

who were 16 or 17 years of age at the time of the offence; the Supreme Court has held the imposition of capital punishment upon persons who were 15 years of age when they committed the offence to be unconstitutional; four of the nine Justices hearing the case establishing a lower threshold of 16 years dissented, contending that execution of an offender under 18 years of age is disproportionate and unconstitutional; 12 states have declined to impose capital punishment on persons 17 years of age or younger, and 15 declined to impose it on 16-year-olds; the execution of criminals who were 16 or 17 years old at the time they committed serious crimes resulting in death is rare.

Information further indicated, *inter alia*, that: both federal and state law provide significant protection against the trial, conviction, and punishment of individuals with significant mental infirmities or disabilities; the law prohibits the execution of individuals determined to be legally insane; in many, but not all, states the defendant cannot be held responsible if he or she reacted to an "irresistible impulse" or is incapable of acting responsibly by reason of mental or emotional disability; on the basis that not all people with mental disabilities are legally insane, some persons with mental disabilities have been found legally capable of resisting impulses and acting responsibly; no one, including persons with mental disabilities, can be forced to stand trial unless they are mentally competent; the legal standard for competence, together with the bar on the prosecution of the insane and the other defences, limit significantly the prosecution of persons with mental disabilities; and, the execution of persons with mental disabilities who are judged competent to stand trial for capital offences is very rare, because many states regard mental disability as an important mitigating factor to be considered during sentencing.

**Mercenaries, Special Rapporteur on the use of:**  
(E/CN.4/1998/31, paras. 20, 22)

The report refers to an official communication from Cuba related to the detention of a Salvadoran citizen who had reportedly been trained in the United States and who had admitted to being a mercenary and the perpetrator of various attacks on hotel and tourist facilities in Cuba. The report notes that the Special Rapporteur requested information from the U.S. government about any investigations being carried out, particularly in Florida, to determine to what extent groups opposed to the Cuban government might be responsible for the commission of illegal acts against Cuba.

The response of the government is contained in the addendum to the main report (E/CN.4/1998/31/Add.1, paras. 1–2) and states, *inter alia*: the U.S. does not support violence as a means of achieving political change, and does not support organizations that advocate violence; the government strongly condemned the bombings of hotels in Havana and will continue to condemn

the use of terrorism; with regard to Cuban groups in the U.S. and, specifically, the Cuban American National Foundation (CANF), the government did not have any information substantiating the alleged links between groups based in the U.S. and the bombings in Cuba; on at least six occasions, via diplomatic channels and in meetings, the government had officially asked the Cuban government to provide any information or evidence it has to substantiate allegations that such groups or individuals are responsible for the bombings and given assurances that it will investigate such charges as the evidence warrants; the Cuban government has refused to provide the evidence it claims to have in its possession to support its allegations; and, when warranted, the government has investigated cases for which the Cuban Government may have provided substantive information and evidence.

**Racism and racial discrimination, Special Rapporteur on:** (E/CN.4/1998/79, paras. 20, 33, 53, 107, 113–117)

The report notes that in the U.S., despite progress achieved owing to "affirmative action", inequalities between Whites and Blacks were still very pronounced in structural, economic, social, and cultural respects.

The report refers to the President's initiative on race, "One America in the 21st Century", announced in June 1997. The goals of the initiative are noted as including to: articulate the President's vision of racial reconciliation and a just, unified America; educate the nation about the facts surrounding the issue of race; promote a constructive dialogue to confront and work through the difficult and controversial issues surrounding race; recruit and encourage leadership at all levels to help bridge racial divides; and, find, develop, and implement solutions in such critical areas as education, economic opportunity, housing, health care, crime and the administration of justice. The elements of the initiative were: the establishment of a diverse seven-member advisory board to examine the current state of racial discrimination and recommend appropriate corrective measures to the President; a nationwide campaign by the President to raise public awareness; outreach to community leaders, businessmen, state and local officials, members of Congress, business leaders and individuals, encouraging them to become involved in reconciliation and community building projects; and a President's Report to the nation on the status of the race issue. The President's Report was to: include an assessment of the growing diversity of the nation and the results of the President's consultations with the Advisory Board; reflect the work done during the first year of implementation of the initiative; report on how the nation has evolved on the issue of race over the last 30 years; and make recommendations and propose solutions enabling individuals, communities, businesses, organizations and government to address difficult issues and to create a society built on a sounder basis. [Note: the President's Report was issued at the end of September 1998.]