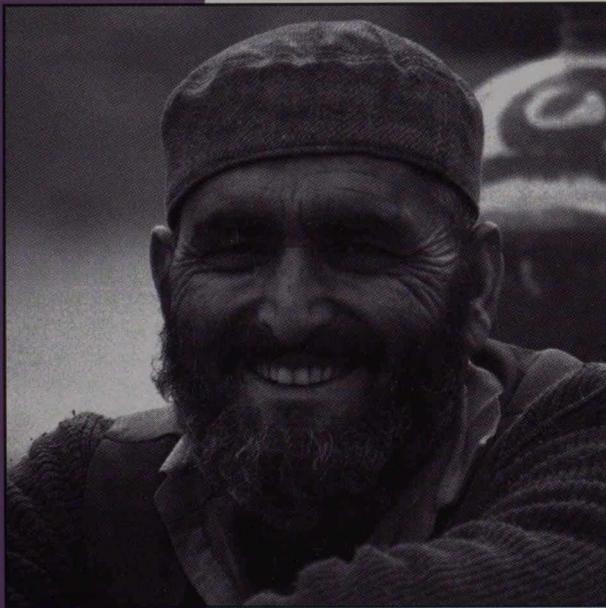


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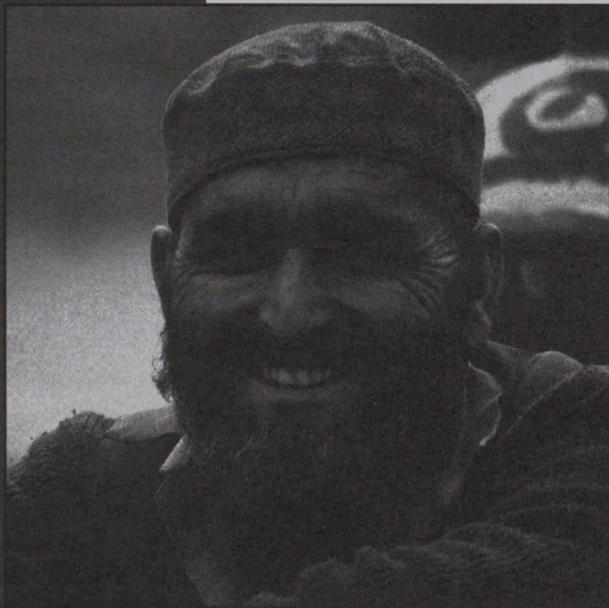
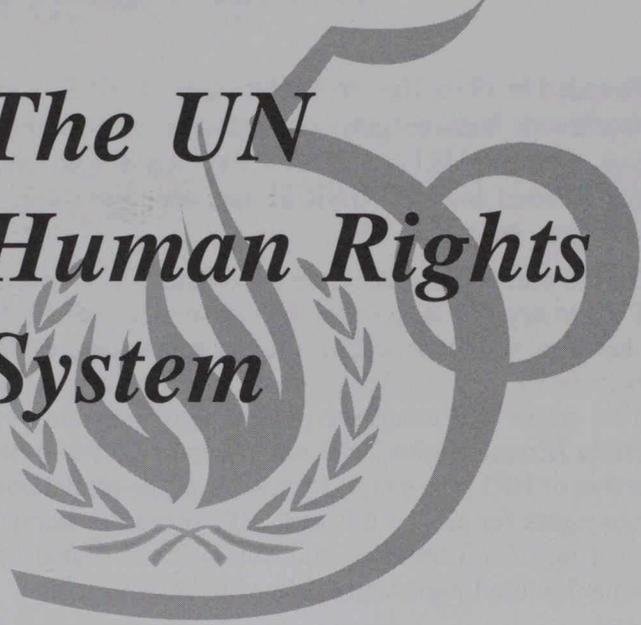
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Human Rights Internet (HRI)

Founded in 1976, Human Rights Internet (HRI) is a world leader in the exchange of information within the worldwide human rights community. An international non-governmental organization (NGO) based in Ottawa, Canada, HRI has consultative status with the Economic and Social Council (ECOSOC) of the United Nations and with UNICEF and observer status with the African Commission on Human and Peoples' Rights.

On the premise that accurate information is a precondition for the effective protection of human rights, HRI's primary role is to serve the information needs of international scholars, human rights activists, asylum lawyers, and other organizations via an extensive documentation centre, computerized databases, and a Website on the internet. HRI also serves the information needs of the international human rights community with an active and extensive publications program, which includes regular publications (such as HRI's quarterly *Human Rights Tribune*), human rights directories, and special or occasional publications. A key objective of HRI is to support the work of the global non-governmental community in its struggle to obtain human rights for all. To this end, HRI promotes human rights education, stimulates research, encourages the sharing of information, and builds international solidarity among those committed to the principles enshrined in the International Bill of Human Rights.

This report was produced by Human Rights Internet (HRI) in partnership with the Human Rights Division of the Department of Foreign Affairs and International Trade, Ottawa, Canada. The International Advisory Committee which assisted in the production of this report included: Peter Burns, Professor of Law at the University of British Columbia, a member of the UN Committee against Torture; Jane Connors, Chief of the Women's Rights Unit of the UN Division for the Advancement of Women; Osamu Shiraishi, Office of the UN High Commissioner for Human Rights; and Nicole Rivard-Royer, Policy Branch, Canadian International Development Agency (CIDA).

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GLOSSARY OF ACRONYMS

CAT	Committee Against Torture
CCPR	Committee on Civil and Political Rights, also known as the Human Rights Committee (HRC)
CEDAW	Committee on the Elimination of Discrimination Against Women
CERD	Committee on the Elimination of Racial Discrimination
CESCR	Committee on Economic, Social and Cultural Rights
CHR	Commission on Human Rights
CRC	Committee on the Rights of the Child
DAW	Division for the Advancement of Women
CSW	Commission on the Status of Women
ECOSOC	Economic and Social Council
GA	General Assembly
HRC	Human Rights Committee, also known as the Committee on Civil and Political Rights (CCPR)
ICJ	International Court of Justice
SC	Security Council
S-G	Secretary-General
SR	Special Rapporteur
Spec Rep	Special Representative
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNHCHR	United Nations High Commissioner for Human Rights
UNHCR	United Nations High Commissioner for Refugees
WG	Working Group

AFGHANISTAN

Date of admission to UN: 19 November 1946.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Afghanistan has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Acceded: 24 January 1983.

Afghanistan's second periodic report was due 30 June 1995.
Reservations and Declarations: Paragraphs 1 and 3 of article 26.

Civil and Political Rights

Acceded: 24 January 1983.

Afghanistan's third periodic report was due 23 April 1994.
Reservations and Declarations: Paragraphs 1 and 3 of article 48.

Racial Discrimination

Acceded: 6 July 1983.

Afghanistan's second through seventh periodic reports were due 8 May 1986, 1988, 1990, 1992, 1994 and 1996 respectively.

Reservations and Declarations: Articles 17, 18 and 22.

At its March 1997 meeting, the Committee considered the situation and reporting status of Afghanistan in the absence of a report by the government. In its concluding observations (CERD/C/50/Misc.4/Rev.1), the Committee expressed regret that no report had been submitted since 1984 and that the government had not responded to the invitation to participate in the meeting. It also expressed concern that the lack of an effective central authority in Afghanistan was hindering implementation of the Convention. The Committee decided to send a communication to authorities setting out reporting obligations and urging Afghanistan to resume a dialogue as soon as possible. The Committee suggested that the government avail itself of the technical assistance offered by the Office of the High Commissioner for Human Rights so that it could prepare and submit as soon as possible an updated report.

Discrimination against Women

Signed: 14 August 1980.

Torture

Signed: 4 February 1985; ratified: 1 April 1987.

Afghanistan's second and third periodic reports were due 25 June 1992 and 1996 respectively.

Reservations and Declarations: Articles 20 and 30.

Rights of the Child

Signed: 27 September 1990; ratified: 28 March 1994.

Afghanistan's initial report was due 26 April 1996.

Reservations and Declarations: General reservation.

COMMISSION ON HUMAN RIGHTS

Special Rapporteur on Afghanistan

A Special Rapporteur (SR) was first appointed to examine the human rights situation in Afghanistan in 1984 by the Chairman of the Commission on Human Rights, who had

been requested to do so by the ECOSOC. Since then, the mandate has been renewed regularly in resolutions by the Commission, confirmed by ECOSOC, in which the SR was requested to submit reports to the Commission and General Assembly. Mr. Choon-Hyun Paik was the Special Rapporteur during 1997.

The SR's 1997 report to the CHR (E/CN.4/1997/59) reflects the situation in Afghanistan after 27 September 1996. The summary narrative in the report was drawn in part from information received by the SR during visits he made to Pakistan and Afghanistan from 6 to 13 January 1997. The SR noted that, when he completed his report (dated 20 February 1997), the Taliban movement controlled roughly three quarters of the country while the remainder (mostly in the north) was controlled by members of the alliance comprising the Supreme Council for the Defence of Afghanistan.

According to the report, immediately after the Taliban assumed control, it made a number of statements to the effect that: the new Taliban government would be neither parliamentary nor presidential, but Islamic; a caretaker government would precede the establishment of a representative government to be elected by the Afghan people; Islamic law would be strictly enforced; all important decisions concerning areas under the control of the Taliban would continue to be made by their Supreme Council in Kandahar; and, the Amri Bel Maroof Wa Nai Az Munkar, i.e., the "Department for enforcement of right Islamic way and prevention of evils" (the religious police) had been established and empowered to mete out summary justice.

In his general observations, the SR stated that: Afghanistan continues not to have a legitimate, effective and functioning central government; a functioning independent, impartial and unified judicial system; a constitution; institutions of civil society; rule of law; accountability for human rights violations and mechanisms to provide redress to the victims. The report referred to the state of civil war and noted that local, especially tribal customs appear to prevail. The economy is virtually non-existent, unemployment has been rising steadily; inflation has been soaring and almost half of Afghanistan's housing stock has been damaged or destroyed along with the economic infrastructure. The Taliban movement does not appear to see itself bound by the international standards of human rights to which Afghanistan is a party, and the enjoyment of a number of fundamental human rights and freedoms is severely curtailed throughout the country.

Addressing specific human rights problems, the SR commented on individual cases and incidents relating to such violations as summary or arbitrary execution; retaliation and individual acts of revenge (some politically motivated); torture and other cruel, inhuman or degrading treatment, covering capital punishment and corporal punishment (including amputation of the hand or foot as determined by Sharia courts); arbitrary arrest and detention; and kidnapping and disappearances. The SR also commented on conditions for prisoners of war and political prisoners and on actions by the Taliban that severely restrict or totally subvert the rights to freedom of thought, expression, peaceful assembly and association, and the right to privacy and respect for property. On economic and social rights, the SR discussed the rights to work, to education and to freedom of movement. It is in these

sections that the SR paid the greatest attention to measures imposed by the Taliban on women to enforce strict compliance with its interpretation of Islamic law: the prohibition on the employment of women; the closing of all girls' schools in Kabul and the banning of female education; and the severe restriction on the freedom of movement of women which Afghan women have described as "virtual imprisonment". According to the SR, gender-based discrimination (described by some foreign observers as amounting to gender apartheid) and the non-recognition of some of women's basic rights has led to women's marginalization and the "feminization of poverty". He noted that one of the most degrading measures with potential serious health consequences was the closing of female bathhouses, since the "hammams" were often the only places where women could wash in hot water.

Other subjects covered in the report include cultural issues (in particular, the restoration of destroyed and damaged cultural sites); self-determination; the situation of internally displaced persons and refugees; and humanitarian concerns including land mines, health care and opium production.

In his concluding observations, Special Rapporteur commented that, on the basis of evidence he had, it did not appear that the Taliban were genuinely interested in arriving at a negotiated political solution to the civil war. They had shown little willingness to compromise, stating that a precondition for the cessation of hostilities was the acceptance of their version of Islam; that they appeared to favour a military solution to the conflict aimed at conquering the whole of the territory; and that armed hostilities resumed only hours after the UN halted its efforts to bring about a cease-fire.

Gravely preoccupied by the implications that such an attitude might have for the overall situation of human rights in the country, the SR put forward the following recommendations.

He urged the United Nations to:

- ▶ speak with one voice and apply a single system-wide policy on the issue of gender equality and take an active and consistent approach in dealing with all authorities regarding the gender issue; reaffirm the rights of UN female staff in Afghanistan and refuse to tolerate any interference by authorities in this matter; ensure that the human rights of women form an integral part of the UN human rights activities in this region;
- ▶ strengthen system-wide coordination to devise a strategy for the creation of an infrastructure to promote and protect human rights in Afghanistan;
- ▶ develop a strategy which makes human rights a permanent activity in Afghanistan, and includes a permanent human rights monitoring presence in the field; and
- ▶ affirm that, while local traditions, social norms and culture are significant, they should not take precedence over the country's international obligations to uphold basic human rights, including women's rights to education and employment;

To the Taliban leaders, the Special Rapporteur recommended that:

- ▶ human dignity be restored in Afghanistan: all Afghan parties should protect all human rights; take measures to ensure the effective participation of women in civil

society; restore women's right to security of person; and, open all bathhouses for women;

- ▶ establish a coherent system of administration of justice consistent with international human rights norms and rules of international law;
- ▶ consider successful examples of integrating women in society, particularly in the area of employment and with respect to segregated education instituted in other Islamic countries;
- ▶ continue to make efforts to halt the production of dry opium and provide further incentives to farmers to produce other crops;
- ▶ halt the displacement of populations from areas north of Kabul and allow those displaced to return to their homes; and
- ▶ give priority to efforts to preserve and protect the cultural heritage of Afghanistan, with the assistance of UNESCO and qualified experts;

The SR's report contains three appendices.

Appendix I (E/CN.4/1997/59, Appendix 1) reproduces a notice issued by the "Department for enforcement of right Islamic way and prevention of evils" which sets out eight articles which should be followed by "all pious sisters and brothers" in order "to prevent occurrence of evils". These articles stipulate that: (1) women cannot go out and travel unless escorted by a legal close relative (Mahram); (2) if they leave their homes with a legal escort, women should use the veil (burqa); (3) women are forbidden to sit in the front seat of a cart or vehicle unless accompanied by a legal relative; (4) shopkeepers have no right to buy from or sell to women who do not cover their faces; (5) it is forbidden to cover cars with flowers for a wedding ceremony or to drive around the city; (6) it is forbidden to invite women to hotels and to hold wedding parties in hotels; (7) unless accompanied by a legal close relative, women may not use taxis; and, (8) the person in charge of collecting fares from women in buses, minibuses and jeeps should be under 10 years of age. The notice states that the professional delegates of the Department are in charge of punishing violators according to Islamic principles.

Appendix II (E/CN.4/1997/59, Appendix II) reproduces the Taliban's "Rules of work for the State hospitals and private clinics, based on the principles of the Sharia." There are 11 rules stipulate, inter alia, that: female patients should go to female physicians or be accompanied by a close male relative (mahram) if a male physician is needed; during an examination, both the female patient and the male physician should be dressed "with Islamic hejab"; male physicians may not touch or see areas of the bodies of female patients except for those affected; during night duty, a male doctor may not enter the hospital room of a female patient unless she calls for him; male and female doctors are not allowed to sit and speak to each other, and any discussions that are required must be done with hejab; female doctors are forbidden to wear stylish clothes and to use cosmetics or makeup; and female doctors and nurses are not allowed to enter the rooms of male patients. The religious police are allowed to enter a hospital or clinic at any time; and anyone they find violating these rules of work is to be punished according to Islamic regulations.

Appendix III (E/CN.4/1997/59, Appendix III) of the report reproduces a document outlining the role and regulations governing Amr Bil Marof Wa Nai Az Munkir (the religious police). The functions and responsibilities of this body are described as: prevention of sedition and uncovered females (re hejab); prevention of music; prevention of the cutting and shaving of beards; prevention of failure to pray and ordering gatherings for prayer at the bazaar; prevention of keeping pigeons and playing with birds; eradication of addictions; prevention of kite flying; prevention of idolatry; prevention of gambling; prevention of British and American hairstyles; prevention of interest charges on loans, charges on changing small denomination notes and charges on money orders; prevention of washing of clothes by young women along the water streams in the city; prevention of music and dances in wedding parties; prevention of the playing of drums; prohibition on tailors sewing women's clothing and taking women's measurements; and prevention of sorcery.

Resolution of the Commission on Human Rights

At its 1997 session, under item 10, the Commission adopted a resolution on the situation in Afghanistan (1997/65) by consensus.

