

EXECUTIONS, THE DEATH PENALTY, AND IMPUNITY

Special Rapporteur on extrajudicial, summary or arbitrary execution (E/CN.4/1998/68; E/CN.4/1998/68/Add.1)

The mandate of the Special Rapporteur (SR) on extrajudicial, summary or arbitrary execution was established in 1982. In 1998, the SR was Mr. Bacré W. Ndiaye. The mandate currently set out the following tasks for the SR: respond effectively to information received; enhance further the dialogue with governments; continue monitoring the implementation of existing international standards on safeguards and restrictions relating to the imposition of capital punishment; apply a gender perspective in the work; and pay special attention to violations of the right to life of children, participants in demonstrations or other public manifestations, persons belonging to ethnic minorities, and individuals carrying out peaceful activities in defence of human rights and fundamental freedoms.

On that basis, the SR's main report to the 1998 Commission (E/CN.4/1998/68) contains information on, *inter alia*: capital punishment, death threats, deaths in custody, deaths due to excessive use of force by law enforcement officials, deaths due to attacks or killings by security forces, paramilitary groups or private forces cooperating with or tolerated by the state, violations of the right to life during armed conflicts, expulsion, refoulement or return of persons to a country or place where their lives are in danger, genocide, deaths due to acts of omission, and the rights of victims; violations of the right to life of women; violations of the right to life of minors; the right to life and mass exoduses; violations of the right to life of individuals carrying out peaceful activities in defence of human rights and fundamental freedoms; violations of the right to life of persons exercising their right to freedom of opinion and expression; the right to life and the administration of justice; violations of the right to life of persons belonging to national, ethnic, religious or linguistic minorities; violations of the right to life and terrorism; violations of the right to life of individuals who have cooperated with representatives of UN human rights bodies (reprisals); and, impunity. The addendum to the main report (E/CN.4/1998/68/Add.1) contains summary comments on individual cases and incidents and any reply or replies received from the governments concerned.

The context in which the issues are considered is set with the note that, since the report is based exclusively on information received by the SR in 1995, 1996 and 1997, it is only approximate in terms of indicating the occurrence of violations of the right to life worldwide. The violations of the right to life upon which action is taken are defined as:

- the death penalty: when capital punishment is

imposed after an unfair trial or in the case of a breach of the right to appeal or the right to seek pardon or commutation of the sentence; when capital punishment is imposed for crimes which cannot be considered "most serious crimes"; if the convicted person is a minor, mentally retarded or insane, a pregnant woman or a recent mother;

- ♦ death threats and fear of imminent extrajudicial executions by state officials, paramilitary groups, private individuals or groups cooperating with or tolerated by the government, as well as by unidentified persons who may be linked to the one of these categories;
- ♦ deaths in custody as a result of torture, neglect or the use of force, or life-threatening conditions of detention;
- ♦ deaths due to the use of force by law enforcement officials, or persons acting in direct or indirect compliance with the state, when the use of force is inconsistent with the criteria of absolute necessity and proportionality;
- ♦ deaths due to attacks or killings by state security forces or by paramilitary groups, death squads or other private forces cooperating with or tolerated by the state;
- ♦ violations of the right to life during armed conflicts, especially of the civilian population and other non-combatants, contrary to international humanitarian law;
- ♦ expulsion, refoulement or return of persons to a country or a place where their lives are in danger, as well as the prevention of persons seeking asylum from leaving a country where their lives are in danger through the closure of national borders;
- ♦ genocide;
- ♦ deaths due to acts of omission on the part of the authorities, including mob killings; instances in which the state fails to take positive measures of a preventive and protective nature necessary to ensure the right to life of any person under its jurisdiction;
- ♦ breach of the obligation to investigate alleged violations of the right to life and to bring those responsible to justice; and
- ♦ breach of the obligation to provide adequate compensation to victims of violations of the right to life.

The report notes that 122 urgent appeals, on behalf of 3,729 persons — individuals and groups — were transmitted to 44 governments, the Palestinian Authority and the head of the Taliban Council. Under standard communications procedures, additional cases were sent, on behalf of nearly 1,000 individuals, to 48 governments as well as the Palestinian Authority, the head of the Taliban Council and the leader of the Turkish Cypriot community.