

glers. The SR welcomed reports that British Columbia's Ministry of Children and Families is working with the police and immigration officials to find ways to repatriate the children, but expressed concern that any decision regarding the children must reflect their best interests and in no way define them as criminals.

#### **Toxic wastes and products, Special Rapporteur**

**on:** (E/CN.4/1998/10, para. 62)

The report refers to the high cost of disposal or recycling operations in the countries where wastes are generated and notes that this has led to a proliferation of programmes involving the so-called "legal" exporting of wastes for "recycling". The report notes that among OECD countries Canada is one of the largest exporters of such products.

#### **Violence against women, Special Rapporteur**

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

The report notes that in 1996, Canada reissued its 1993 "Gender Guidelines for Asylum Adjudications", through which Canada became the first government to recognize formally that a woman fleeing persecution on gender-specific grounds can claim "fear of persecution on account of her membership in a particular social group". The Special Rapporteur (SR) stated that the Canadian experience has shown that female claimants generally fall into four main categories, namely those who fear persecution: on the same basis as men, or because of their kinship and/or family relations, or because of a failure to conform to social mores and cultural norms, or because of violence committed against them due to their gender. The SR noted that the Supreme Court has incorporated the "gender" element in its reinterpretation of "social group", describing it as a section of society "defined by an innate or unchangeable characteristic" such as "gender, linguistic background or sexual orientation".

The report cites a case that was heard in the Federal Court of Appeal (*Mazers v. Canadian Minister of Employment and Immigration*) involving a group of Trinidadian women who were victims of domestic violence and had sought asylum. On appeal, the judge in the case stated that a "particular social group" means a natural or non-natural group of persons with similar shared background, habits, social status, political outlook, education, values, aspirations, history, economic activity or interests contrary to those of the prevailing government, and sharing basic, innate, unalterable characteristics, consciousness and solidarity. The report also refers to a refugee claimant who feared forcible sterilization if returned to China. The dissenting opinion rendered in the case on appeal found that forced sterilization could be considered persecution in that "it is utterly beyond dispute that forced sterilization is in essence an inhuman and degrading treatment involving body mutilation and constitutes the very type of fundamental violation of basic human rights that is the concern of refugee law."

The SR cited a third case in which a Chinese national had been employed as a birth control officer for three years in his commune. On four occasions he participated with

other officers in seeking out women who had violated the one-child policy imposed by the government, tying the women up and taking them to the hospital where they were forcibly aborted or sterilized. He testified that he was aware of all the methods used to implement the one child policy in his commune, including forcible abortion on women in advanced stages of pregnancy, and the killing by injection of fetuses born alive. The claimant was excluded from being granted asylum in Canada under article 1 F (a) of the 1951 Convention on the Status of Refugees, on the basis that the claimant had been an active participant in persecutory acts amounting to crimes against humanity. It was undisputed that the claimant was an accomplice to crimes against humanity as he was a knowing member of a birth control unit whose objective was to implement birth control policies, including forcible abortion and sterilization. The Federal Court of Canada denied leave for judicial review of this decision.



## DENMARK

**Date of admission to UN:** 24 October 1945.

### TREATIES: RATIFICATIONS AND RESERVATIONS

**Land and People:** Denmark has submitted a core document (HRI/CORE/1/Add.58) for use by the treaty bodies. The report prepared by the government contains demographic and statistical data as well as information on the system of government, the court system, jurisdictions related to human rights, remedies, compensation and rehabilitation, and human rights guaranteed in the constitution and law.

The Constitution establishes the framework for the protection of civil, cultural, economic, political and social rights. The basic assumption of equality is the major principle in all spheres of law. The Equal Status Council was established in 1978 to promote equality between women and men and to examine circumstances either on its own initiative or in response to applications from individuals relating to equality. However, the Council has no power to sanction discrimination. The Act on the Prohibition of Differential Treatment on the Grounds of Race 1971 is aimed at eliminating all forms of racial discrimination and the Criminal Code has been amended to prohibit statements or the communication of information that threatens, insults or degrades a group of people on account of race, colour, national or ethnic origin, religion or sexual orientation. The Board of Ethnic Equality Act 1993 established a mechanism to combat unequal treatment in all its aspects and to ensure that all ethnic groups in society are given equal opportunities. International human rights treaties are not automatically incorporated into domestic law but provisions of these conventions are applicable before the courts and administrative authori-