The Commission: recalled Afghanistan's obligations under relevant international human rights treaties; expressed particular concern at violations and abuses against women and children, especially in the areas of education, employment and training, and participation in political, economic, social and cultural life; expressed concern that a unified judicial system cannot be established throughout the country under prevailing conditions; noted the intensification of armed hostilities and the continuing deterioration in the human rights situation, including violations of the rights to life, liberty and security of person, cases of torture, violations of freedom of opinion, expression, religion and association, and cases of gender discrimination; expressed concern at the frequent practice of arbitrary arrest and detention and summary trials; called on all Afghan parties to respect all human rights, regardless of gender, ethnicity or religion; urged all parties to restore respect for all the human rights of women, including participation, employment, education, security of person, freedom of movement and access to necessary health facilities; demanded that all parties fulfil obligations relating to the safety of diplomatic missions and UN personnel and other international staff; urged authorities to provide effective remedies to victims of grave violations; urged authorities to bring to trial perpetrators of violations in accordance with internationally accepted standards; urged all parties to work and cooperate with the UN Special Mission to Afghanistan regarding a negotiated settlement to the conflict and the eventual holding of free and fair elections throughout the country; encouraged UNESCO to study appropriate ways and means to restore the system of education and cultural heritage, including restoration of the Kabul museum and other historical sites; expressed concern about reports of foreigners being included among those held as prisoners of war; extended the mandate of Special Rapporteur for another year; and, requested the Special Rapporteur to submit an interim report to 1997 General Assembly and a final report to the 1998 Commission.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1997/34, paras. 36–39)

No new cases of disappearance were transmitted to the government by the Working Group (WG) because individual cases of disappearance have not been brought to the attention of the WG. Nonetheless, the WG believes that cases of disappearance have occurred in Afghanistan. The report notes two outstanding cases which concern a Jordanian journalist, who reportedly disappeared while on assignment in Afghanistan, and an American citizen of Afghan origin, who allegedly disappeared in 1993 while visiting Afghanistan. The government provided information on these cases, stating that a) the individual concerned had never been arrested and, b) the subject's name had not been found in the register of any prison.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1997/60, paras. 18, 19; E/CN.4/1997/60/Add.1, paras. 5–7)

The report refers to the abduction and killing of a BBC World Service journalist in July 1994. The government responded to the Special Rapporteur (SR) by stating that the journalist had never been threatened by the government, the killing had occurred outside the territory over which it had control, and the ad hoc commission appointed to investigate the assassination had produced no results. The SR called on all warring factions in the country to respect international human rights and humanitarian law standards and at all times to protect the right to life of civilians and other non-combatants. The SR expressed regret over the killing of former Afghan President Najibullah by the Taliban after his abduction from the compound of the UN Mission in Kabul.

Religious intolerance, Special Rapporteur on: (E/CN.4/1997/91, paras. 9, 20, 25, 27)

The report notes that women are the principal victims of religious extremism in Afghanistan. The reply received by the Special Rapporteur (SR) from the Afghan government (which had by then lost Kabul to the Taliban) characterized the forms of religion practised by the Taliban as the most retrograde, obscurantist and backward ever known in Afghanistan and the region. The SR also reported that, after the fall of Kabul, the High Council of the Islamic State of Afghanistan issued a statement reaffirming its commitment to the principles of democracy and respect for human rights.

The SR's interim report to the General Assembly (A/52/477, paras. 25, 28, 31, 33, 36, 37, 87, 89) refers to violations of religious freedom against both Christians and followers of Islam. The report states that the extremism of the Taliban afflicts the whole of society, both Muslim and non-Muslim, and that women are among those who suffer the most. Reference is also made to violations of the freedom to manifest one's religion or belief, citing information indicating that non-Muslims are unable to practise their religion freely and the requirement that Muslim are forced to attend Friday prayer at the mosque. The report also indicates that there have been incidents of mistreatment against clergy and believers. Note is made of the fact that urgent appeals were sent to the

government and that the SR plans to pay particular attention in future to the question of "women and religion", especially women victims of intolerance and discrimination based on religion and belief.

Violence against women, Special Rapporteur on:
(E/CN.4/1997/47, Sec. VI)

The Special Rapporteur (SR) reports that in Taliban-controlled areas, women are not allowed to work outside their homes, leave their houses without having a reason acceptable to the Taliban, and risk being caned or beaten if seen on the road, even if they are wearing a burqa. The SR reports on a case where a mother, wearing a burqa, and taking her sick child to the doctor, was challenged by a Taliban guard, who shot and wounded her when she ran. The woman's family complained to the Taliban leaders, but were told it had been the woman's fault: she should not have been in public in the first place and she should have stopped when told to, rather than running away. In another case reported by the SR, nurses who reported to work not wearing burqas were beaten by a 17-year-old Taliban militiaman.

The SR also received information indicating that in areas controlled by the Taliban, women and girls are denied access to education. In Kandahar, there are no female doctors and therefore no medical assistance for women.

The addendum to the main report (E/CN.4/1997/47/Add.4, para. 11) notes that, in response to persisting reports of violence against Afghan women and girls perpetrated by the Taliban, the SR issued a press release on 7 November 1996 (HR/96/65) expressing concern over violations of the rights of women and girls to liberty and security of person, to equal status and freedom from all forms of discrimination, to equal access to education, and to work. The SR urgently appealed to the leader of the Supreme Council of the Taliban movement to reinstate respect for women's human rights by lifting its ban on women's participation in civil society and called on all parties to the conflict in Afghanistan to respect the basic principles of international human rights and humanitarian law and safeguard the human rights of all Afghan people.

Mechanisms and Reports of the Sub-Commission

States of emergency, Special Rapporteur on:
(E/CN.4/Sub.2/1997/19/Add.1, Sec. I)

The report notes that a *de facto* situation of emergency exists throughout the country, which is in a state of civil war.

Other Reports

Detention of international civil servants, Report of the S-G to the CHR: (E/CN.4/1997/25, paras. 39-41)

The World Food Programme (WFP) reported that, in September 1995, when Taliban forces invaded the city of Herat, it became necessary to evacuate a WFP international emergency officer for security reasons. The following month, during a major Taliban offensive against Kabul which saw ground fighting and incoming rocket fire, WFP staff were forced to take refuge in the bunker at a UN guesthouse. WFP also reported that two of its vehicles were stopped and robbed by gunmen on the highway between Tolequan and Kunduz; both the WFP emergency officer and driver were beaten and suffered slight injuries.

ECONOMIC AND SOCIAL COUNCIL

Women's human rights, Report of the S-G: (E/1997/64, para. 47)

The report of the Secretary-General on follow-up to the Fourth World Conference on Women refers to resolutions adopted by the CHR addressing gender as a factor in the enjoyment of human rights. The report notes that the Commission expressed concern at reports of violations and abuses against women and children, especially regarding access to basic education for girls and access by women to employment and training and their effective participation in political, economic, social and cultural life.

GENERAL ASSEMBLY

Report of the CHR Special Rapporteur

The Special Rapporteur's interim report to the General Assembly (A/52/493) is based on a visit to Afghanistan from 27 July to 3 August, and on visits to Pakistan on 27 and 31 July and 1 and 2 August 1997. The report contains information on: political and military developments; rule of law and administration of justice; the right to life; torture; capital punishment; arbitrary arrest and detention and the situation of prisoners; amnesty decrees; the right to education; gender-based discrimination; the preservation of cultural heritage; internally displaced persons and refugees; the economic and social situation; land mines; and opium production.

The report notes that key elements in the human rights situation are the lack of central power, governmental institutions, a unified legal system and a clear social, political and economic system. The report states that numerous human rights violations stemmed from: the absence of a functioning state system; the absence of a national treasury to pay the salaries of civil servants; the absence of a clear line of command; a lack of respect for hierarchy; the fact that parts of Afghanistan appeared as separate states; lack of respect for law and order; the fact that the people have no voice or say in the administration of the country; and an insufficient willingness to bring peace to Afghanistan. The report notes a disquieting feature of the ongoing conflict that has emerged, namely an ethnic element that has become quite severe and resulted in the oppression of members of certain communities. Information is cited indicating that the front line between the Taliban and the United Islamic Salvation Front of Afghanistan almost coincides with the ethnic divide in the country.

Referring to specific areas of concern the report addresses, *inter alia*: rule of law and administration of justice-related to a rise in the crime rate in Kabul and other major cities, waves of arrests, the theoretical protections of the courts, the actual application of punishments on the street for violations of Islamic codes and principles, detentions for "political crimes"; restrictions on freedom of movement and the banning of certain types of public activities; summary or arbitrary executions, torture, capital punishment, corporal punishment, arbitrary arrest and detention; private prisons maintained by local commanders, the use of prisoners as bargaining chips for exchange with adversaries, lack of food and general conditions of detention; and, amnesty decrees-related to the safe return of refugees, recovery of and restitution or reparations for property.

The report states that education is the current critical issue for Afghanistan, noting that conditions are bad for both girls and boys while, at the same time, providing extended commentary on the measures taken against girls and women. In the section dealing with gender-based discrimination, the report refers to: the fact that many women are cut off from the media and other sources of information; the lack of opportunity for women to raise their voices; the ban on most employment for women; lack of access to education; restrictions on freedom of movement; continued closure of bathhouses for women; and the rise in the number of widows supporting families as a result of the armed conflict.

The recommendations in the report include that:

- ▶ a human rights resource person be deployed to advise the UN on human rights issues in the present situation, organize human rights education programmes and identify possible activities that will have a positive impact on governance in general and human rights in particular;
- ▶ Afghan authorities act in accordance with international human rights instruments to which Afghanistan is a party;
- ▶ provincial authorities cease to store weapons and munitions in residential areas;
- ▶ all authorities in the country lift the restrictions on women as well as those imposed on the international aid community;
- ▶ steps be taken to restore immediately education for all in all parts of the country;
- ▶ the international community pay much greater attention to the implications of the current education policies in the medium and long-term in terms of their impact on the capacity of the country to face the needs and challenges of the next century;
- ▶ greater gender awareness be created in society, in particular among men and with attention paid as well to the international community through mandatory training on the subject;
- ▶ the UN and all member states examine in detail the human rights record of the Taliban when considering its request for international recognition;
- ▶ the ICRC be given access to all prisoners, prisoners not be used as bargaining chips or human shields, all non-criminal prisoners be released, and the practice of arbitrary arrest and detention be halted; and
- ▶ all sides to the conflict definitively stop laying land mines.

Appendix II of the report reproduces a letter from the President of the Department for the Preservation of Virtue and the Prevention of Vice. Annex 1 of the letter sets out regulations for all international and national agencies, to the effect that: all humanitarian assistance provided by the international community should be given without condition; all international agencies and Afghan NGOs must observe the laws stipulating that women may not work in government departments or international agencies and may not leave their residences; women may only work at hospitals and clinics, and agencies should not employ women in any other sector; any local staff members of agencies who do not observe the

Sharia should be advised by the agency and, if necessary, the Department will take serious action against the staff member; assistance to widows and poor women must be provided through blood relatives without the employment of "female surveyors"; women may work in vocational sectors such as embroidery and weaving and may leave their houses provided that the Department is advised beforehand by blood relatives; international agencies and Afghan NGOs must receive prior permission from the Department if they intend to employ or assist women; and the Mullah, Wakil and three elders of the district should be contacted when conducting a needs assessment to identify the real beneficiaries of aid programmes.

Annex 2 sets out the regulations for hospitals and clinics and states: all humanitarian assistance provided by the international community should be given without any condition; where women are hospitalized, male doctors and visitors should announce their presence before entering a room; it is illegal for women to use cosmetics and wear fashionable dress in hospitals; wherever women are employed they should preserve their dignity and walk calmly; women should avoid creating noise by their foot steps; women are forbidden to visit hospitalized male patients when there is someone else in the room unless a blood relative; all male and female patients and others must pray at the proper time, except for those who may have a legitimate and reasonable excuse; all hospital personnel should observe the Sharia and, in case of a violation where the person resists, serious action should be taken or the Department informed; women using official vehicles should not sit beside the driver; no Afghan woman may travel in a vehicle with expatriates; Afghan women may not be appointed as senior staff in an expatriate hospital; and agencies working in the health sector do not have the right to send Afghan women outside the country for any reason; if there is an urgent need, agencies should get approval from the Department.

Resolution adopted by the General Assembly

At its 1997 session the General Assembly adopted a resolution on the situation of human rights in Afghanistan. (A/C.3/52/L.75)

The General Assembly: recalled that Afghanistan is a party to the Convention on the Prevention and Punishment of the Crime of Genocide and a number of the international human rights treaties; noted with deep concern the intensification of armed hostilities, called on all parties involved immediately to cease hostilities and engage in a political dialogue aimed at achieving national reconciliation and the voluntary return of displaced persons to their homes in safety and dignity; noted the further deterioration of the situation of human rights, including the situation of women, and condemned the violations and abuses of human rights and humanitarian law; expressed deep concern at the frequent practice of arbitrary arrest and detention and summary trials throughout the country, resulting in summary executions, as well as the application of forms of punishment prohibited under the Convention against Torture; called on all the Afghan parties to respect all human rights and fundamental freedoms fully, regardless of gender, ethnicity or religion; urged all parties to bring an end without delay to discrimination on the basis of gender and the deprivation of human rights of women; urged all parties to work closely and cooperate with the UN Special Mission to Afghanistan to achieve a

comprehensive political solution leading to the cessation of armed confrontation and the establishment of a democratic government elected through free and fair elections; urged all parties to ensure that UN programmes are carried out without discrimination against women as participants or as beneficiaries; demanded that all the Afghan parties fulfill their obligations and commitments regarding the safety of all personnel of diplomatic missions, the UN and other international organizations, as well as of their premises in Afghanistan; urged all parties to provide efficient and effective remedies to the victims of grave violations of human rights and of accepted humanitarian rules and to bring the perpetrators to trial in accordance with internationally accepted standards; urged all parties to halt the use of weapons against the civilian population, refrain from storing munitions in residential areas, prohibit the drafting and recruitment of children as para-combatants, ensure their reintegration into society and stop the practice of using people as human shields; invited all parties to support the ICRC, provide access to all prisoners and release all non-criminal civilian prisoners; expressed deep concern that new landmines have been laid and appealed to all parties to stop deploying such devices; expressed deep concern at reports of the deterioration of Afghanistan's cultural heritage and noted that all the parties share the responsibility to protect and safeguard this heritage; requested UN members to take appropriate measures to prevent the looting of cultural artifacts and ensure their return to Afghanistan; and urged all parties to extend their cooperation to the Commission on Human Rights and its Special Rapporteur.

SECURITY COUNCIL

The reports of the Secretary-General (S/1997/240, 16 March 1997; S/1997/482 16 June 1997, S/1997/719-A/52/358, 17 September 1997) contain information on the military, political and humanitarian situations and note: the rival sides continued to seek political legitimacy for their military activities; the Taliban had persistently demanded formal recognition by the international community as the effective Islamic government of Afghanistan, entitled to occupy the Afghan seat in the General Assembly; both the Taliban and SCDA were widely believed to have been receiving material and financial support from external allies, while each side blames the other for encouraging foreign interference in the internal affairs of the country.

Among the difficulties and problems noted were: displacement and forcible displacement; incidents in which foreign nationals working with humanitarian organizations were detained; the fact that the conflict was increasingly being fuelled by strong ethnic feelings between the predominantly Pushtun Taliban on the one hand and the Tajiks, Hazaras and Uzbeks, who comprise the opposition camp, on the other; the fact that in some instances the fighting had led to chaos and looting in the areas affected, including instances of looting of the local offices of UN programmes and agencies; the fact that the continued factional fighting north of Kabul and elsewhere resulted in an increase in the number of internally displaced persons, many of whom had been forcibly removed from their homes and in some cases arrested merely for suspected sympathy with the anti-Taliban forces; the need for emergency food aid continued; and, nearly 777

km in the country had been contaminated by landmines, with some 322 km in residential, commercial, agricultural and other areas.

Statements by the President of the Security Council (S/PRST/1997/20, 16 April 1997; S/PRST/1997/35, 9 July 1997;) *inter alia*: expressed grave concern at the continued fighting in Afghanistan and its intensification; reiterated that the continuation of the conflict was preventing the formation of a fully representative and broad-based government able to address effectively Afghanistan's acute social and economic problems; called on all states to end immediately the supply of arms and ammunition to all parties to the conflict in Afghanistan; expressed deep concern at the worsening of the humanitarian situation including the displacement of the civilian population, discrimination against women, and other violations of human rights and of international humanitarian law; and deplored the mistreatment of personnel of international humanitarian organizations.

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BAHRAIN

Date of admission to UN: 21 September 1971.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Bahrain has not submitted a core document for use by the treaty bodies.

Racial Discrimination

Acceded: 27 March 1990.

Bahrain's initial and second through fourth periodic reports were due 26 April 1991, 1993, 1995 and 1997 respectively. *Reservations and Declarations:* Article 22.

Rights of the Child

Acceded: 13 February 1992.

Bahrain's initial report was due 12 March 1994.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on: (E/CN.4/1997/4, paras. 4, 5, 14, 15, 17, 21; E/CN.4/1997/4/Add.1, Decisions 21, 22, 23, 35, 38)

The main report notes that various communications were sent to the government related to 59 cases and three urgent appeals. The government responded to a number of the cases and decisions taken by the Working Group (WG), variously indicating that the persons concerned had been released, had never been detained or were still in detention.

The WG reported on five decisions concerning Bahrain which involved a total of 557 people.

Decision 21 concerns events in November 1995 when as many as 200 secondary school students were arrested for participating in a protest against the death sentence allegedly pronounced on a 27-year-old prisoner. The students were reportedly taken by the police in five buses to an unknown place; the authorities allegedly refused to reveal the names or whereabouts of those detained; and they denied the children access to family members. The WG specifically took up the

cases of three of these students, who were picked up by police on 15 November. In its reply to the WG, the government asserted that the allegation was a "product of terrorist propaganda" and that all those arrested had been either released or tried in accordance with the law. The WG noted that the government's response—which did not include information on the legal situation of those tried, on the charges brought against them, or on the sentences of those convicted—made it impossible to ascertain who had been tried or released. The WG also noted that the government did not deny that children were among those arrested and detained, or that the Decree Law of State Security Measures (1974) permitted administrative detention at the discretion of the Minister of Interior for up to three years. According to information provided to the WG by lawyers, many of those arrested in November 1995 were being held without an official order and could, therefore, be detained for months without the possibility of review. The WG decided that the detentions of the three students were arbitrary since the students had not resorted to or incited violence and had been arrested solely for exercising their right to freedom of opinion and expression as well as their right to peaceful assembly.

