

- ♦ with regard to native title, uniformity be ensured in legislation at the federal and state levels related to protection of land and sacred sites as well as the return of religious objects and the preservation of cultural heritage; and that legislation fully guarantee that Aboriginals participate and share in decision-making on an equal footing with the authorities concerned;
- ♦ encouragement be given to other states, in which museums hold objects belonging to the Aboriginals' cultural and religious heritage, to cooperate by removing any political, legislative or other obstacle to the return of the objects as quickly as possible; and
- ♦ the private sector, particularly employers, apply the principle of positive discrimination in the same way as the government to ensure that Aboriginals are no longer an excluded community and enjoy rights, particularly economic, social, and cultural rights.

Sale of children, child prostitution, child pornography, Special Rapporteur on the:

(E/CN.4/1998/101, paras. 9, 74, 98, 134)

The report refers to several cases related to suicide and attempted suicide by men who were investigated by child protection authorities in relation to allegations of child abuse. Information indicated that computer records allegedly containing child pornography had been seized in raids and a juvenile had been taken from the care of one of the men under investigation. Commentary on the media and the rights of the defendant refers to the fact that there had been criticism of the intense media coverage of the recent widespread investigations into paedophilia in Australia and that the rights to fair trial and presumption of innocence must be respected.

In the section addressing the child as viewer of sexually explicit material on the Internet and the question of self-regulation by the industry, the report notes that the Australian Broadcasting Authority (ABA), a statutory body, has produced a report supporting a code of conduct established by private industry, subject to registration with a public authority. The ABA has recommended that industry codes of practice be developed by on-line service providers and that infringement of the code should lead to a public hearing. The ABA also expressed the view that it should have a monitoring role in relation to codes of practice for service providers.

On the issue of education as a catalyst in such areas as child labour, child prostitution and HIV/AIDS, the report notes that a first school-based Child Sexual Abuse Prevention Program has been implemented, covering such topics as the human body, early warning signs and trust, "OK" and "not OK touching" and self-esteem.

Toxic wastes and products, Special Rapporteur

on: (E/CN.4/1998/10, paras. 12, 21, 54, 62 E/CN.4/1998/10/Add.1, paras. 2, section "Comments received from States")

The main report refers to information provided by the government related to amendments to the Hazardous

Waste Act which came into force in December 1996. Under the amended Act, there are substantially increased penalties for illegal trade in hazardous waste with maximum fines increased to A\$1 million and providing for executive officers being held personally liable for contraventions of the Act by their companies. The report notes that, among the countries of the Organization for Economic Cooperation and Development (OECD), Australia is one of the largest waste exporters, including under recycling programmes.

The addendum to the main report provides the government's response to information in the Special Rapporteur's (SR) 1997 report on several cases. In the first, related to the operation of a copper mine in Bougainville, the government stated that the subject went well beyond the SR's mandate and the allegation related to events which allegedly took place, but were too dated to be a relevant factor for consideration by the Commission. In the second, regarding the export of various scrap materials to the Philippines, the government denied that the practice of burning off plastic from copper wire was used and noted that there is a current debate as to whether plastic coated cable is generally considered a hazardous waste under the Basel Convention. In the third, related to export of used lead acid batteries to the Philippines, the government noted that the exports had taken place at a time when the Australian government had no jurisdiction over exports of used lead acid batteries. The government noted that a law had been enacted in 1996 to guard against the possibility of illegal traffic in hazardous wastes and, further, stated that since December 1996, all exporters of hazardous waste have been required to obtain a permit from the Federal Minister for the Environment prior to shipping. A permit can only be issued after the consent of the importing country has been obtained and only if the Environment Minister is satisfied that the wastes will be managed in an environmentally sound manner.

Violence against women, Special Rapporteur

on: (E/CN.4/1998/54, section III.B)

The report refers to guidelines governing asylum claims which specify that rape and other forms of sexual assault are acts which inflict severe mental and/or physical pain and suffering and, as such, clearly come within the bounds of torture as defined by the Convention against Torture. The guidelines also establish that sexual violence amounts to a violation of the prohibition against cruel, inhuman or degrading treatment, the security of person and, in some instances, the right to life as set out in a variety of instruments.

With regard to traditional practices as a basis for asylum on the grounds of persecution, the report cites a case in which the Australian Refugee Review Tribunal denied refugee status to a woman who had refused an arranged marriage and had been assaulted and raped by the suitor as a result. The Tribunal concluded that: the rape did not occur for a reason recognized under the Convention on the status of refugees but was a criminal act by an individual; there had not been a systematic failure of state