

The **USA** proposed two further amendments to be considered separately. Firstly, they demanded the deletion the word "services" in the term "health-care services" of operative paragraph 7, arguing that this wording has been taken to include abortion in various UN fora. Secondly, they requested the deletion of the last part of operative paragraph 18 inasmuch as

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5 The resolution’s list of UN bodies, funds and programmes includes “the United Nations Children’s Fund, the World Health Organisation, the United Nations Population Fund, the United Nations International Research and Training Institute for the Advancement of Woman, and the United Nations Office for the Co-ordination of Humanitarian Affairs".
it calls for the ratification or accession to the Rome Statute of the ICC. They held that it was "up to each State to decide which treaties they will ratify".

Costa Rica explained that it supported the original draft resolution only in the understanding that operative paragraph 7 did not include abortion, which is prohibited under the Costa Rican constitution. In their explanation of vote, Egypt commended the resolution for being a balanced compromise and supported the original version, understanding that "services" did not at all include abortion. Mexico and China were of the same view and therefore supported the Canadian version. India held that the term "health-care services" covered a "much wider array" than did the term "health care" and therefore opposed the amendment. Ireland, on behalf of the EU, regretted the introduction of the two amendments. The delegate argued that the term "health-care services" is widely used and that the amendment would merely serve to weaken the language of the resolution. The EU thus called for separate votes on the two amendments.

The amendment to OP 7 was rejected by 2 in favour of the amendment (Costa Rica and the USA), 50 against, and 1 abstention (Argentina).

The amendment to OP 18 was rejected by 5 in favour (India, Qatar, Saudi Arabia, Togo and the USA), 43 against, and 4 abstentions (Bhutan, China, Sri Lanka and Swaziland). Mauritania did not take part in the vote.

The Commission proceeded to adopt the original draft resolution as amended by Canada without a vote.

In their explanation of vote after the vote, the USA said that they had joined the consensus understanding that "the term 'health services' or 'health care services' in the context of speaking about reproductive health should not be interpreted as including or promoting abortion, abortion services or the use of abortifacients".

B. Decisions

• Integrating the human rights of women throughout the UN system (2004/108)

The Commission replaced Resolution 2003/44 with a one-paragraph decision on integrating the human rights of women throughout the UN system. The text of the decision is as follows:

"At its 55th meeting, on 19 April 2004, the Commission on Human Rights, having regard to the recommendations contained in document E/CN.4/2003/118 to encourage the voluntary biennial or triennial presentation of a significant number of thematic resolutions, decided, without a vote, to consider the issue of integrating the human rights of women throughout the United Nations system on a biennial basis at its sixty-first session, taking into account the outcome of the review and appraisal of gender mainstreaming that will be undertaken at the co-ordination segment of the substantive session of the Economic and Social Council in July 2004, and, accordingly, decides to request the Secretary-General to update his report (E/CN.4/2004/64) submitted under Commission resolution 2003/44 of 23 April 2003".

• Special Rapporteur on trafficking in persons, especially in women and children (2004/110)

The Commission announces in Decision 2004/110 the creation of a Special Rapporteur on trafficking in persons, especially in women and children. The Special Rapporteur will be appointed for three years and will submit annual reports to the Commission, commencing with the 61st session. The decision requests the Special Rapporteur to co-operate fully with other relevant special rapporteurs and invites Governments and international organisations to co-operate fully with the new mechanism.
In its introduction to the decision, Germany invoked the call of the Acting High Commissioner to make a "practical contribution" to the protection of trafficked persons "beyond the adoption of resolutions". By proposing the establishment of a special rapporteur, Germany thus took up this call and wanted to "close a gap" in the existing system.

India accused the Commission of engaging in an unstructured exercise in the proliferation of mechanisms. The delegate referred to operative paragraph 7 of the resolution on "trafficking in woman and girls" (L. 60), which "invites human rights treaty bodies, the special rapporteurs and subsidiary bodies of the Commission, the Office of the High Commissioner, other United Nations bodies and international organisations to continue to address, within their mandates, the problem of trafficking in persons, especially woman and children (...)". With regard to this, he argued that the establishment of a special rapporteur with the subsequent financial implications would be irresponsible.

Nevertheless, the Commission adopted the decision by consensus.

- Harmful traditional practices affecting the health of women and the girl child (2004/111)

The Commission approved the Sub-Commission’s decision to renew the mandate of the Special Rapporteur on harmful traditional practices affecting the health of women and the girl child for a further three years and its request to the Special Rapporteur to submit an updated report to the Sub-Commission’s 56th session.