

Reservations and Declarations: Articles 4 and 7; paragraph 1 and subparagraphs (1) (c) and (d) of article 2; subparagraphs (1) (c) and (d) of articles 3 and article 5; article 22.

Discrimination against Women

Signed: 17 July 1980.

Torture

Signed: 18 April 1988; ratified: 21 October 1994.

The U.S.'s initial report was due 19 November 1995.

Reservations and Declarations: Articles 1, 3, 10, 11, 12, 13, 14 and 16; paragraph 1 of article 30; paragraph 1 of article 21.

Rights of the Child

Signed: 16 February 1995.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on:

(E/CN.4/1998/44, paras. 4, 5, 8, 19; E/CN.4/1998/44/Add.1, Opinion No. 6/1997)

The main report notes that various communications and appeals were sent to the government and that responses had been received. No details of the cases were provided.

Opinion No. 6/1997 related to a case referred to the government in 1996 and 1997, involving two individuals, Cuban nationals, who were allegedly deprived of their freedom for more than 10 years. The source further alleged that the two were being held because they are Cuban nationals, and stated that neither of them had been convicted for having committed a crime or a felony. The Working Group decided that the detentions were without legal basis on the ground that neither individual was brought to trial and no formal charges were laid.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 17, 20, 27, 60, 85, 87, 89, 91, 92; E/CN.4/1998/68/Add.1, paras. 413-418)

The report notes a number of cases that were transmitted to the government arising out of concerns related to the imposition and execution of the death penalty and possible failings in fully guaranteeing the right to a fair trial. One case involved a minor, a South African national, who was facing the death penalty in Mississippi; the government replied that the boy was no longer facing execution and had been sentenced to 35 years in prison for carjacking and accessory after the fact to murder. The Special Rapporteur (SR) also referred to information indicating that in the U.S. more than 60 foreign nationals have been sentenced to death without having been informed of their right under the Vienna Convention to receive assistance from their consulate.

The 11 urgent appeals that were transmitted concerned death sentences imposed in Arizona (1), Georgia (1), Mississippi (1), Missouri (3), Oregon (1), Texas (2) and Virginia (2). The individuals facing the death penalty reportedly were sentenced: after a trial that fell short of international fair trial standards, including the lack of adequate defence; without resort to the right to lodge a legal or clemency appeal; despite mental retardation; and despite being under 18 years of age at the time the crime was committed. The SR noted that seven persons on whose behalf appeals had previously been sent had been subsequently executed.

The government's reply to the SR's communications described the legal safeguards provided to defendants in criminal cases and, in particular, those specific to capital cases. On specific cases the government informed the SR that: a stay of execution had been granted to enable the courts to review the case and not on the basis of a claim of innocence which had been rejected by all 14 judges who had reviewed the case, noting that DNA testing had, in fact, shown a match between the victim's blood and the person charged with and convicted of the murder; execution was postponed indefinitely pending a hearing on the person's petition stating that he is incompetent to be executed; and, the person convicted had been executed as scheduled but not before an automatic appeal to the state Supreme Court had been concluded; the person convicted had been executed. With regard to the claim respecting the Vienna Convention on Consular Relations, the government stated that the Federal District Court Judge and the Federal Appeals Court found that the claim was barred by a failure ever to have raised the claim in state court and noted that the individual had pleaded guilty to murder and was represented by competent, retained counsel throughout the trial proceedings. The information provided by the government to previously transmitted cases indicated that the cases were under investigation by the Department of Justice, under investigation by the U.S. Attorney's Office in New York, and/or under investigation by the Civil Rights Division of the Department of Justice.

The SR visited the United States from 21 September to 8 October 1997 in response to persistent reports suggesting that the guarantees and safeguards set out in international instruments relating to fair trial procedures and specific restrictions on the death penalty were not being fully observed. The SR had also received information concerning discriminatory and arbitrary use of the death penalty, lack of adequate defence during trial and appeal procedures, executions of juveniles and mentally retarded persons, extension of the scope, and reintroduction of, death penalty statutes in several states, and deaths in custody or due to excessive use of force by law enforcement officials.

The report of the visit (E/CN.4/1998/68/Add.3) contains information on, *inter alia*: limitations set out in the International Covenant on Civil and Political Rights (ICCPR) on the imposition of the death penalty; reservations to the ICCPR by the United States and the position