Decision 22 relates to the cases of nine students, a farmer and a carpenter who were arrested in October 1995 during a hunger strike by a member of the dissolved Parliament and six former detainees, in protest against the government. During the hunger strike, thousands of people had reportedly gathered to show their support to the strikers and, although no acts of violence were reported, many citizens, among them children, were allegedly detained. In its reply to the WG, the government characterized the information provided as terrorist propaganda; it stated that no one had been arbitrarily detained and all those arrested had either been released or tried. The WG noted the failure of the government to provide details on the number of people tried or released, on the legal situation of those tried, and on the sentences handed down. Again, the WG observed that the government did not deny that children were among those detained. The WG decided that the detentions were arbitrary.

Decision 23 concerns the cases of nine people who were among scores of others arrested in January 1996. The arrests occurred during peaceful demonstrations to protest against the continued detention of more than 500 people, arrested between December 1994 and April 1995. The government again replied that the information provided was terrorist propaganda; that those arrested in January 1996 had either been released or were in custody pending trial on charges of violence-related activities; further, that those in custody were being well treated and their rights to access to family, legal counsel, welfare and medical care were being respected according to the law. The WG noted that information it had received contradicted the government's claim that detainees had access to family and lawyers. As well, while the WG did not know about the health of the detainees, there were reports that a number of them had been moved temporarily to the Military Hospital. The Working Group declared the detentions to be arbitrary.

Decision 35 relates to the arrest and detention of 532 people who were among more than 2,000 arrested since December 1994 under the State Security Law (1974). All of

the arrests occurred during a series of pro-democracy protests and demonstrations which called for the restoration of the 1973 Constitution and the elected National Assembly which had been dismissed by the Amir on 25 August 1975. The government asserted that the arrests were in response to acts of violence, including rioting, sabotage, arson and assassination. It informed the WG that a number of detainees had been remanded in custody while others had been released. The government rejected any claim that the State Security Law was unconstitutional and maintained that the law was necessary to combat terrorism. The WG noted that, based on information it received, the application of the State Security Law in combination with provisions of the Criminal Code of Procedure, is likely to cause grave violations of the right to fair trial. In its decision, the WG noted that, of the original 532 cases referred to the government, 17 people had been released, two had been expelled to Dubai, and most of the others were still detained without charge or trial. On that basis the WG decided that the detention of 513 people was arbitrary.

Decision 38 involves two people who were released. The WG filed the cases since no points were in dispute and the detentions had been discontinued.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1997/60, paras. 15, 16, 18, 19, 28, 32, 34, 35, 51, 78, 83 ; E/CN.4/1997/60/Add.1, paras. 41–49)

The report notes information received by the Special Rapporteur (SR) indicating that the government's response to an escalation in political violence and unrest early in 1996 was characterized by massive arbitrary arrests, the torture of detainees which sometimes resulted in death, and extrajudicial killings.

The SR reported that, in March 1996, Bahrain carried out its first execution of a death sentence in almost 20 years. During the year, the SR had transmitted three urgent appeals to the government concerning the imposition of the death penalty after trials that did not meet international fair trial standards. Two of the appeals concerned a man condemned to death for the murder of a police officer: it is alleged that he had been denied access to a lawyer before the trial and was convicted on the basis of a confession which might have been extracted under torture during his pre-trial detention. The other appeal concerned three men charged with firebombing a restaurant in which seven expatriates were killed. They, too, were convicted on the basis of confessions which may have been extracted under torture. As well, they were sentenced by the State Security Court from which there is no appeal. Four other cases were sent to the government involving people who had been arrested, and in some cases shot, by security forces during a peaceful demonstration in Karzakkán in May 1996; all reportedly died in police custody, either from their wounds or under torture.

With respect to these cases, the government responded to the SR variously asserting that: the trials had been public, fair and in conformity with international norms and principles; one death in custody had been the result of heart failure, and none were the result of torture or ill-treatment. Bearing these responses in mind, the SR called on the government to take whatever steps were necessary to prevent further killings of demonstrators, in accordance with the Basic Principles on the

Use of Force and Firearms by Law Enforcement Officials, and to respect all international fair trial standards in death penalty cases.

Independence of judges and lawyers, Special Rapporteur on: (E/CN.4/1997/32, paras. 17, 18, 20, 21, 66–76)

The report notes that the Special Rapporteur (SR), either alone or jointly with other rapporteurs, transmitted several cases to the government involving: the detention of a lawyer detained allegedly because of his prominent role in the pro-democracy movement and because he had acted as defence lawyer for many prisoners who were reportedly prosecuted in connection with political protests; questions arising from the right to fair trial; and the death penalty following unfair trial.

The SR, commenting on various aspects of the law and trial procedures in Bahrain, referred to: arrest by members of the Bahraini State Intelligence Service under the 1974 Decree Law on State Security Measures, which permits the detention of any person suspected of being a threat to state security, without charge or trial for up to three years; and charges of criminal offences against the state. The report also examines Amiri Decree No. 7 of 1976 which established the State Security Court and sets out exceptional provisions governing its proceedings. These provisions reportedly: deny defendants access to legal counsel until they are brought to the State Security Court (i.e., defendants can only choose a lawyer to represent them on the first day of their trial); provide for the appointment of lawyers by the State Security Court for defendants who fail to secure legal representation on their own; deny defence lawyers access to court documents and give them inadequate time to prepare a defence for their clients; and only provide defence lawyers with limited access to clients during the trials. The SR also comments on the apparent disregard for provisions in Amiri Decree No. 7 which require that sentencing be pronounced in public sessions, and that the sessions of the State Security Court be held in public, unless it is deemed necessary to hold them in camera. Information received by the SR suggests that sessions of the State Security Court are always held in camera; that they are attended only by members of the Bench, the defendants, defence lawyers and representatives of the Public Prosecution; and that sentencing takes place in closed sessions.

In a case where three men were sentenced to death, appeals to the government brought to light information which suggests that the principles of presumption of innocence and non-interference in the judicial process had been violated because the Minister of Interior had incriminated the defendants prior to trial. As well, the principle of non-retroactive application of law was violated because the defendants had been tried under the Penal Procedures Law of 1996 which had not been in effect at the time of the incident in which they were involved.

In replying to the SR, the government of Bahrain stated that the (pro-democracy) lawyer had been arrested for criminal activity, not for political reasons; he was subsequently released on bail, then acquitted in court of the charges against him. The authorities also drew the attention of the SR to an alleged plot to overthrow the government and destabilize peace in the region. The government asserted that, in the light of such threats, the 1974 State Security Law was an exceedingly valuable counter-terrorist measure, and that

proceedings before the State Security Appeal court are mandatorily in camera. Nonetheless, the SR indicated that he remained concerned that the trials before the State Security Court violate article 14 of the ICCPR because of the apparent lack of due process in the Court.

Torture, Special Rapporteur on: (E/CN.4/1997/7, Section III; E/CN.4/1997/7/Add.1, paras. 10–16)

The Special Rapporteur (SR) reports that information he received indicates that: most persons arrested for political reasons in Bahrain are held incommunicado; the Security and Intelligence Service (SIS) and the Criminal Investigation Department (CID) frequently conduct interrogation under torture; torture by these agencies is said to be undertaken with impunity with no known cases of officials being prosecuted for acts of torture or other ill-treatment; cases heard before the State Security Court often result in defendants being convicted solely on the basis of uncorroborated confessions made to political or security officials, or on the testimony of such officials that confessions have been made; while defendants have often stated that their "confessions" had been extracted under torture, the court has never ordered an impartial investigation of such claims; and, unless the defendants displayed obvious signs of injury, the courts have rarely ordered medical examinations of defendants.

The report also notes that torture is not only used as a means of extracting a "confession", it has also been administered to force detainees to: sign statements pledging to renounce their political affiliation, desist from future anti-government activity, coerce the victim into reporting on the activities of others, inflict punishment, and instil fear in political opponents. The methods of torture reported include: falaqa (beatings on the soles of the feet); severe beatings, sometimes with hose-pipes; suspension of the limbs in contorted positions accompanied by blows to the body; enforced prolonged standing; sleep deprivation; preventing victims from relieving themselves; immersion in water to the point of near drowning; burnings with cigarettes; piercing the skin with a drill; sexual assault, including the insertion of objects into the penis or anus; threats of execution or of harm to family members; and placing detainees suffering from sickle cell anaemia (said to be prevalent in the country) in air-conditioned rooms in the winter, which can lead to injury to internal organs.

The Special Rapporteur transmitted one case of alleged torture to the government, and informed the authorities of information received on other cases where the names of the victims had been withheld because, fearing reprisals, the victims had requested confidentiality. Six urgent appeals were also sent on behalf of 19 people. The cases addressed by the SR included individuals who: had participated in anti-government protests; were arrested for political reasons; had advocated the restoration of the elected Parliament; were accused of membership in an unauthorized organization; were accused of involvement in a foreign plot to overthrow the government; or were charged with the possession of illegal literature. The government variously responded that: the information received by the SR was a product of terrorist propaganda; the people named were members of a terrorist cell; that they were being held in lawful custody with adequate legal, medical and procedural safeguards; the people

named were extremists and agents provocateur espousing violence to achieve political goals; and, the person named was associated with foreign-backed groups which sought to endanger the security and stability of the country. In each case, the government asserted that the conditions of detention had been lawful and had not endangered the health and physical well being of the detainees.

Violence against women, Special Rapporteur on:
(E/CN.4/1997/47, Section V.B)

The section of the report addressing the situation of women migrant workers notes that policies implemented by sending states to protect the rights of migrant workers have led to the opening of new recruitment markets. In this context, it cites the example of Bahrain which, in response to the Filipino policy requiring employers to pay a minimum salary of US\$200/month to Filipina housemaids, opened recruiting agencies in Ethiopia and Eritrea.

Other Reports

Terrorism, Report of the S-G to the CHR: (E/CN.4/1997/39, Section I)

The report of the Secretary-General includes information provided by the government, asserting that: Bahrain continues to be the target of foreign-backed terrorists seeking to destabilize the region and undermine the Middle East peace process; groups or individuals who act as fronts for the terrorists speak of democracy and human rights while encouraging and instigating acts of violence; the crimes committed by the terrorists include murder, arson and the destruction of private and public property; Bahrain has received widespread international support for the firm and positive measures it has taken to bring criminal offenders to justice; such measures must continue in order to deter the terrorists, and deal with those who are caught, according to the law; and, terrorists provide the media with distorted information, including unfounded charges of human rights violations.

**SUB-COMMISSION ON PREVENTION OF
DISCRIMINATION AND PROTECTION OF
MINORITIES**

Resolution of the Sub-Commission

At its 1997 session the Sub-Commission adopted a resolution (E/CN.4/Sub.2/1997/50, Resolution 1997/2) on the situation of human rights in Bahrain. The resolution was adopted by secret ballot with 12 in favour, 11 opposed and one abstention. In it the Sub-Commission: reaffirmed the obligation of states under the UN Charter to promote and encourage universal respect for, and observance of, human rights and fundamental freedoms for all; reaffirmed that racism and racial discrimination negate the purposes and principles of the UN Charter and the Universal Declaration; noted that the elected National Assembly of Bahrain was dissolved in August 1975, that for twenty-two years Bahrain has been without an elected legislature, and that there are no democratic institutions in Bahrain; also noted that Bahrain is facing problems of internationally assisted terrorism, and condemned all acts of terrorism in that country; noted further information related to discrimination against the indigenous Shi'a population, extrajudicial killings, persistent use of

torture in prisons, abuse of women and children who are detained, and arbitrary detention without trial or access by detainees to legal advice; expressed concern about the alleged violations of human rights in Bahrain; urged the government to comply with applicable international human rights standards and to ratify the International Covenants on Human Rights and the Convention against Torture; and, requested the Commission on Human Rights at its next session to consider the situation of human rights in Bahrain under its agenda item entitled "Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories".

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BANGLADESH

Date of admission to UN: 17 September 1974.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Bangladesh has not submitted a core document for use by the treaty bodies.

Racial Discrimination

Acceded: 11 June 1979.

Bangladesh's seventh through ninth periodic reports were due 11 July 1992, 1994 and 1996 respectively.

Discrimination against Women

Acceded: 6 November 1984.

Bangladesh's fifth periodic report is due 6 December 2001.

Reservations and Declarations: Article 2 and paragraph (1) (c) of article 16.

At its July 1997 session, the Committee on the Elimination of Discrimination against Women (CEDAW) considered Bangladesh's combined third and fourth periodic reports (CEDAW/C/BGD/3-4). The report prepared by the government sets the context with information on the status of women in Bangladesh, the general legal framework for the protection of human rights, national machineries related to rights, and remaining obstacles encountered by women. On the rights set out in articles 2 through 16, the report addresses areas such as: the obligation to eliminate discrimination; the development and advancement of women; sex roles and stereotyping; the suppression of exploitation of women; women in political and public life; nationality, education, health, employment and training; economic and social benefits; problems faced by women in rural areas; equality before the law; marriage and family law; and, a national action plan on discrimination against women. The report includes a number of tables with statistical data on, *inter alia*: direct elections; enrolment in schools and teaching staff; women and men in the public sector; the labour force and employment; and, indicators related to health and family planning.

The Committee's concluding observations and comments (CEDAW/C/1997/II/L.1/Add.10) welcomed the government's decision to withdraw reservations to paragraph (a) of article 13 (family benefits) and paragraph 1 (f) of article 16 (guardianship, adoption of children) which had been entered on the basis that they conflict with Sharia law. The remaining reservations (as above) were considered by the Committee to

be an important factor affecting implementation of the Convention, particularly with regard to the reservation to article 2, since it is fundamental and a core provision of the Convention.

Other factors and difficulties impeding full implementation were identified as the country's slow rate of economic growth, coupled with frequent natural disasters and prevailing stereotyped attitudes and practices justified on social grounds, which create an environment for the acceptance of discrimination against women.

The Committee noted with satisfaction the existence of constitutional guarantees of equality between women and men, the high status accorded the Ministry of Women and Children Affairs in the government, the inclusion of women's concerns in all development plans, and the declaration of the Policy on Women's Advancement, which is the government's main blueprint for implementation of the Beijing Platform for Action. Similarly, the Committee noted the positive impact of the policy of reserving 30 seats for women in Parliament, as well as the seats constitutionally reserved for women in all municipal and local government bodies, and in the public sector. The emphasis placed by the Government on increasing literacy among women and girls, with the aim of achieving education for all by the year 2000, was welcomed as were the government's efforts to popularize and disseminate the Convention by translating it into Bangla.

Areas of concern identified by the Committee included: alarming levels of violence against women in all its forms, including acid throwing, stoning and dowry death; the inability of the government to enforce effectively existing laws, as well as to provide immediate relief and justice to victims of such violence; lack of access to education for a very large percentage of women and girls; continuing high rates of maternal and infant mortality; inadequacies and inaccessibility of primary health and reproductive health services to poor, rural and marginalized women; the fact that family planning services mainly targeted women and that not enough emphasis was placed on male responsibility in reproduction; a lack of measures to protect women migrant workers from Bangladesh in all stages of the migration process; continued prevalence of stereotyped and patriarchal attitudes towards women in society, reflected in such practices as son preference; the poor working conditions of women workers in both the private and public sector; non-implementation of minimum wage levels and the lack of social and health benefits, including paid maternity leave; the lack of adequate child care facilities in the private manufacturing sector; and, the lack of government monitoring of the conditions of women in the informal sector.

The Committee also expressed concern at: the lack of disaggregated statistical information related to marriage, birth registration, and incidents of violence against women; the absence of special prisons for women; the trend towards globalization and liberalization of trade policies which, despite economic and micro-credit programmes for rural women, may have an adverse economic impact on the poorest of the poor, especially women in the rural areas; the lack of monitoring and assessing the impact of development plans on women; the absence of adequate information and analysis, as well as programmes, directed at addressing prostitution in general; the reported imposition of fatwas, using religious

justification to punish women; and, the small number of women in decision-making positions, despite affirmative action to encourage the participation of women;

The Committee recommended that the government:

- ▶ review its remaining reservations to the Convention with a view to eventually withdrawing them;
- ▶ strengthen its primary health and reproductive health services to improve substantially the health and well-being of women;
- ▶ strengthen its enforcement and monitoring of existing laws, policies and mechanisms on violence against women in order to provide victims with responsive and effective measures of protection and prevent further violence;
- ▶ set up a separate prison facility and comprehensive programme of rehabilitation for women committed to prison;
- ▶ bearing in mind the impact of globalization on the rural economy, give high priority to the issues and problems of rural women, especially with regard to ownership of land and access to credit, loans and skills training in new agricultural technologies;
- ▶ strengthen gender sensitization and training programmes for the judiciary, police and health professionals, particularly those related to violence against women;
- ▶ strengthen education and public information programmes to combat social attitudes, prejudices and social and traditional practices, particularly son preference, that discriminate against women and ensure that these programmes are geared towards reinforcing more positive images and roles of women in society;
- ▶ pay particular attention to improving the wage levels and the terms and conditions of women workers, including training in new technologies, in the export processing zones as well as in the informal sector;
- ▶ strengthen mechanisms to protect migrant women workers from exploitation throughout the migration process, including by actively exploring bilateral and multilateral initiatives addressing this issue;
- ▶ systematically register births and marriages in order to enable laws prohibiting child marriage to be enforced rigorously;
- ▶ to address the problem of trafficking of women and girls, ensure stronger enforcement of the women and child suppression law of 1995 and provide adequate assistance to women and girl victims of trafficking.;
- ▶ undertake an impact assessment of development plans for women;
- ▶ adopt more proactive measures to speed up the implementation of education programmes to eliminate female illiteracy;
- ▶ conduct research on the root causes and social consequences of prostitution to ascertain the depth of the problem; and,
- ▶ continue affirmative action measures, such as quota seats for women in Parliament, in local bodies and in the civil service, and provide capability building and skills training to enable women to participate actively in electoral politics as well as in the civil service.

