

occurring at least once; the use of a stun gun on a prisoner already strapped into a restraint chair; placement of a prisoner who was a paraplegic in a wheelchair in an isolation cell for one hour without medical attention despite his request for a catheter to empty his bladder, followed by being strapped into a four-point restraint chair, with his arms padlocked and his legs in metal shackles after he had called for medical help; and, death in prison as a result of asphyxia, when detention officers who had intervened because of the prisoner's alleged disruptive behaviour tried to overcome his resistance.

**Toxic wastes and products, Special Rapporteur on:** (E/CN.4/1998/10, paras. 54, 62; E/CN.4/1998/10/Add.1, section "Comments received from states")

The report notes that among the countries of the Organization for Economic Cooperation and Development (OECD) the United States is one of the biggest waste exporters, with legal exports being conducted under recycling programmes. The report states that half of U.S. exports through recycling go to Latin America.

The government's response to information included in the Special Rapporteur's (SR) report to the 1997 Commission (E/CN.4/1997/19) noted, *inter alia*: the U.S. has stringent laws regarding the management and disposal of hazardous wastes and the transboundary movement of these wastes and has long supported the underlying principles of the Basel Convention; most of the allegations contained in the SR's report did not fall within the mandate as established by the Commission; the vast majority of cases mentioned had nothing to do with illicit trafficking and dumping of hazardous wastes; these include alleged cases involving operations in Indonesia, Papua New Guinea, Burma, Peru and Nigeria; in addition to exceeding the mandate, these cases involve issues that are matters of local jurisdiction, questions for local authorities or domestic business arrangements established under, and subject to, local regulations; the allegation regarding the placement of hazardous wastes within the U.S., based on socio-economic and racial factors, touches on an issue of great importance domestically, but is likewise clearly beyond the scope of the mandate, in particular given that the U.S. is not a developing country; the alleged export of pesticide is similarly beyond the mandate because it deals with goods in commerce, not with hazardous wastes; the issue of the export of banned or restricted chemicals and pesticides is an important issue and is being addressed in the ongoing negotiations on a convention for prior informed consent on the trade in certain toxic chemicals and pesticides, not within the Basel Convention, because this substance is not waste; exports of battery scrap to the Philippines were undertaken under provisions in U.S. law which allow the proper export of certain battery scrap for recycling operations and the U.S. supports environmentally sound recycling programmes; no information was provided in the SR's report regarding the types of hazardous wastes that are alleged to have been exported to Bharat Zinc in India; with regard to exports of "waste paper" to

Argentina, the U.S. does not restrict the proper export of waste paper for recycling and, in fact, supports environmentally sound paper recycling programmes that reduce the demand for new raw materials from forests; and, with regard to illegal dumping of wastes in Mexico, any legal trade in hazardous wastes between the U.S. and Mexico is governed under a bilateral hazardous waste agreement and any allegations of illegal waste dumping are addressed through bilateral cooperation mechanisms between American and Mexican environmental officials.

**Violence against women, Special Rapporteur on:** (E/CN.4/1998/54, Sections I.A, II.E, III.B)

The report refers to the case of a Korean woman who was sexually tortured and murdered by a private serving in the U.S. Army stationed in South Korea. The report notes that the Korean Supreme Court sentenced the soldier to 15 years' imprisonment and states that this and other cases in, and involving nationals of, other countries illustrates the need for the international community to deal with the issue of abuses committed by foreign military personnel in a more systematic manner, especially if there continues to be a need for international peacekeepers.

The section of the report dealing with custodial violence and national measures to address the problem notes that in the U.S. sexual abuse of one inmate by another constitutes a federal criminal violation of civil rights, if it can be proved that the inmate's actions were taken with approval or encouragement of a law enforcement officer.

With regard to violence and persecution as grounds for seeking asylum, the report refers to the U.S. "Guidelines on Gender Issues in Asylum Claims" which recognize a variety of forms of gender-related persecution and sexual violence including: sexual abuse, rape, infanticide, female genital mutilation, forced marriage, slavery, domestic violence and forced abortion. Two cases noted in the report. The first involved the granting of asylum to a woman from Sierra Leone following the provision of independent evidence which demonstrated that violence against women, especially wife beating, is common, disobedience on the part of a wife is considered a justification for punitive measures by the husband, police are unlikely to intervene except in cases of severe injury or death, and few cases of violence go to court. The second related to the denial of asylum to a woman from Iran who had based her claim on persecution because of her membership in a particular social group and her political opinion, viz. being forced to submit to the traditional Muslim view of a woman's proper role within society, including wearing the chador or veil while in public, and asserting that discriminatory treatment of women in Iran was in direct conflict with her belief in freedom of expression and equality of the sexes. The claim was denied on the basis that the administrative record did not establish that Iranian feminists are generally subject to treatment so harsh as to qualify as persecution.