

vention, particularly with regard to participation in illegal and prohibited organizations.

The Committee recommended that the government, *inter alia*:

- ♦ ensure that future constitutional amendments include a clear repudiation of racial discrimination;
- ♦ give serious consideration to the enactment of a comprehensive law banning discrimination based on race, colour, descent, or national or ethnic origin;
- ♦ review those elements of the current immigration policy which classify foreigners on the basis of their national origin, and reconsider the reservation made to article 2, paragraph 1 (a), of the Convention;
- ♦ monitor all tensions which may give rise to racial segregation and work for the eradication of any negative consequences that ensue;
- ♦ take the necessary steps to implement article 4 (b) of the Convention and include, in the next report, information on complaints of discrimination under article 4, actions taken by prosecution authorities and by the competent courts as well as, where appropriate, on reparation granted to victims; and
- ♦ provide adequate resources to the Federal Commission against Racism to enable it to carry out its tasks effectively and support other organizations and institutions concerned with race relations.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Independence of judges and lawyers, Special Rapporteur on the: (E/CN.4/1998/39, paras. 18, 19, 160–162, 186)

The report refers to a June 1997 communication, sent with the Special Rapporteur on torture, related to the case of a Nigerian lawyer, human rights activist and the Executive Director of the Lagos-based Constitutional Rights Project, who was arrested in Geneva April 1997 and detained for five days incommunicado. The lawyer was in Geneva to attend the 53rd session of the Commission on Human Rights and was arrested on suspicion of shoplifting. Information indicated that he was severely beaten and kicked during and after arrest, denied the right to obtain counsel of his choice, made to sign the record of the proceedings before the examining magistrate without the presence of counsel, compelled to sign this document despite the fact that he was unable to read it because it was in French, and tried, convicted, and sentenced without a lawyer to defend him in what appeared to be a trial not open to the public. The lawyer was convicted of theft and sentenced to 20 days' imprisonment and ordered to be expelled from the country. The sentence was suspended.

The government replied stating: the regrets of Swiss authorities, as well as the police, were conveyed to the victim; the Minister in charge of Geneva's Department of Justice, Police and Transports immediately set up an administrative inquiry into the treatment received while in police custody; upon receiving the conclusions of the inquiry, the Minister sent a letter to the lawyer requesting him to accept the apologies of the government and informing him that appropriate measures would be taken against the members of the police concerned, and the lawyer could commence civil proceedings against the state for damages. Additional information provided by the government noted that an appeal court had acquitted the lawyer of the charge of theft but convicted him of the charge of resisting arrest in a public place. The administrative inquiry concluded, however, that the treatment administered by the police was not in conformity with acceptable principles of police behaviour. The government drew attention to the fact that disciplinary actions would be taken against the four police officers involved in the case.

The Special Rapporteur (SR) acknowledged the information provided by the government and welcomed the positive steps taken in the case. The SR noted, however, that no information was provided with regard to the alleged lack of independence of the tribunal which convicted the lawyer in defiance of the principles of due process. Reference was also made to the fact that the appeal court had set aside the conviction of theft but had found it fit to convict on the charge of resisting arrest for an offence which was never committed in law. The SR recommended that the government offer the victim adequate compensation, thereby avoiding protracted civil litigation in the Swiss courts and the resultant costs and expense.

Racism and racial discrimination, Special Rapporteur on: (E/CN.4/1998/79, para. 50)

The report refers to an addition to the Penal Code, article 261 bis, that forbids all racist propaganda, including by electronic means. The report also notes that in October 1997, the government adopted a bill on liability arising from the use of the Internet.

Religious intolerance, Special Rapporteur: (E/CN.4/1998/6, paras. 48, 50, 59, 69, 89)

The report refers to violations of freedom of religion and belief against the Church of Scientology, noting that state schools in some cantons are said to have courses on the Church of Scientology in which it is described as a sect. The report notes that parents who are members of Scientology have tried to institute private education, but have been refused permission to establish a private school.

In its reply, the government provided a clear and careful review of cantonal and federal court decisions which demonstrated that the members of the Church of Scientology were not treated in a discriminatory manner in comparison with other religious communities, particularly in the area of public and private education. The gov-