Rights of the Child

Signed: 26 January 1990; ratified: 3 August 1990.

Bangladesh's second periodic report was due 1 September 1997.

Reservations and Declarations: Paragraph 1 of article 14 and article 21.

The Committee on the Rights of the Child considered Bangladesh's initial report and supplementary information (CRC/C/3/Add.38; CRC/C/3/Add.49) at its May 1997 session. The report prepared by the government includes demographic data related to the land and people, an overview of the general legal framework, commentary on the national policy on children and the Action Plan for the South Asian Association for Regional Cooperation Decade of the Girl Child (SAARC) and information on the proposed National Council for Children. The report also includes legal and other information on the main areas set out in the Convention, including: the definition of the child; civil rights and freedoms; family environment and alternative care; basic health and welfare; education leisure and cultural activities; and special protection measures.

The Committee's concluding observations and comments (CRC/C/15/Add.74.) noted that the additional information provided was in response to questions prepared by the Committee (CRC/C/Q/Ban.1).

The Committee welcomed the establishment of a Ministry of Women and Children's Affairs in 1994 and the adoption of a National Policy for Children, as well as the establishment of the National Children's Council in August 1995. Also welcomed were: the adoption of a plan of action to create task forces on law reform, juvenile justice and the girl child; adoption in 1995 of the Repression against Women and Children (Special Provision) Act; the active participation of Bangladesh in the SAARC Decade of the Girl Child; the adoption of a law establishing the post of Ombudsperson; and the establishment of a National Human Rights Commission. Other initiatives noted were Bangladesh's increase in social expenditures since it had ratified the Convention, and the fact that a higher proportion of resources were being devoted to the development of a primary health-care network, the provision of safe water supplies, sanitation and disease control. The Committee acknowledged the progress made in significantly reducing the child mortality rate over the last decade, improving access to basic education and providing family planning programmes.

Obstacles and difficulties to full implementation of the Convention identified included: the fact that Bangladesh is one of the poorest countries in the world; a large percentage of its population is young and lives below the poverty level; natural disasters and structural adjustment have had a negative impact on the situation of children; and, there is a persistence of certain traditional practices and customs which have had a negative impact on the enjoyment by some children of their rights under the Convention.

The Committee expressed concern on a number of subjects, including: the fact that the status of the Convention in the domestic legal framework is unclear; the insufficient steps taken to bring existing legislation into full conformity with the Convention; the lack of conformity between existing legislative provisions and the Convention with respect to the

various age limits set by law — the lack of a definition of the child, the age of criminal responsibility, the possibility of imposing the death penalty on and/or imprisoning children 16–18 years old in ordinary prisons; inadequate enforcement of many laws; and, the fact that most children's lives are governed by family customs and religious law rather than by state law.

The Committee also expressed concern over: the insufficiency of measures to promote widespread awareness of the principles and provisions of the Convention; the lack of adequate and systematic training for professional groups working with and for children; the insufficient attention given to establishing an effective integrated system of data collection covering all children; the fact that the National Policy for Children only covers children up to the age of 14; the failure to establish a comprehensive monitoring and coordinating mechanism for all areas covered by the Convention and in relation to all groups of children; the persistence of discriminatory attitudes and harmful practices affecting girls; the persistence of harmful practices such as dowry and early marriage; discriminatory attitudes towards children born out of wedlock; and, the situation of children who are living and/or working on the street, child victims of sexual exploitation, children with disabilities, refugee children and children belonging to tribal minorities; the failure to ensure that the views of the child are sufficiently taken into account, especially within the family, the school and the juvenile justice system; the fact that the births of most children in Bangladesh are not registered; the lack of appropriate measures to combat and prevent ill-treatment and abuse, including sexual abuse and the lack of awareness about and information on child abuse; the persistence of corporal punishment and its acceptance by the society; instances of violence committed by law enforcement officials against abandoned or "vagrant" children; the inadequacy of measures to assist parents in fulfilling their common child-rearing responsibilities and the lack of assistance or child support for many children living in single-parent families or other particularly vulnerable children; the inadequacy of provisions in legislation and practice for alternative care for children deprived of a proper family environment; the high maternal mortality rates, lack of access to prenatal care and, more generally, limited access to public health-care facilities; the lack of a national policy to ensure the rights of children with disabilities; the absence of programmes addressing the mental health of children and their families; and, malnutrition; the low level of school enrolment, the high drop-out rates, the very high child/teacher ratios, and the shortage of trained teachers; the weak legal protection for refugee children and difficulties in ensuring family reunification; the large number of children who work, including in rural areas, in the informal sector; the occurrence of trafficking and sale of children; the administration of juvenile justice and the low age of criminal responsibility (7 years); and the inadequate measures taken to ensure the protection and promotion of the rights of children belonging to minorities, including children from the Hill Tracts.

The Committee recommended that the government:

- ▶ review its reservations to the Convention with a view to withdrawing them and ensure full compatibility of national legislation with the Convention;

- ▶ pursue efforts to promote human rights education and create a wider awareness and understanding of the principles and provisions of the Convention through a systematic information campaign for children and adults alike;
- ▶ promote a comprehensive training programme policy for professional groups working with and for children;
- ▶ consider acceding to other international human rights instruments, including the two International Covenants on Human Rights and the Convention against Torture;
- ▶ undertake to gather all necessary information on the situation of children in the various areas covered by the Convention and in relation to all groups of children, including the most vulnerable;
- ▶ adjust the National Policy on Children in order to cover all children, including children 14–18 years of age;
- ▶ increase the allocation of resources to the social sector to overcome and remedy existing disparities and develop, with international assistance, a comprehensive strategy for children, taking due account of the best interests of the child;
- ▶ make a greater effort to combat traditional attitudes and stereotypes and to sensitize society to the situation and needs of the girl child, children born out of wedlock, children living and/or working on the street, child victims of sexual abuse and exploitation, children with disabilities, refugee children and children belonging to tribal minorities;
- ▶ promote and facilitate children's participation and respect for their views in decisions affecting them, especially in the family, at school, and in the judicial and administrative procedures;
- ▶ take further measures to ensure the registration of the birth of all children;
- ▶ develop public awareness campaigns and measures to provide appropriate assistance to families in carrying out their child-rearing responsibilities with a view, *inter alia*, to preventing domestic violence, prohibiting corporal punishment, and preventing early marriages and other harmful traditional practices;
- ▶ take additional measures to combat violence against and abuse of children, including sexual abuse, develop programmes for the rehabilitation and reintegration of traumatized children and devise adequate procedures and mechanisms to deal with complaints of both physical and psychological ill-treatment;
- ▶ ensure that allegations of violations of children's rights are investigated and prosecuted;
- ▶ consider becoming a party to the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoptions;
- ▶ take further steps in the area of health and welfare services, in particular, to combat malnutrition and ensure the implementation of a National Nutritional Policy for children;
- ▶ make greater efforts to ensure the treatment of children with disabilities and raise awareness about the need to facilitate the active participation of those children in the community;
- ▶ take further steps in the area of education, including training teachers, improving the school environment, increasing enrolment and fighting school drop-out;
- ▶ carry out effective information campaigns to prevent and eliminate child labour and expand the present cooperation with international organizations, such as the International Labour Organization (ILO) and UNICEF, and non-governmental organizations;
- ▶ enforce regulations to prevent child labour, investigate complaints and impose severe penalties for violations and strengthen efforts to provide opportunities for education and leisure to child workers and children working and/or living on the street;
- ▶ consider ratifying ILO Convention No. 138 concerning the minimum age for employment;
- ▶ ensure adequate protection of refugee children — including in the field of physical safety, health and education — and establish procedures to facilitate family reunification;
- ▶ pursue legal reform in connection with the very young age of criminal responsibility, the lack of adequate protection for children aged 16–18, grounds for arrest and detention of children, the possibility of imposing heavy sentences on children, and the solitary confinement and ill-treatment of children by the police; and
- ▶ work to reinforce bilateral and regional cooperation to prevent and combat the serious problem of trafficking of children.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on: (E/CN.4/1997/4, para. 17)

The report notes that an urgent appeal was sent to the government on behalf of two individuals without providing details of the cases.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1997/34, paras. 61–63)

The Working Group (WG) transmitted, for the first time, a case of disappearance to the government which reportedly occurred in 1996 and concerned the organizing secretary of the Hill Women's Federation, an organization which campaigns for the rights of the indigenous people in the Chittagong Hill Tracts. The victim was reported to have been forcibly taken from her home by security personnel before the general elections of 12 June 1996. The information received indicated that her abduction may have been linked to her support of a parliamentary candidate representing the interests of indigenous people. The government informed the WG that a three-member committee had been set up to investigate the case as well as to suggest legal steps to prevent such acts in the future. The committee will report to the Ministry of Home Affairs.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1997/60/Add.1, paras. 50–55)

The Special Rapporteur (SR) referred cases to the government based on numerous reports he received indicating that members of the armed forces continue to violate the right to life of persons of Chakma ethnic origin. Some of the violations are alleged to have occurred within the context of police action during public demonstrations. Investigations into these cases were due to be completed in the latter half of 1996. The SR informed the government of his continuing interest in visiting Bangladesh and expressed his hope that the authorities will reconsider their refusal to extend him an invitation.

Religious intolerance, Special Rapporteur on: (E/CN.4/1997/91, para. 9, 17, 20, 25, 41)

The Special Rapporteur notes that he has received communications alleging violations of the religious freedom of both Christians and followers of Islam. He also makes brief reference to victims of religious extremism—primarily women, but also members of some religious minorities.

Sale of children, child prostitution, child pornography, Special Rapporteur on: (E/CN.4/1997/95, para. 39)

The report refers to the ILO International Programme on the Elimination of Child Labour (IPEC) and notes that in South Asia Bangladesh is one of the countries in which child trafficking is rife.

The Special Rapporteur's interim report to the General Assembly (A/52/482, para. 23) refers to information indicating that child abandonment, kidnapping, trafficking for labour bondage and children in prostitution continue to be widespread, with UNICEF estimating that there are about 10,000 child prostitutes in Bangladesh. Other information indicates that officials often ignore the existence of phenomena such as child prostitution or even profit from them.

Torture, Special Rapporteur on: (E/CN.4/1997/7, Section III; E/CN.4/1997/7/Add.1, paras. 17–19)

The Special Rapporteur (SR) transmitted 29 cases and one urgent action appeal to the government. Some of these arose from a police raid at Dhaka University in January 1996, which involved some 700 members of the police and Bangladesh Rifles, and resulted in injuries to approximately 200 students. The government claimed the raid was conducted to recover illegal arms; the students maintained it was an attack on student supporters of the opposition Awami League. Actions by police allegedly included beatings with batons and rifle butts, threats of death at gunpoint, pushing students out of windows, and wounding them in the legs. The SR urged the government to institute an independent inquiry into the incident. Other cases referred to incidents involving members of the army at various military camps in the Chittagong Hill Tracts (CHT). The reported forms of torture and ill-treatment included rape at gunpoint and arrest followed by severe beating. The report notes that, since the SR continued to receive allegations that the military was abusing people living in CHT, he was recommending that the government establish an effective and independent means to monitor the army's counter-insurgency methods in that area.

Violence against women, Special Rapporteur on: (E/CN.4/1997/47, Sections IV, IV-B and V-B; E/CN.4/1997/47/Add.4, para. 4)

In the section of her report on trafficking in women and forced prostitution, the Special Rapporteur (SR) draws attention to the fact that, in many societies, the recruitment of women for prostitution is often achieved with the complicity of the family. Among the countries mentioned in this context is Bangladesh, where some of the poor may sell their daughters and, often unknowingly, force the girls to work in debt bondage. According to the SR, this subversion of the family is increasing at an alarming rate as poor families often have very few options for survival. The use of marriage as a method of recruitment for trafficking is also mentioned in, for example, the trafficking of women to Pakistan. The report notes that, in such cases, Bengali traffickers or their networking partners are required to marry their victims in order to protect themselves from being prosecuted under Islamic Hudood laws. Some 2,500 Bangladeshi women and children are currently being detained in Pakistan under these laws, charged with illegal entry and for having "illegitimate sex". The report expresses particular concern that trafficked women report high levels of state participation and complicity, for example, by the Bangladesh police and border officials. The report also cites information about migrant women prostitutes in Bangladesh who were compelled to offer "free sexual services" to police and immigration officials who took advantage of the women's undocumented status, language deficiencies and lack of legal literacy. The report recalls that in 1982 the government banned "solo foreign labour migration" by Bangladeshi women out of a concern for the "low moral standards" of domestic workers. According to the SR, the resulting gap was quickly filled by agents who arranged sham marriages to Bangladeshi men, who then escorted the women out of the country. (At the request of Kuwait the ban was lifted in 1991.)

Finally, the SR referred the government to the case of the abduction and disappearance of the Organizing Secretary of the Hill Women's Federation (see above), noting that the incident could potentially involve violations of the right to liberty and security of person and due process of the law—articles 4 and 9 (1) of the ICCPR and article 1 of the UN Declaration on the Elimination of Violence Against Women.

Mechanisms and Reports of the Sub-Commission

Contemporary forms of slavery, Working Group on: (E/CN.4/Sub.2/1997/13, para. 32)

The Sub-Commission's Working Group on contemporary forms of slavery has decided that the question of migrant workers, particularly female domestic workers, will be a priority topic at its next session; within the context of Southern Asia, the situation in or related to Bangladesh will be considered.

Other Reports

Periodic and genuine elections, Report of the S-G to the GA: (A/52/474, Annex)

The report of the Secretary-General notes that the UNDP sent a Chief Technical Advisor to Bangladesh to assist electoral authorities prior to the June 1996 elections. The expert remained in the country after the elections to assist in preparation of a UNDP project document on recommendations for future democratic elections.

World Public Information Campaign on Human Rights, Report of the S-G to CHR: (E/CN.4/1997/36, paras. 85, 98)

The report notes that the UN Information Centre (UNIC) in Dhaka organized a discussion in observance of Human Rights Day which was attended by the editors and chief reporters of daily newspapers and news agencies. UNIC has also been in contact with the Curricula Committee of the Bangladesh Text Book Board in order to persuade them to incorporate UN themes in the primary- and secondary-level school curricula. In terms of the International Decade of the World's Indigenous People the report notes that a seminar was hosted by UNIC, and a UN film shown, for a group of 40 tribal/indigenous students and leaders from Chittagong who were briefed on the role of the UN in promoting the Decade.

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BHUTAN

Date of admission to UN: 21 September 1971.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Bhutan has not submitted a core document for use by the treaty bodies.

Racial Discrimination

Signed: 26 March 1973.

Discrimination against Women

Signed: 17 July 1980; ratified: 31 August 1981.

Bhutan's initial through fourth periodic reports were due 30 September 1982, 1986, 1990 and 1994 respectively.

Rights of the Child

Signed: 4 June 1990; ratified: 1 August 1990,

Bhutan's initial and second periodic report were due 1 September 1992 and 1997 respectively.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on: (E/CN.4/1997/4, paras. 12, 17, 21, 22, 36, 37, 40, 41)

The main report notes that one urgent appeal was transmitted to the government on behalf of one person and that the government had replied. No details of the case were given. The report also refers to the mission undertaken to Bhutan as well as the visit to camps in eastern Nepal to interview refugees who began to leave Bhutan in 1990.

The Working Group (WG) refers briefly to its visit to Bhutan to follow-up the 1994 mission. The report includes a short summary of the WG's visit to refugee camps in eastern Nepal where Bhutanese nationals or former residents in Bhutan of Nepalese origin have settled. Some of the refugees interviewed by the WG had previously been detained in Bhutan. The first addendum to the WG's main report (E/CN.4/1997/4/Add.1, Decision 3) summarizes decisions taken on a case previously considered.

Decision 3 (1996) related to a detention that, in 1994, had been declared non-arbitrary. Based on information received, the case involved: an arrest in Nepal and extradition to Bhutan

without an extradition order; the failure of the authorities to notify the family of the arrest within a reasonable period of time; lack of access for family members to the man arrested until the second year of detention; refusal of permission for the detainee to correspond with his wife, either officially or unofficially; failure of the authorities to inform the detainee of his right to be assisted by a lawyer and failure to provide him with a lawyer during his prolonged custody; charging the detainee under the National Security Act, promulgated in October 1992, when the man was arrested in 1989; keeping the detainee in handcuffs for two years; failing to provide him with medical care until one year after imprisonment; and detaining the man for three years without charge or trial.

The government provided the WG with information, arguing that the facts as stated were not true. On that basis, a number of concerns were dismissed. The WG did find, however, that the detention from 17 November 1989 to 29 December 1992 was arbitrary and in violation of principles 11, 37 and 38 (the right to a prompt hearing and trial within a reasonable period of time) of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. The WG decided that the imprisonment between the detainee's first appearance before the Court and his sentencing on 16 November 1993 was not arbitrary.

The report of the WG's visit to Bhutan in May 1996 (E/CN.4/1997/4/Add.3) notes that the mission was organized with three objectives in mind: to follow up on recommendations made during the first field mission; to visit courts, prisons and police stations in the capital and in the provinces; and, to evaluate a case the WG had previously declared to be non-arbitrary (as above).

A review of actions taken by the government to implement recommendations arising from the 1994 visit is provided and the report notes that:

- ▶ a review of all cases related to persons detained under the National Security Act was conducted; common law cases were set aside for six months and all trials of "anti-national cases" were conducted by the High Court within a six-month period;
- ▶ regarding the institution of *Jabmi* (a substitute for a lawyer), steps had been taken by prison authorities and the courts to ensure that persons being tried were aware of their right to engage a *Jabmi* or have other legal representation of choice and, further, to explain the provision of engaging a *Jabmi* during the preliminary hearing;
- ▶ persons detained but not yet convicted under the National Security Act are periodically brought before the High Court and given the right personally to state before a judge any grievances they may have;
- ▶ all common law prisoners are regularly brought before a judge and given the assistance of a *Jabmi* of choice;
- ▶ a review of the cases of common law prisoners who had not been formally charged was conducted and resulted in the release of a number of detainees;
- ▶ those detained for years without formal charge or appearance before a judge were released on bail, with the conditions of bail commensurate with the individuals' economic conditions;

- ▶ in cases of monetary claim the government is taking steps through amendments to the 1981 Loan Act to expedite cases and considering placing these cases under civil remedy;
- ▶ efforts are being made to expedite completion of investigations within reasonable time-limits and the government is considering a draft on civil and criminal procedures that provides for a minimum/maximum period for completion of investigations related to all kinds of offences;
- ▶ efforts are being made to ensure that all persons arrested and accused are brought before a magistrate within 24 hours, bearing in mind difficulties encountered by the remoteness of some villages and the time needed to bring the accused to a district court, as well as delays related to arrests made during weekends and on national holidays; and,
- ▶ the process of record-keeping related to persons held at the Thimphu Detention Centre and Chamgang Central Jail has been improved and includes information such as name of prisoner, date of arrest, date of first appearance before a magistrate, date of formal charge, date of commencement of trial, information on means of defence (e.g. *Jabmi*) and date of conviction.

In the section of the report dealing with administration of justice, brief commentary is provided on the government's efforts to improve procedures related to arrest and custody, first appearance before a judge, rights of the defence, close of an investigation and the appeals procedure, including appeal to the High Court.

In terms of continuing problems in the implementation of recommendations made following the 1994 visit, the report recommends that:

- ▶ to address problems arising from geography and difficulties in travel that impede adherence to the stipulation of a maximum 24-hour period in police custody before court appearance, the period of custody may be calculated from the time of arrival at the police station, with the time needed to make the journey recorded in the register of the detainee's legal status now being kept at each detention centre;
- ▶ to differentiate between custody following arrest and detention pending trial, limitations on custody be clearly set out and the bases for possible renewal of the custodial order be clearly stipulated to assist judges and, work be undertaken towards a uniform approach by the courts in this matter;
- ▶ more flexibility be introduced into the penalty system by reform of the Code of Criminal Procedure so that judges may, for example, suspend sentences or authorize probation;
- ▶ steps be taken to allow for the gradual development of the practice of *Jabmi* into that of lawyer; and,
- ▶ greater efforts be made to inform those arrested or detained of their right to legal assistance through the institution of *Jabmi*, and further legal training be given to *Jabmi* to ensure their capacity to work effectively within a legal system undergoing modernization.

The report concludes that the 15 recommendations made following the 1994 visit have generally been implemented by the government. On that basis, further recommendations are made, including that the government:

- ▶ adopt as soon as possible the draft law reforming the Code of Criminal Procedure; ensure that the Code calculates police custody from the time of arrival at the place of detention; and provide alternative non-custodial measures such as suspended sentences or probation;
- ▶ implement the technical cooperation programme related to the administration of justice which was agreed in principle with the Office of the High Commissioner for Human Rights;
- ▶ give high priority to the training of judges;
- ▶ make greater efforts to publicize the function of *Jabmis*; and,
- ▶ to the extent possible, appoint and pay *Jabmis* to assist persons who lack the financial means to pay for their own legal defence.

Religious intolerance, Special Rapporteur on:
(E/CN.4/1997/91, paras. 9, 17, 21, 22, 26)

The report refers to violations of religious freedom in Bhutan against all religions and religious groups other than the official religion. Reference is also made to prohibitions related to the freedom to change one's religion as well as a ban, through special legislation, on the freedom to manifest one's religion or belief and to proselytize.

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BRUNEI DARUSSALAAM

Date of admission to UN: 21 September 1984.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Brunei has not submitted a core document for use by the treaty bodies.

Rights of the Child

Acceded: 27 December 1995.

Brunei's initial report was due 25 January 1998.

Reservations and Declarations: General reservation and articles 14, 20 and 21.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Religious intolerance, Special Rapporteur on:
(E/CN.4/1997/91, paras. 9, 17, 19, 26, 29)

The report notes violations of religious freedom against all but the state religion as well as the ban on some religions on proselytizing. The government informed the Special Rapporteur that it is committed to peace and harmony and that restrictions in the religious field, regardless of the religion in question, were designed to maintain peace, order and harmony. The government stated that non-Muslims could practise their religion and had sufficient places of worship.

The SR's interim report to the General Assembly (A/52/477, paras. 25, 28, 30, 33, 34, 38) notes that communications were sent to the government related to violations of religious freedom against all religions, religious groups and religious communities other than those reflecting the official state religion and the fact that non-Muslims face a number of religious restrictions, such as: a prohibition on the import of non-Muslim publications; restrictions on the teaching of history or religions and other subjects related to religion in non-Muslim educational institutions; the requirement that Islam be taught; and, refusal of permission to build, enlarge or renovate non-Muslim places of worship.

Mechanisms and Reports of the Sub-Commission

States of emergency, Special Rapporteur on: (E/CN.4/Sub.2/1997/19/Add.1)

The report notes that a state of emergency was declared on 12 December 1962 and is still in force.

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BURMA

(Myanmar)

Date of admission to UN: 19 April 1948.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Burma has not submitted a core document for use by the treaty bodies.

Discrimination against Women

Acceded: 22 July 1997.

Burma's initial report is due 21 August 1998.

Reservations and Declarations: Article 29.

Rights of the Child

Acceded: 15 July 1991.

Burma's second periodic report is due 13 August 1998.

Burma's initial report (CRC/C/8/Add.9) was considered by the Committee at its January 1997 session. The report prepared by the government includes demographic and statistical data as well as information on the political and economic system and child-rearing and social customs. The report also provides information on: the Child Law; civil rights and political freedoms; family environment and alternative care; basic health and welfare; education, leisure, recreation and cultural activities; special protection measures; and, the formation of the National Committee on the Rights of the Child. The government also provided a written response to questions submitted by the Committee prior to consideration of the initial report (CRC/C/Q/Mya.1).

The Committee's concluding observations and comments (CRC/C/15/Add.69) welcomed: adoption of a National Plan of Action and establishment of a National Committee on the Rights of the Child in 1993 and the enactment of a national law on the protection of children in 1993.

Among the factors and difficulties hindering implementation of the Convention, the Committee noted: the years of internal conflict in some regions of the country; the violence and instability which have had a considerable negative impact on the situation of children; the fact that many children have

been subjected to various forms of violations of their rights and have been forced to flee areas affected by such violence; and, the several years of unfavourable economic conditions in Burma and the adverse effect of conditions on the situation of the most vulnerable groups in society.

The principal subjects of concern identified by the Committee were: the lack of conformity between the existing national legal framework and the Convention, namely the Citizenship Act, the Village and Towns Acts and the Whipping Act, the laws on freedom of expression and association, the Child Law on Child Labour; low age of criminal responsibility (7 years); the failure clearly to prohibit torture and the lack of a complaint procedure for children; the fact that the law prohibiting discrimination does not explicitly protect children from discrimination; and, the fact that human rights of children are not yet integrated in a fundamental body of law.

The Committee also expressed concern over: the fact that the Convention and the National Plan of Action have not yet been translated into concrete programmes and policies; the fact that the system of data collection does not adequately disseminate information so as to reflect the situation of all children, particularly those belonging to the most disadvantaged groups; the inadequacy of measures taken to ensure the implementation of children's economic, social and cultural rights; the insufficient budget allocation for social expenditures, in particular in favour of children belonging to the most disadvantaged groups of the population; the status and situation of children belonging to ethnic and religious minority groups, girls, and children living in rural and remote areas; the fact that the national identity card explicitly mentions the religion and the ethnic origin of each citizen, including children; the provision in the Citizenship Act which establishes three different categories of citizenship, creating the possibility that some categories of children and their parents might be stigmatized and/or denied certain rights; the insufficient measures taken to raise awareness and to provide education on the Convention to adults and children alike; the failure to have the Convention translated in all national languages; the lack of knowledge on the Convention among professional groups working for and with children.

Concern was also expressed by the Committee over: the fact that children considered poor are channelled towards monastic Buddhist schools and are offered no alternative educational opportunity; inadequacies with regard to the rights to freedom of speech, association and peaceful assembly; the recent closure of some high-schools; the fact that the existing legal framework and procedures set to regulate adoption do not fully conform with the Convention; the high rate of infant mortality and malnutrition, as well as the low level of health services; the insufficiencies of measures to offer appropriate and accessible social, rehabilitation and educational services to disabled children; the high level of drop-out and repetition rates; the lack of resources for vocational training; and the insufficient measures taken to provide education in minority languages.

The Committee expressed serious concern over: the impact of years of internal conflict resulting in forcible relocation or displacement; abuse and violence perpetrated against children and, in particular, the rape of young girls by

soldiers and reports of children forced into labour; and, forced and under-age recruitment of child-soldiers.

Additional concerns expressed by the Committee were: the fact that children working in the family environment or in family enterprises are not protected by law; the insufficiency of measures taken to address the problems of child abuse, the sale and trafficking of children, child prostitution and child pornography; the insufficient measures taken to provide physical and psychological recovery and social reintegration to children victim of any form of neglect, abuse and/or exploitation, particularly victims of armed conflicts, sexual exploitation and child labour; and, the problems associated with the administration of juvenile justice.

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

- ▶ undertake a comprehensive review of national legislation to bring it into conformity with the principles and provisions of the Convention, especially in the areas of non-discrimination, citizenship, freedom of association, corporal punishment, child labour, adoption and the administration of juvenile justice;
- ▶ repeal the Citizenship Act, the Village and Towns Acts, and the Whipping Acts;
- ▶ reinforce at all levels the role of the National Committee for the Rights of the Child in the implementation of the Convention;
- ▶ take all necessary measures to integrate the Convention on the Rights of the Child and the National Plan of Action fully in all programmes and sectoral policies;
- ▶ gather all necessary data on the situation of children in the various areas covered by the Convention, including on children belonging to the most vulnerable groups;
- ▶ ensure that sufficient budgetary allocation is provided to social services for children and that particular attention is paid to the protection of children belonging to vulnerable and marginalized groups;
- ▶ assess on an ongoing basis the "child-impact" of decisions taken by the authorities;
- ▶ fully integrate the general principles in the Convention in all policies, laws, actions and programmes affecting children at all levels including on the administrative and judicial levels;
- ▶ abolish the categorization of citizens, as well as the mention on the national identity card of the religion and ethnic origin of citizens, including children;
- ▶ launch a systematic information campaign, for both children and adults, on the Convention, consider incorporating the Convention in the school curricula, and take appropriate measures to facilitate access by children to information produced on their rights;
- ▶ develop a comprehensive training programme, especially focussing on child abuse, for professional groups working for and/or with children;
- ▶ take steps to ensure that national law and practice with regard to adoption fully conform with the Convention and consider ratifying the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption;
- ▶ give an alternative education choice to non-Buddhist and poor children and take all measures to fully guarantee the freedoms of association and speech as well as the right to peaceful assembly;
- ▶ take all appropriate measures to provide access to health services throughout the country and to all children and take appropriate action to offer better protection and access to social services to physically and mentally disabled children;
- ▶ take all appropriate measures to reduce the level of school drop-out and the repetition rate and allocate resources to translate school materials into minority languages;
- ▶ in the context of the armed conflict, prevent any occurrence of forced relocation, displacement and other types of involuntary population movements and reinforce the central tracing agency to favour family reunification;
- ▶ investigate rapidly, impartially, thoroughly and systematically all reported cases of abuse, rape and/or violence against children committed by members of the armed forces, apply appropriate judicial sanctions to perpetrators and give wide publicity to such sanctions;
- ▶ ensure that the army fully refrains from recruiting under-aged children and abolish forced recruitment of children as well as their involvement in forced labour, and take all necessary measures to prevent and combat, by legal or any other appropriate action, the exploitation of adopted children including through labour;
- ▶ takes all appropriate measures to prevent and combat child abuse, including sexual abuse, and the sale and trafficking of children, child prostitution and child pornography and, in this regard, consider the establishment of bilateral agreements to prevent and combat transnational trafficking and sale of children for sexual exploitation;
- ▶ take all necessary measures to promote the physical and psychological recovery and social reintegration of children victims of armed conflict, abuse and neglect, any form of violence, including rape, child labour and forced labour, sexual exploitation and trafficking and sale;
- ▶ envisage undertaking a comprehensive reform of the system of juvenile justice and organize training programmes on the relevant international standards for all those professionals involved with the system of juvenile justice; and,
- ▶ implement all the recommendations made by the Special Rapporteur on the situation of human rights in Myanmar and envisage ratifying other major international human rights treaties.

COMMISSION ON HUMAN RIGHTS

Special Rapporteur on the human rights situation in Myanmar

The mandate of the Special Rapporteur (SR) on the situation of human rights in Myanmar was established in Commission Resolution 1992/58 and extended most recently by the Commission resolution 1997/64. It required the SR to establish or to continue direct contacts with the people of

Burma, including political leaders deprived of their liberty, their families and their lawyers, with a view to examining the situation of human rights in Burma and following any progress made towards the transfer of power to a civilian government and the drafting of a new constitution, the lifting of restrictions on personal freedom and the restoration of human rights in Burma. The SR in 1997 was Mr. Rajsmoor Lallah.

The report of the Special Rapporteur (SR) on the situation in Myanmar (E/CN.4/1997/64) notes that three requests for permission to visit Burma to conduct a field mission were made and that none was granted. Nonetheless, the SR's report includes commentary on: the impact of law on human rights; extrajudicial, summary or arbitrary executions; torture and cruel, inhuman or degrading treatment or punishment; due process of law; rights pertaining to democratic governance; measures adversely affecting democratic governance; and, remedial measures. The report also includes a section on a mission undertaken to Thailand which includes commentary on: the problem of displacement; the main causes of displacement; patterns and consequences of displacement; issues of humanitarian law; rights particularly relevant to displaced persons in Burma; and remedial measures.

The report identifies four priority areas of concern: the failure of the State Law and Order Restoration Council (SLORC) to complete the electoral process begun in 1990 and meet commitments to establish democracy on the basis of the outcome of the elections; the continued detention and imprisonment of political leaders, many of whom were elected in 1990 to represent their constituencies and establish a permanent democratic system of government; serious violations of human rights, including torture, summary/arbitrary executions, forced labour, forced portering, abuse of women, politically motivated arrests and detentions, forced displacement, restrictions on freedom of expression and association and oppressive measures directed against ethnic and minority groups; and continued armed conflict with ethnic and other groups which, coupled with human rights violations, have resulted in refugee outflows to neighbouring countries.

Given that Burma has ratified only two of the six international human rights and neither of the International Covenants, the report emphasizes the norms in the Universal Declaration of Human Rights in terms of assessing the state of human rights in the country. Particular reference is made to: articles 2 and 11 — related to the exercise of political rights without distinction on any grounds such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status; articles 13, 18, 19 and 20 — related to freedom of movement, thought, opinion and expression, the right to seek, receive and impart information and freedom of assembly and association; articles 7, 10 and 11 — related to equality before the law, right to fair trial by an independent and impartial tribunal and right to procedural guarantees necessary to one's defence; and articles 5 and 9 — related to the right not to be subjected to torture, cruel, inhuman or degrading treatment or punishment or arbitrary detention or arrest.

The SR examined areas where internal law severely contradicts international standards. Among the laws considered and criticized were: the 1923 Official Secrets Act; the 1950

Emergency Provisions Act; the 1957 Unlawful Associations Act; the 1962 Printers' and Publishers' Registration Law; the 1975 State Protection Law; and Law No. 5/96 Protecting the Stable, Peaceful and Systematic Transfer of State Responsibility and the Successful Implementation of National Convention Tasks Free from Disruption and Opposition. It was also noted that these laws are reinforced by various orders and other emergency laws still in force. These are listed as including orders prohibiting: civil servants from participating in politics and prohibiting family members or anyone close to them from participating directly or indirectly in activities aimed at opposing the government; the assembly of five or more persons; criticism of the authorities or defence forces and insults to SLORC; and all Buddhist monk organizations except for the nine sects of the Sanghas.

In his report to the Commission, the SR stated that he had analysed the question of the legitimacy of the assumption and continued retention of martial law powers after the elections of 1990, its break with constitutionality and legal continuity, its non-conformity with international norms and the adverse impact of Burmese law on the respect and protection of human rights. In this regard, the SR mentioned the most commonly employed laws banning the enjoyment of civil and political rights and suppressing dissent against the State Law and Order Restoration Council (SLORC). He came to the conclusion that various laws, by themselves, criminalize or adversely affect freedom of thought, information, expression, association and assembly through fear of arrest, imprisonment and other sanctions. In addition, where they do not criminalize them, executive acts or orders greatly restrict those rights.

The report also refers to the Computer Science Development Law of 27 September 1996, which makes the unauthorized import, possession and use of certain types of computer equipment (for example, computers with networking capability) punishable with sentences of 7 to 15 years in prison and/or a fine. Reference is also made to the proposed establishment of a "Myanmar Computer Science Council" to approve the type of equipment to be restricted. According to the government-controlled newspaper *New Light of Myanmar* (NLM), punishment is prescribed for anyone setting up links with a computer network without permission, or who uses computer networks or information technology for undermining state security, law and order, national unity, the national economy or national culture, or who obtains or transmits state secrets. Members of unauthorized computer clubs may, according to reports, be sentenced to prison terms of a minimum of three years. A punishment of 5 to 10 years' imprisonment is prescribed for anyone who imports or exports computer software or information banned by the Myanmar Computer Science Council.

The report documents cases and incidents arising from specific types of violations, including: summary/arbitrary execution — although no evidence has been received of a systematic policy of such executions, numerous allegations of the practice by the military have been received; torture — commonly reported as carried out against villagers by agents of the government and the military; unacceptably low standards with regard to prison conditions and refusal of SLORC to allow the Red Cross to visit prisoners as provided for in the

Geneva Convention of 1949; irregularities in due process — related to the failure to guarantee the right of accused persons to cross-examine witnesses during trial; censorship of publications, provision for a crime of spreading false news; the banning of political parties and restrictions making it increasingly difficult for remaining opposition parties to function; and, compulsory membership in associations — including the requirement that all hotels in Burma join the Hotel and Tourism Committee.

The report comments on a number of statements related to the role of teachers and an educational system that more accurately reflects one of indoctrination rather than education. In the view of the SR, it is evident that the Basic Education courses for teachers, which take place on a regular basis, are used as important forums for senior SLORC officials to impart national policy and demand cooperation on the part of the teachers. The speeches are clearly aimed at controlling the student population which, as in the past, seems to be an integral part of the democratic movement.

In the section of the report summarizing the findings of the field mission to Thailand, the SR gave considerable attention to the phenomenon and causes of displacement. In doing so, three reasons are suggested for the lack of more precise information on the number of displaced persons. These are: to date, SLORC's failure to acknowledge that displacements have occurred and assemble statistics; the fact that internally displaced persons tend to flee in small groups and the areas of expulsion are numerous and spread throughout the country; and, displaced persons tend to flee in absolute silence not wishing in most instances to be identified as displaced, in order to avoid persecution and fearing execution. The causes of displacement are identified as including forced relocation arising from counter-insurgency measures, forced conscription and recruitment of porters and confiscation of land without compensation for development and industrial projects. Displacement as a result of these and other causes is noted as leading to violation of the rights to freedom of movement and freedom to choose one's own residence, the right to basic food, housing and health and the rights to life, physical security and public freedoms.

In light of these and other issues and concerns, the SR stated that the absence of respect for the rights pertaining to democratic governance, as exemplified by the absence of meaningful measures towards the establishment of a democratic order, is at the root of all major violations of human rights in Burma. Further, it is most unlikely that these violations will not cease as long as the democratic process initiated by the general elections of 1990 is not re-established. The SR also stated that the National Convention, because of its mandate, composition and procedures, including its protracted proceedings, has not proved a positive step and is devoid of democratic credibility.

On the basis of virtually unanimous reports and other information, the SR concluded that: there is essentially no freedom of thought, opinion, expression or association in Burma; the absolute power of SLORC is exercised to silence opposition and penalize those holding dissenting views or beliefs; because of both visible and invisible pressures, the people live in a climate of fear in which whatever they or their family members may say or do, particularly in the area of

politics, involves the risk of arrest and interrogation by the police or military intelligence; NLD leaders cannot assemble in a group, cannot freely discuss, and cannot publish or distribute printed material; and, in the prevailing situation, it is difficult to assume that open discussion and free exchanges of views and opinions can possibly take place in Burma, unless they support the present military regime.

Based on these conclusions and observations, the report ends with a number of recommendations, including that:

- ▶ the Universal Declaration of Human Rights be adopted as one of the basic constitutional principles;
- ▶ the text of the Universal Declaration be made widely available in the Burmese language;
- ▶ the government consider accession to the International Covenants on civil, cultural, economic, political and social rights, the Convention against Torture and the two protocols additional to the 1949 Geneva Conventions;
- ▶ laws in Burma be brought into conformity with international standards with regard to physical integrity rights, protection against disappearance, prohibition of torture, humane conditions of detention and implementation of minimum standards of judicial guarantees;
- ▶ the process of democratic transition be accelerated and a substantive dialogue with the NLD and other political leaders elected in 1990 be established;
- ▶ all restrictions on the NLD be lifted immediately;
- ▶ trials by a properly constituted and independent civilian court be held for all political detainees, in conformity with international standards of fair trial and due process with, where a verdict of guilty is determined, guarantees of sentences proportionate to offences;
- ▶ all laws legitimizing human rights violations be repealed immediately;
- ▶ the government take all necessary steps to improve prison conditions and allow international humanitarian organizations access in order to communicate freely and confidentially with prisoners;
- ▶ steps be taken to decriminalize expression of opposition views and relinquish government control over media and literary and artistic works;
- ▶ all restrictions on the right to leave and return be removed as well as restrictions on movement within the country;
- ▶ equal enjoyment of property rights be guaranteed and protected;
- ▶ steps be taken to ensure compliance with ILO Conventions No. 87 and No. 29;
- ▶ steps be taken to put an end to forced displacement;
- ▶ training in international human rights law and protections be given to all military and law enforcement personnel; and
- ▶ measures be implemented to eradicate impunity for perpetrators of human rights violations and to subject all officials to strict disciplinary control and punishment when required.

Report of the S-G on discussions aimed at national reconciliation

The Commission on Human Rights also had before it the 27 March 1997 report of the Secretary-General (E/CN.4/1997/129) on discussions that have been held with the government aimed at national reconciliation. The report notes that three rounds of talks were held between April and October 1996. A visit to Burma by the Director of the UN's East Asia and the Pacific Division took place from 17 to 21 February 1997 during which consultations were held with a number of representatives of government ministries and departments as well as others. Among points made by the government during discussions were:

- ▶ the next task of the National Convention, which had not met since March 1996, is to consider power-sharing between the central government and the states, regions and self-administered areas in the context of the chapters in the draft Constitution on the legislature, executive and judiciary;
- ▶ the Constitutions of 1948 and 1974 had failed because they had not adequately addressed the aspirations of the national races, and it was important to ensure that the future Constitution reflected their aspirations;
- ▶ once the issue of power-sharing had been resolved it should be possible to move faster with the drafting of the remaining chapters, namely, on the formation of political parties, the Tatmadaw (Burmese Armed Forces), citizens' rights and responsibilities, elections, emergency provisions, amendments to the Constitution, the national emblem and capital, transitional provisions, general provisions, and the division of powers between the legislative, executive and judicial branches;
- ▶ some representatives of political parties and national races indicated that they were not aware that discussions between the government and the ethnic groups were taking place;
- ▶ the priority for Burma was the resolution of the various insurgencies that had plagued the country since its independence;
- ▶ only after there were no more threats to the stability of the country could discussions on multi-party democracy be held and that only a "disciplined" body like the Tatmadaw was in a position to ensure that the armed groups gave up their weapons once the drafting of the Constitution had been completed;
- ▶ four meetings had been held in 1996 with representatives of the KNU, considered to be the last remaining armed ethnic group which had not entered the legal fold;
- ▶ no agreement had been reached with the KNU because the KNU leadership could not accept the same conditions which had been agreed by the other armed ethnic groups and the government could not treat the KNU differently from the other groups by agreeing to a separate set of demands, including a political dialogue, which could only take place within the National Convention;
- ▶ in view of the failure of the negotiations, the government had decided to send troops to the border areas to clear out

the KNU camps and reassert government control over the entire national territory;

- ▶ little significance should be attached to the Mae Tha Raw Hta meeting of ethnic groups held in January on the Burmese-Thai border, which was reportedly attended by representatives of several national races and which, inter alia, called for the dissolution of the "sham" National Convention and a tripartite dialogue between the State Law and Order Restoration Council, Aung San Suu Kyi and "pro-democracy forces", and leaders of the ethnic nationalities;
- ▶ most of the ethnic groups that were "in the legal fold" had not attended the meeting, and those that had done so had informed the government subsequently that they had not signed the declaration issued at the conclusion of the meeting;
- ▶ with regard to the prospects for a dialogue with Aung San Suu Kyi and the NLD, the only forum for political discussions was the National Convention, from which the NLD had chosen to withdraw in November 1995;
- ▶ the 1990 elections had not been held for the purpose of an immediate transfer of power since the 1974 Constitution had become irrelevant and a new Constitution was required before a transfer of power could occur, and more than six years had elapsed since the holding of those elections;
- ▶ there were no mechanisms to amend the composition and functioning of the National Convention and there was little point in opening a dialogue, however informal, on that or other matters with Aung San Suu Kyi and the NLD; and,
- ▶ a visit by the Special Rapporteur on the situation of human rights in Myanmar would take place at "an appropriate time".

Resolution of the Commission on Human Rights

At the 1997 session the Commission adopted, by consensus, a resolution (1997/64) in which it: expressed concern at continuing violations including summary/ arbitrary executions, death in custody, torture, arbitrary/politically motivated arrest and detention, absence of due process, restrictions on freedom of opinion, expression, movement, assembly and association; expressed concern at forced relocation, forced labour by children and adults, forced portering for the military, abuse of women and children by government agents and oppression of ethnic and religious minorities; expressed concern at the absence of significant steps towards establishment of democratic government; regretted the failure of the government to facilitate a visit by the Special Rapporteur; expressed concern at the exclusion of representatives elected in 1990 from the process of the National Convention and restrictions on delegates to the Convention process; expressed concern at restrictions on Aung San Suu Kyi and other political leaders, and the harassment, detention and forced resignation of elected representatives; expressed concern at forced relocation and other violations of rights of persons belonging to minorities; referred to the systematic recruitment of children into forced labour in violation of the Convention on the Rights of the Child; called on the government to end

violations of the right to life and physical integrity; called on the government to ensure respect for the rights to freedom of opinion, expression, thought, association, peaceful assembly and the right to fair trial; called on the government on an urgent basis to improve conditions of detention; called on the government to consider becoming a party to the International Covenants on civil, cultural, economic, political and social rights; called on all other parties to the conflict to respect obligations under international humanitarian law; called on the government to fulfil obligations under relevant ILO Conventions; and, called on the government to end impunity for perpetrators of human rights violations, including members of the military.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1997/60, paras. 16, 17, 18, 19, 32, 38, 67; E/CN.4/1997/60/Add.1, paras. 349–355)

The report of the Special Rapporteur (SR) cites information indicating that: the Burmese security forces continued to kill unarmed civilians during counter-insurgency operations against ethnic minority armed opposition groups; Kayin (Karen) civilians continued to be especially affected by these operations; Kayin civilians fleeing from troops as they approached villages were shot dead in what appeared to be a de facto shoot-to-kill policy against anyone who runs from the Burmese armed forces; others were killed because the armed forces suspected them of supporting the Karen National Union (KNU); and villagers seemed to be killed at random in an effort to terrorize villagers into severing their alleged connection with KNU soldiers.

The SR transmitted cases to the government related to persons killed by members of the armed forces and by members of the Democratic Karen Buddhist Army (DKBA). The SR expressed concern about the persistent reports of violations of the right to life of Kayin civilians by members of the Burmese armed forces and the DKBA and once more urged the government to investigate the allegations, to bring those responsible to justice, to provide compensation to the victims or their families and to take necessary measures to prevent the recurrence of such incidents.

The report also notes the death in detention of James Leander (Leo) Nichols, who had served as honorary consul for Norway and had represented Denmark, Finland and Switzerland. The SR notes information received indicating that, during his detention, he had been denied his medication and that he had been deprived of sleep during long interrogations prior to his death. In response to the Nichols case, the government responded that death had been from natural causes, cardiac disease, and that during his detention he had been well looked after and given full and proper medical attention. The SR expressed regret that the authorities had not agreed that an independent autopsy be conducted.

Freedom of opinion and expression, Special Rapporteur on: (E/CN.4/1997/31, Section III)

The report notes that the Special Rapporteur (SR) conveyed his deep concern to the government regarding the alleged arrest of 190 people, possibly more, related to

activities of the National League for Democracy (NLD). The information received indicated the arrests were accompanied by threats in the state-controlled media against Aung San Suu Kyi and other pro-democracy leaders and new measures were being applied to deny the international press access to Burma. In response, the government provided the SR with a report entitled "Events Pertaining to the Recent Activities of the National League for Democracy (NLD)" and several news cuttings from the newspaper *The New Light of Myanmar*. The report notes that the material provided by the government indicated that, as the conference and mass rally planned by the NLD in May 1996 were considered by authorities as a potential disruption to peace and stability, some delegates were called in for questioning as a preventive measure. The material also referred to the efforts of the NLD to achieve a transfer of power since the 1990 elections. According to the government, this included the writing of a temporary constitution. In addition, the government claimed that some NLD members went underground to organize an armed movement and form a parallel government, which had forced the government to adopt such preventive measures as the restriction and detention of persons. The material provided also indicated that most of the detainees were released, and that after the lifting of restrictions placed on Aung San Suu Kyi, the position and attitude of the NLD changed; and internal as well as foreign pressure ultimately led to the departure of NLD delegates from the National Convention. The government also noted that Aung San Suu Kyi and her associates had been stepping up criticism of the current government while issuing frequent press releases to that effect. And finally, the government asserted that it had been forced to undertake what it perceived to be the best possible action for all the people of the country, due to the threat of a breakdown of peace and stability in the country and in order to prevent a repeat of the unrest of 1988. Those who had been called in for questioning were not arrested or put into prisons or detention centres, but rather lodged at guest houses and given good treatment. The authorities sent home the delegates called in for questioning on 31 May 1996.

The SR took note of the information but referred to the report submitted by the SR on the situation of human rights in Myanmar, in which he had found the right to freedom of expression to be seriously restricted by several combined laws which cannot be reconciled with article 19 of the Universal Declaration of Human Rights and also affected freedom of information through any of the media. The SR noted the government's reference to a threat of a breakdown of peace and stability as a reason to undertake measures for all the people of the country, and stated his intention to seek further information on the nature of that threat to peace and security, and on the proportionality of the measures taken by the government to counter such threats.

Religious intolerance, Special Rapporteur: (A/52/477, paras. 25, 28, 30, 33, 34, 38)

The Special Rapporteur's interim report to the General Assembly notes that communications were sent to the government related to: violations of religious freedom against Christians; information received indicating that the army has tried to convert Christians in Chin state to Buddhism and that children in one monastery were forced to repeat Buddhist

prayers each day, with some parents receiving money in exchange; the imposition of controls on and interference with religious activities of religious groups and communities; and, action by the government to stop the construction of a church even though a building permit had been obtained.

Sale of children, child prostitution, child pornography, Special Rapporteur on the: (E/CN.4/1997/95, paras. 39, 76)

The report refers to information from the International Labour Organization (ILO) noting that Burma is one of the countries in the Mekong region where child trafficking is rife. The report also refers to women deported to Burma facing great danger associated with the possibility of being abused again by Burmese authorities and the possibility of their being liable to further charges and sentences. On the latter point the report notes that departure from the country without permission is an illegal act carrying a fine or six-month jail term. The report states that deported women and girls are reportedly often subjected to further sexual abuse by soldiers in Burma and that prostitution is illegal and carries a maximum three years' prison term.

Torture, Special Rapporteur on: (E/CN.4/1997/7, Section III; E/CN.4/1997/7/Add.1, paras. 336-344)

The report of the Special Rapporteur (SR) cites information received indicating that: a number of persons detained for political reasons at Insein prison in Yangon were held in exceedingly small "dog cells", intended for the keeping of military dogs; some persons detained for political reasons at Insein were also subjected to torture under interrogation by Military Intelligence (MI) officers even after they had been sentenced; interrogation usually took place with the prisoner in leg irons and was accompanied by severe beatings; other forms of ill-treatment included being kept in the hot sun for prolonged periods and being forced to crawl on the ground over sharp stones; members of ethnic minorities had been forced against their will to perform portering duties for the army (*tatmadaw*) and subjected to torture or other ill-treatment while serving as porters; porters were given inadequate food and medical care and were beaten when seen not to be working with sufficient rapidity; the situation was particularly grave with respect to ethnic Karens forced to porter during army operations against the Karen National Union (KNU); Karenni villagers were subjected to torture, including beatings, rape and other ill-treatment during army operations against the Karen National Liberation Army (KNLA); and, some of the abuses were carried out by the Democratic Kayin Buddhist Army, which is reported to received logistical, tactical and other support from the *tatmadaw*.

The SR transmitted seven individual cases and reminded the government of the cases sent in 1995 to which no reply had been received. Six urgent appeals were also sent, five of which were joined by the SR on the situation of human rights in Myanmar on behalf of 31 persons, many of them members of the National League for Democracy (NLD,) as well as members of a dance troupe who were returning from a performance at an Independence Day ceremony at the compound of NLD leader Aung San Suu Kyi. Information indicated that the troupe had made jokes about the political situation in the country during their performance. The report notes that the government replied to four of the appeals concerning 24

persons and two urgent appeals concerning four persons that had been transmitted in 1995.

The government responses variously stated that: there was no ground for concern because torture and similar practices were prohibited by law and the prison authorities scrupulously followed relevant laws and stipulations; qualified doctors were always available to tend to the medical needs of detainees; arrangements were made if necessary for detainees to receive treatment in hospital; with regard to the members of the dance troupe, they had been charged with delivering lines that could jeopardize law and order and state security; no ill-treatment had taken place during detention or trial; the persons concerned had been arrested because they had been involved in the writing and distribution of literature detrimental to law and order and state security; the person concerned had been detained by the Indian army for involvement in rebel activity and handed over to the Burmese authorities; the persons concerned had been found guilty of writing false and fabricated news about Burma which could cause foreign countries to misunderstand the actual situation prevailing in the country; and, the persons concerned had not been subjected to torture or ill-treatment.

Based on the information available, the SR concurred with the conclusion of the SR on the situation of human rights in Myanmar that the practices of torture, portering and forced labour continue to occur in Burma.

Toxic wastes and products, Special Rapporteur on: (E/CN.4/1997/19, para. 47)

The report refers to the construction of pipelines through rain forest and the fact that the army has declared "free-fire zones" in which soldiers are authorized to shoot civilians. The report also cites information received indicating that indigenous peoples are forced to work on clearing forest areas to prepare them for oil and gas exploration and transportation, and that all of the victims are thought to be Karen, with some of them evicted from the location of the planned pipeline to areas where means to earn a living are scarce.

The SLORC responded to the Special Rapporteur asserting that: the route chosen for the pipeline poses the least threat to the environment and does not pass through any villages; the foreign oil companies involved in the venture are helping the people living along the route by hiring them and paying them more than local wages; no one has been forced to work on the pipeline project; the companies have built schools and health clinics and initiated agricultural projects along the route; and, there are no human rights violations associated with the pipeline project. The SLORC concluded its remarks by stating that the allegations contained in the report are unfounded and totally untrue and have been made by opponents of the government with the aim of denigrating it and the armed forces. (This information was included in a photocopy of some governments' responses to the SR's report, generally available at the 1997 Commission.)

Violence against women, Special Rapporteur on: (E/CN.4/1997/47, Section IV)

In the section dealing with trafficking in women and forced prostitution, the Special Rapporteur (SR) notes that: the recruitment of women for prostitution in many societies is often achieved with the complicity of the family, and that

some impoverished households in Burma sell their daughters, often unknowingly, for money which is used to force the girl to work in debt bondage; debt bondage is widely used by traffickers to control trafficked women, particularly women trafficked for prostitution; women and girls from Burma typically "serve" 6 to 8 men per day, 25 days a month, and earn from AUS\$600 to 2,500 per month for the brothel owner, of which they receive AUS\$1/day or AUS\$25/month; officials of both Burma and Thailand are involved in trafficking women from Burma to Thailand; and girls are transported into Thailand with armed policemen in uniform, and often in police vehicles. The report further notes that the legal prescriptions on leaving the country without permission or valid documents subjects an undocumented migrant woman to punishment both in the destination country and her home country upon return.

Other Reports

Women's human rights; Report of the S-G to the CHR (E/CN.4/1997/40, para. 104)

The report of the Secretary-General on the integration of women's human rights throughout the UN system referred to the detailed reports, photographs, video recordings and a variety of physical evidence seen by the Special Rapporteur (SR) on the human rights situation in Myanmar which indicated that the practice of forced labour, forced portering, torture and arbitrary killings were widespread. The report notes other elements in the SR's report, including that: many of the victims belonged to ethnic populations; between 170 and 250 women were held in a two-storey dormitory measuring 60 by 40 feet; at least 30 children and new-born infants were living with their mothers in the prison; mortality rate among the new-born children in the prison was very high owing mainly to the inadequate food provided to them; and women serving as porters were often victims of sexual assaults and rape.

GENERAL ASSEMBLY

Report of the Special Rapporteur on the human rights situation in Myanmar to the GA

The interim report of the Special Rapporteur (SR) to the General Assembly (A/52/484) includes information on, *inter alia*: rights pertaining to democratic governance; the right to form and join trade unions; forced labour; violations against ethnic minorities; treatment of the Muslim population in Rakhine State; and, the issue of citizenship. The report notes that the government has not allowed the Special Rapporteur (SR) to visit the country and assess the situation firsthand although it has indicated that a visit will be arranged at a mutually convenient time. The report is based on information received by the Special Rapporteur up to 30 August 1997.

The report states: the politico-legal structure has not changed and the exercise of power under the existing structure continues to be used in a manner and to an extent that persistently violates basic and universally accepted civil and political rights; the laws in place continue to be used together with a host of executive orders to criminalize many aspects of normal civilian conduct, especially political activities; political parties are subject to intense and constant monitoring by the State Law and Order Restoration Council (SLORC); Aung San Suu Kyi's freedom of movement, association and

expression continue to be severely curtailed by the presence of military roadblocks outside her residence and she is subject to vilification and unsubstantiated allegations by officials of the regime and the government-controlled media without the possibility of defending herself; arrests and detentions of NDL members continue; distribution of party literature to the public is not allowed, and political parties are generally forbidden to use any means such as videotapes or printing equipment for the reproduction and distribution of their bulletins, pamphlets and statements; and, the expression of political views is not permitted unless it is in support of the present military regime.

In commentary on trade unionism and forced labour, the report notes: Burma is a party to International Labour Organization (ILO) Convention No. 87 of 1948 on freedom of association and protection of the right to organize; workers and employees in Burma do not enjoy the right to join organizations of their own choice outside the existing structure and such organizations do not have the right to join federations and confederations or to affiliate with international organizations without impediment; the Free Trade Unions of Burma is not allowed to function in the country; forced labour is reportedly taking place in all parts of the country, including those where a ceasefire has been agreed; the army has substantially increased its permanent presence in the border regions, which has led to an increase in non-front-line forced labour for the military; another form of forced labour that has been reported is work on commercial projects for the army such as rice farms, paddy, fish pond and tree-planting operations, which the local farmers have to build up and maintain on land confiscated from local people; and, forced labour reportedly also occurs on infrastructure and "development" projects such as the construction and maintenance of roads, railways, bridges, airports, hydroelectric schemes and tourist-oriented projects.

Referring to violations against ethnic minorities, the report cites information related to military attacks and looting on civilian settlements, forced relocation of ethnic groups, forced labour for development and industrial projects and portering for military operations in apparent manoeuvres against insurgents or those suspected of supporting them. The report notes allegations received related to violations of: the rights to life, liberty and security of person; freedom from arbitrary arrest, detention and torture and ill-treatment; due process of law; and freedom of movement. Violations have included: forced displacement; indiscriminate bombardment of civilian settlements and arbitrary killings; and arbitrary arrest and torture of suspected "insurgents" and "terrorists".

The SR concludes that there has been no change in the situation since his reports were submitted to the 1996 General Assembly and the 1997 Commission on Human Rights and that the government has not acted on previous recommendations. The report states that genuine and enduring improvements in the human rights situation cannot be attained without respect for the rights pertaining to democratic governance and that the National Convention does not constitute the necessary steps towards the restoration of democracy. The report also states: extrajudicial, summary or arbitrary executions, the practice of torture, portering and forced labour continue to occur, particularly in the context of development programmes and counter-insurgency operations

in minority-dominated regions; the absence of an independent judiciary, coupled with a host of executive orders criminalizing far too many aspects of normal civilian conduct indicate that a significant percentage of all arrests and detentions are arbitrary when measured against generally accepted international standards; there is no freedom of thought, opinion, expression or association; severe, unreasonable and, in the case of the Muslim Rakhine population, racially based restrictions are placed on travel inside the country and abroad; and, laws related to citizenship appear to be discriminatory on the basis of religion, ethnicity, equality before the law and special measures of protection to which children are entitled.

The Special Rapporteur recommended, *inter alia*, that the government:

- ▶ take steps to allow all citizens to participate freely in the political process and accelerate the process of transition to democracy, in particular through the transfer of power to the democratically elected representatives;
- ▶ ensure that institutions guarantee that the executive authorities are accountable to the citizenry in a clear and meaningful way and, furthermore, restore the independence of the judiciary and subject the executive to the rule of law by rendering unjust and unjustifiable action justiciable;
- ▶ undertake genuine and substantive discussions without further delay between the present military regime and the leaders of NLD and with other political leaders elected in the 1990 elections, including representatives of ethnic minorities;
- ▶ institute immediate measures to put an end to the harassment of the leaders and the membership of NLD, ensure that the General Secretary of NLD is genuinely free and able to exercise her functions without fear of attack and ensure that all political parties are able freely to exercise their rights;
- ▶ re-establish constitutionality and the rule of law and take measures to ensure that SLORC orders and decrees are no longer the basis of law;
- ▶ repeal immediately all laws rendering violations of human rights legitimate;
- ▶ give all laws due publicity and respect the principle of non-retroactivity of penal laws in all circumstances;
- ▶ give particular attention to prison conditions and take all necessary steps to allow international humanitarian organizations to have access and to communicate freely and confidentially with prisoners;
- ▶ take urgent steps to facilitate and guarantee the enjoyment of the freedom of opinion, expression and association, in particular by decriminalizing the expression of opposition views and by relinquishing government controls over the media and literary and artistic works;
- ▶ abolish restrictions related to the entry and exit of citizens into and out of the country, as well as their movement within the country;
- ▶ cease all discriminatory policies that interfere with the free and equal enjoyment of property and give adequate compensation to those who have been arbitrarily or unjustly deprived of their property;
- ▶ guarantee by law the existence and practice of free trade unions;
- ▶ take urgent measures to repeal the offending legal provisions under the Village Act and the Towns Act to prevent the continuation of the practice of forced labour;
- ▶ take immediate steps to put an end to the enforced displacement of persons and create appropriate conditions to prevent the flow of refugees to neighbouring states;
- ▶ revise the laws relating to citizenship in order to ensure that they have no unfavourable incidence on the exercise of civil and political rights and are consistent with generally accepted norms;
- ▶ take steps to bring the acts of soldiers in line with accepted international human rights and humanitarian standards so as to prevent arbitrary killings, rapes and confiscation of property, or forcing persons into acts of labour, portering or relocation;
- ▶ thoroughly inform and train military and law enforcement personnel, including prison guards, on their responsibilities in accordance with international human rights norms and humanitarian law and incorporate those standards into law, including the new constitution;
- ▶ subject all officials committing human rights violations to strict disciplinary control and punishment and put an end to the culture of impunity that prevails in the public and military sectors;
- ▶ consider accession to the International Covenants on human rights, the Convention against Torture and the two additional protocols to the Geneva Conventions of 1949; and,
- ▶ bring law into line with accepted international standards regarding protection of physical integrity rights, including the right to life, the protection against "disappearance", the prohibition of torture and ill-treatment, the provision of humane conditions for all persons under detention and the insurance of basic judicial guarantees.

Report of the S-G on the good offices mission aimed at national reconciliation

The report of the Secretary-General (A/52/587) summarizes activities related to the good offices mission aimed at national reconciliation. Discussions held with the government in 1997 focussed on the main issues repeatedly stressed by the General Assembly, in particular: the holding of a substantive political dialogue between the government and Aung San Suu Kyi and other political leaders and representatives of ethnic groups; the composition and timing of the proceedings in the National Convention; the situation of the Karens and other ethnic groups; restrictions on the normal functioning of political parties, the NLD in particular, and other political freedoms; access by the International Committee of the Red Cross (ICRC) to prisons and other places of detention; and the desirability of an early visit by the Special Rapporteur (SR) so that he could provide the General Assembly with objective, first-hand information about the human rights situation in the country.

The report notes that on the question of opening a substantive political dialogue with the NLD and Aung San Suu Kyi, the authorities reiterated their position that such a

dialogue was only possible within the framework of the National Convention from which the NLD had withdrawn and subsequently been expelled, and that the State Law and Order Restoration Council (SLORC) accorded greater priority to talks with the national races and the resolution of the various insurgencies. The report notes, however, that a meeting had been held between SLORC's Secretary-1 and the Chairman of the NLD as well as two members of the NLD Central Executive Committee as well as the fact that a second meeting was proposed but did not take place because the NLD wanted Aung San Suu Kyi included, something to which the government could not agree since it does not recognize her position within the NLD. Neither the government nor the NLD considers that the contacts to date between them amount to the start of a political dialogue.

On the subject of the the National Convention, the report notes that the authorities explained that it had not met since March 1996 because the constitutional chapter to be considered next dealt with the key issue of power-sharing between the central government and the states and future self-administered areas and zones. The authorities stated that the subject required extensive discussions and a consensus with the national races needed to be built. The Foreign Minister was not in a position to give a time-frame for the resumption of the Convention, but reiterated that the government's goal was the establishment of a constitutional and multi-party system. The report notes that inquiries revealed no indication by the authorities that they might be considering changes in the composition and procedures of the National Convention to make them more representative and transparent.

A summary of contacts between the government the various insurgent groups, as well as the Karen National Union (KNU) is included, as well as comments on discussions between the government and the ICRC. On the latter point, the report notes the government's assertion that laws dating back to colonial days prevented it from accepting the ICRC's conditions regarding access to prisoners and detainees. On the question of an invitation to the CHR Special Rapporteur to visit, the report notes the government's position, namely, that since the SR's predecessor had submitted reports that did not reflect the real situation in the country, it had become necessary in the national interest to exercise considerable restraint, but a visit might take place at an appropriate time.

General Assembly resolution on the situation in Myanmar

The General Assembly adopted a resolution on the situation in Myanmar (A/C.3/52/L.63) in which the GA, *inter alia*: recalled that the Universal Declaration states that the will of the people shall be the basis of the authority of government; expressed grave concern at the travel and other restrictions placed on Aung San Suu Kyi and other political leaders and continued arrests and harassment of members and supporters of the National League for Democracy (NLD), trade unionists and students for peacefully exercising their rights to freedom of expression, assembly and association, at forced resignations of elected representatives and at the long closure of all universities and colleges following the student demonstrations in December 1996; welcomed the contact between the government and political parties, in particular the NLD, but regretted the failure of the government to engage in a substantive political dialogue with Aung San Suu Kyi and other

political leaders, including representatives of ethnic groups; expressed grave concern at the continuing violations of human rights in Burma; noted that the human rights situation has resulted in flows of refugees to neighbouring countries, thus creating problems for the countries concerned; urged the government to cooperate fully with the Special Rapporteur and to ensure his access to Burma, without preconditions; deplored the continuing violations of human rights in Burma; requested the government to permit unrestricted communication with and physical access to Aung San Suu Kyi and other political leaders by members and supporters of the League and to protect their physical well-being; urged the government to release immediately and unconditionally detained political leaders and all political prisoners, to ensure their physical integrity and to permit them to participate in the process of national reconciliation; urged the government to pursue its contacts with the NLD with a view to engaging, at the earliest possible date, in a substantive political dialogue with Aung San Suu Kyi and other political leaders, including representatives of ethnic groups; encouraged the government to broaden its dialogue with the Secretary-General and to facilitate access by his representative to the political leaders in Burma; urged the government to take all necessary steps to ensure that political parties and non-governmental organizations can function freely; expressed concern that the composition and working procedures of the National Convention do not permit the elected representatives freely to express their views; concluded that the National Convention does not appear to constitute the necessary steps towards the restoration of democracy; strongly urged the government to ensure full respect for human rights and fundamental freedoms; urged the government to fulfil its obligation to end the impunity of perpetrators of human rights violations, including members of the military, and to investigate and prosecute alleged violations committed by government agents in all circumstances; welcomed the accession by the government to the Convention on the Elimination of All Forms of Discrimination against Women; appealed to the government to consider becoming a party to the International Covenants on Human Rights and the Convention against Torture; urged the government to fulfil its obligations with regard to the Convention on the Rights of the Child and other international instruments it has ratified; and, called on the government and other parties to hostilities to respect fully their obligations under international humanitarian law.

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CAMBODIA

Date of admission to UN: 14 December 1955.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Cambodia has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Signed: 17 October 1980; acceded: 26 May 1992.
Cambodia's initial report was due 30 June 1994.

Civil and Political Rights

Signed: 17 October 1980; acceded: 26 May 1992.
Cambodia's initial report was due 25 August 1993.

Racial Discrimination

Signed: 12 April 1966; ratified: 28 November 1983.

Cambodia's second through seventh periodic reports were submitted as one document (CERD/C/292/Add.2) which is pending for consideration at the Committee's March 1998 session; the eighth periodic report is due 28 December 1998.

Discrimination against Women

Signed: 17 October 1980; acceded: 15 October 1992.

Cambodia's initial report was due 14 November 1993.

Torture

Acceded: 15 October 1992.

Cambodia's initial report was due 13 November 1993.

Rights of the Child

Acceded: 15 October 1992.

Cambodia's initial report was due 13 November 1994.

COMMISSION ON HUMAN RIGHTS**S-G's Special Representative on the situation of human rights in Cambodia**

A Special Representative (Spec Rep) of the Secretary-General for Human Rights in Cambodia was appointed in accordance with CHR resolution 1993/6 of 19 February 1993, which mandated the Spec Rep to maintain contact with the government and people of Cambodia, to guide and coordinate the UN human rights presence in Cambodia, and to assist the government in the promotion and protection of human rights. The Spec Rep during 1997, Mr. Thomas Hammarberg, undertook his first mission to Cambodia from 25 June to 6 July 1996, and his second mission from 1 to 13 December 1996.

The report of the Spec Rep to the CHR (E/CN.4/1997/85) reiterates issues raised in the report to the 1996 session of the General Assembly, namely the rights of the child, rights violated through the use of landmines, rule of law, the independence of the judiciary, the administration of justice, elections, political rights and freedom of expression. On these subjects, the report highlights a number of concerns, including:

- ▶ an increase in child prostitution and trafficking in children, owing in part to extreme poverty and an increase in the number of children per family, partly as a result of lack of access to education and affordable health care;
- ▶ failure of the government to adopt the draft law banning anti-personnel landmines;
- ▶ failure of the government to establish the Constitutional Council, the body intended to determine the constitutionality of legislation;
- ▶ failure to convene the Supreme Council of Magistracy which is responsible for the appointment, transfer and discipline of judges and prosecutors as well as to review all draft legislation related to judicial affairs;
- ▶ failure to submit to the National Assembly a draft law on the status and functioning of the judiciary;
- ▶ absence of a law on contempt of court;
- ▶ an insufficient number of judges and prosecutors to handle a growing number of criminal and civil cases;

- ▶ lack of formal education for the majority of judges and prosecutors;
 - ▶ lack of adequate resources for the efficient and fair functioning of the judicial system;
 - ▶ failure to disseminate widely to judges, prosecutors, police and local officials the texts of new laws;
 - ▶ absence of a legal framework to guarantee free and fair elections and effective measures to protect freedom of expression;
 - ▶ absence of a law on the right to form political parties;
 - ▶ failure to initiate work on a national election law; and,
 - ▶ absence of a legal framework for the establishment or operation of prisons.
- In addition to these issues, the report focussed on labour rights, protection from torture, military abuse against civilians and cases of deportation pointing out that:
- ▶ less than 10 per cent of the labour force is engaged in wage employment;
 - ▶ labour rights such as reasonable hours of work, adequate pay, annual leave, full pay during maternity leave, adequate safety measures for the protection of workers and protection from abuse by managers either do not exist or are routinely violated;
 - ▶ measures in place to prevent torture are inadequate;
 - ▶ most arrests are conducted without warrants and the legal limit on the period of custodial detention, 48 hours, is often ignored; and
 - ▶ since 1993, there have been no convictions of perpetrators of violence against journalists, contributing to a climate of impunity and an atmosphere of fear within the journalistic community.

Resolution of the Commission on Human Rights

The Commission on Human Rights adopted a resolution (1997/49) by consensus. In the resolution, the Commission: welcomed efforts by the government to promote and protect human rights, especially through establishment of the National Assembly Commission on Human Rights and Receipt of Complaints; noted with concern the lack of response to several recommendations by the Special Representative; noted with serious concern criticisms related to the system of justice; urged the government to convene the Supreme Council of Magistracy; urged the government to ensure adequate sustenance for prisoners and improve the physical environment of prisons; expressed concern about the continuing problem of impunity and encouraged the government to repeal article 51 of the 1994 Law on Civil Servants which in effect places the military and police and other government officials above the principle of equality before the law; expressed concern at continuing human rights violations including extrajudicial execution, torture, rape and illegal arrest and detention; reiterated concern about abuses committed by the remaining Khmer Rouge; called on the government to investigate cases of violence and intimidation directed at political parties and their supporters as well as media personnel and offices; welcomed the undertaking by the government to ensure that future elections are free and fair; encouraged

the government to establish an independent body to monitor elections; urged the government to give priority to combatting child prostitution and trafficking; expressed grave concern at the consequences and destabilizing effects of the indiscriminate use of anti-personnel landmines and encouraged the government to continue efforts aimed at removal of these mines; urged the government to ban all landmines; requested the Secretary-General to report to 1998 Commission on the role of Office of the High Commissioner for Human Rights in the promotion and protection of human rights in Cambodia and on the implementation of the recommendations made by the Special Representative.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1997/60, paras. 16, 18, 31, 64, 96, 101; E/CN.4/1997/60/Add.1, paras. 90–94)

The report refers to concerns raised about the apparent selectivity of countries for which international tribunals have been established, i.e., that the former Yugoslavia and Rwanda are not the only conflict areas where massive violations of human rights and humanitarian law justify such an institution. Other countries, including Cambodia, have experienced violations on a similar scale. The Special Rapporteur (SR) comments that a climate of impunity is strongly entrenched in Cambodia and that, in those cases where alleged perpetrators of human rights violations have been prosecuted, their acquittals have been suspect.

An urgent appeal was transmitted to the government early in 1996 requesting the authorities to take the necessary measures to guarantee the protection of a UN staff member and her three children. The concern arose from death threats against the woman which were aimed at preventing her from attending the trial of her husband who had been charged with conspiracy to assassinate the Deputy Prime Minister. Information on extrajudicial executions, which was also sent to the government, related to: an individual who had been arrested for having published an article considered to be defamatory in the 30-31 October 1994 edition of *Oddomkete Khmer*; the killing of three persons who had been arrested for establishing contacts with the National Army of Democratic Kampuchea; a young mentally-disabled man suffering from speech problems, who was shot by a militiaman in his village; and, a killing carried out in a village by the Deputy Prefect and seven members of the local militia. The report notes that no reply was received from the government on any of the cases transmitted.

Sale of children, child prostitution, child pornography, Special Rapporteur on: (E/CN.4/1997/95, paras. 35, 39, 70, 74, 75)

The Special Rapporteur (SR) notes the establishment of the Cambodia National Committee for Children, the coordinating, planning and monitoring body with respect to children's rights, composed of representatives of various ministries. Referring to the ILO three-year campaign to draft and ratify a regional convention against child trafficking, the report states that Cambodia is one of the countries in the Mekong region of Asia where child trafficking is common.

The report also notes that, in the past few years, there has been huge influx of pornographic material into Cambodia, and that children, both male and female, have been forced to watch pornographic videos and then carry out the same sex acts with adult clients. With regard to sex workers, the report states that, in 1990, the number of such workers in Phnom Penh was estimated to be 1,500; however, that number increased rapidly during the supervised transition period (1991–1993) of the UN Transitional Authority in Cambodia (UNTAC) which allowed an opening up of the country after a prolonged period of isolation. The Cambodia Women's Development Association estimates that the number of sex workers has now increased to 17,000, with girls between the ages of 12 and 17 making up about 35 per cent of the total. The report acknowledges that the vast majority of child prostitutes are girls but also states that there has been an increase in paedophile activity involving young boys and both Cambodian and foreign men. The report notes that Cambodia's legal enforcement infrastructure for protecting children is minimal and that authorities show little awareness of the problem.

Torture, Special Rapporteur on: (E/CN.4/1997/7, Section III; E/CN.4/1997/7/Add.1, para. 43)

The report notes that seven cases were transmitted to the government involving arrest and severe beatings by the ordinary police and members of the military police. One case also involved the use of electric shocks by military police; a complaint was reported to have been lodged for ill-treatment, but without response.

Violence against women, Special Rapporteur on: (E/CN.4/1997/47, Section V)

In the section dealing with violence against women migrant workers, the report notes that conditions for migrant domestic workers in Cambodia are often abusive.

Mechanisms and Reports of the Sub-Commission

Indigenous and tribal peoples, ILO Memorandum: (E/CN.4/Sub.2/1997/25, para. 26)

The memorandum submitted by the International Labour Office (ILO) noted that the ILO had received a request for technical cooperation from the Inter-Ministerial Committee on Highland Peoples Development in Cambodia, which is engaged in formulating a national policy on this issue. The assistance the ILO provided included training modules to enhance a participatory approach to development policies, workshops to enable trainers to share their knowledge with others, a workshop on research and data collection, and other measures aimed at strengthening the capacity of the inter-ministerial committee and engaging the participation of highland communities.

Other Reports

Advisory Services in the field of human rights, Report of the S-G to the CHR: (E/CN.4/1997/84)

The report of the Secretary-General on the role of the Office of the High Commissioner for Human Rights in Cambodia from July to December 1996 provides commentary on UN activities to assist the government in the institutional development required for the promotion and protection of human rights. The report focuses on programmes in the areas of legislative reform, the administration of justice, national

human rights institutions, Cambodia's treaty reporting and international obligations, assistance to human rights NGOs, education and training, information and documentation and creation of a network of provincial offices.

Under these headings, the report contains summary information on activities related to a number of laws affecting the electoral process, political parties, associations and non-governmental organizations, nationality and immigration, the press, prison regulations, landmines, corruption, the rights of women, drug control, labour rights, the environment, military justice and persons with disabilities. Further information is included on initiatives aimed at problems associated with the administration of justice, the functioning of the National Assembly Commission on Human Rights, and improvements in the forensics capacity of the Ministry of the Interior. The report details Cambodia's treaty obligations.

Detention of international civil servants, Report of the S-G to the CHR: (E/CN.4/1997/25, paras. 38, 48-50, 71-72)

The report of the Secretary-General cites information received from the World Food Programme (WFP) indicating that: a WFP monitor was directly threatened in July 1995 regarding his presence and activities in Kampong Thom and the WFP was advised to limit operations in the province; and a Cambodian Red Cross employee returning from a WFP field visit on a WFP motorcycle was accosted by armed thieves who shot and killed him. As well, it was reported that 28 members of a demining team from the Mines Advisory Group were abducted while clearing a road prior to reconstruction works with WFP food aid assistance. The abductors-either Khmer Rouge soldiers or Khmer Rouge defectors-released 26 of the captured individuals the same day. However, the team leader and his interpreter were kept as hostages and their present whereabouts remains unknown.

The report also notes that the Officer-in-Charge of the office of the High Commissioner for Human Rights (HCHR) in Cambodia was attacked by a group of armed people while driving with his daughter in the official car. After forcing the officer to leave the car at gunpoint, the attackers stole the vehicle and abducted the daughter. She was later found shot in the leg in a Phnom Penh street. The attack was publicly condemned by both the King and the government which indicated that a police investigation was under way to identify the individuals responsible for the attack. The WFP noted, however, that despite repeated inquiries, neither the Office of the High Commissioner for Human Rights nor the then Special Representative of the Secretary-General for human rights in Cambodia had received any information on the follow-up to the police investigation.

Minorities, Report of the S-G to the GA: (A/52/498, para. 7)

The report of the Secretary-General refers to two training workshops on minority rights which were held in 1996 and consisted of training for NGOs trainers on how to use a minority rights curriculum developed by the Office of the High Commissioner for Human Rights in Cambodia.

Periodic and genuine elections, Report of the S-G to the GA: (A/52/474, Annex)

The report of the Secretary-General refers to a 1996 request from the government for electoral assistance in advance of the 1998 elections and notes that an electoral consultant was sent to Cambodia in August 1997 to provide technical assistance to the authorities in preparation for the elections.

Women's human rights, Report of the S-G to the CHR: (E/CN.4/1997/40, para. 108)

The report of the Secretary-General on the integration of women's human rights throughout the United Nations system summarizes information contained in the report of the Secretary-General's Special Representative on Cambodia, referring to: the report "Human Rights of Women in Cambodia" prepared by the Working Group on Cambodian Women's Rights; the need for the media to be used to combat attitudes of tolerance of domestic violence against women and to alert women to their rights and the means of escape and redress; the need to review the draft Criminal Code and the draft Code of Criminal Procedure to examine the adequacy and appropriateness of their provisions in relation to domestic violence, sexual assault and rape, including rape within marriage; the need to correct the existing imbalance in female participation in education and to give attention to the provision of basic school education in mathematics and sciences in day classes rather than in night classes, which girl and women students often found difficult to attend; limiting the risk of HIV infection of sex workers by affording them education, training and legal protection; and, the need to pay particular attention to women detainees, especially by proposing arrangements for pregnant female prisoners to deliver their babies safely and increasing the number of female prison guards.

ECONOMIC AND SOCIAL COUNCIL

The report of the Secretary-General (E/1997/64, para. 47 (b)) on the ways and means to increase the UN's capacity to support the ongoing follow-up to the Fourth World Conference on Women notes the concern expressed by the Commission on Human Rights over numerous instances in Cambodia of violations of human rights, including rape, and the Commission's call to the Cambodian government to give priority to combatting child prostitution and trafficking.

GENERAL ASSEMBLY

Report of the Secretary-General (A/52/489)

The report of the Secretary-General includes commentary on a number of issues, including: missions undertaken to Cambodia by the Special Representative; protection against political violence; preparations for free and fair elections; the problem of impunity; the independence of the judiciary; protection against summary execution and torture; prison conditions; education and labour rights; the rights of the child; landmines; and, the role of the Office of the High Commissioner for Human Rights. On the last point, the report notes that the mandate of the High Commissioner's Cambodia office is to: manage the implementation and continuation of educational and technical assistance and advisory services programmes; assist the government established after the election to meet its obligations under human rights instruments to

which Cambodia is a state party; provide support to bona fide human rights groups in Cambodia; contribute to the creation and/or strengthening of national institutions for the promotion and protection of human rights; continue to assist in the drafting and implementation of laws to promote and protect human rights; and, continue to assist with the training of individuals responsible for the administration of justice.

During 1997 the Special Representative made three visits to Cambodia (March, June and August/September). The report notes that the areas of focus for the missions were, *inter alia*: access to and quality of education; offences committed by the military and the police; the continuing structural impunity for the military; conditions in prisons; use of torture by police in several provinces; effective functioning of the justice system; the need to address past human rights violations; children's rights; labour rights; and, extrajudicial executions.

On preparations for the May 1998 elections, the report identified a number of needs and issues that remain to be resolved, including: the need for a national election law; the need for a law on political parties to guarantee the legal status and operations of all parties, including opposition parties; establishment of an independent electoral commission; establishment of the Constitutional Council; assurances of fair and equal access to the media for all political parties as well as equal access to the operation of television and radio stations; and, the need to ensure the neutrality of the security forces (military, gendarmerie, police and other forces) during the election campaign.

The report emphasizes the problem of impunity, noting that it poses a crucial challenge to the establishment of rule of law and is both political and institutional in nature. The report states that those who commit human rights violations, in particular members of the military, police, gendarmerie and other armed forces, are not arrested or prosecuted even when their culpability is well known to the authorities and the general public. The report refers to the fact that no progress has been made on repeal or amendment of article 51 of the 1994 Law on Civil Servants which provides that, except in cases of *flagrante delicto*, no civil servant may be arrested or prosecuted for any crime unless the government or the Minister concerned consents in advance. The point is recalled that the Council of Ministers has made it clear that the provision also covers military and police personnel and that article 51 contravenes the basic principle of equality of all persons under the law. In the climate of impunity that prevails, and in addition to violations arising from armed conflict, violations have been reported including incidences of summary executions, torture and rape of civilians by military personnel outside the context of combat. The report comments that in those instances where investigations were attempted and cases brought before tribunals both military and police engaged in intimidation tactics and issued death threats. It is recalled that the gendarmerie was principally established in 1994 to remedy the problem of the reluctance of the regular police to investigate crimes, carry out arrests and execute court orders in cases involving military personnel. The report states that there is growing evidence of the gendarmerie's nationwide activities which shows that this force is not only failing to fulfil its judiciary police and military police mission but is

increasingly becoming an agent of human rights abuses and enjoying the same impunity as other security forces.

On the question of the implementation of recommendations made by the Special Representative, the report notes, *inter alia*, that: the courts have still not achieved independence from political authorities; the courts have, at times, come under intolerable pressure from the military; serious crimes, including murders, with a political connotation continue to be left unresolved; steps have not been taken to ensure fair access to the media for all political parties; conditions in prisons have not improved and, in fact, have deteriorated; and, further and more systematic steps need to be taken to combat child prostitution and child labour.

Resolution adopted by the General Assembly
(A/C.3/52/L.68)

In the resolution, the General Assembly, *inter alia*: noted the Agreement on a Comprehensive Political Settlement of the Cambodia Conflict, signed in 1991; recognized that the tragic history of Cambodia requires special measures to assure the promotion and protection of the human rights of all people and the non-return to the policies and practices of the past; expressed the desire that the UN respond positively to assist efforts to investigate Cambodia's history, including responsibility for past international crimes, such as acts of genocide and crimes against humanity; welcomed the continuing role of the High Commissioner for Human Rights (HCHR) in the promotion and protection of human rights in Cambodia; noted the concerns of the Special Representative related to a legislative framework for the forthcoming national elections, the problem of impunity, the independence of the judiciary and the establishment of the rule of law, the use of torture, the administration of prisons and the ill-treatment of prisoners, and child prostitution and trafficking; noted with concern the lack of response by the government to several of the recommendations contained in the Special Representative's previous reports and urged that it respond as soon as possible; expressed grave concern about numerous instances of violations of human rights, including extrajudicial executions, torture, rape, illegal arrest and detention and called on the government to prosecute all those who have perpetrated human rights violations; also expressed grave concern about the serious violations of human rights during the armed violence of early July 1997 and its aftermath, and urged the government, to investigate thoroughly and impartially and to bring to justice those responsible for serious crimes; noted that the perpetrators of the violence in Phnom Penh on 30 March 1997 against a peaceful and lawful opposition rally have not been identified and brought to justice and urged the government to take action; noted with serious concern the Special Representative's comments about corrupt practices within the judicial system and in the prison administration and strongly urged the government to address the problem of corrupt practices and to increase its efforts to create a functioning and impartial system of justice, including convening the Supreme Council of Magistracy; urged the government to institute a system to guarantee the essential sustenance of prisoners and to continue its efforts to improve the physical environment of prisons; stressed the need to address the continuing problem of impunity; stressed that ensuring security of persons and the rights of association,

assembly and expression, is a matter of critical and urgent priority; noted that national elections are scheduled to be held in May 1998 and strongly urged the government to promote and uphold the effective functioning of multi-party democracy, including the right to form political parties, stand for election, take part freely in a representative government, freedom of expression as well as the right to information; requested the Secretary-General to continue to consider any request from the government for assistance with the holding of the elections, including coordination and monitoring; welcomed the proposed measures outlined by the government to ensure that the forthcoming national elections are free and fair, and the assurances given by the Cambodian leaders of their commitment to holding elections and to guaranteeing the security and safety of all returning political leaders, as well as their full resumption of political activities; emphasized the need for the legislative framework for the elections to be agreed and adopted by the National Assembly, for the security forces to remain neutral during the election campaign, for free and equal access to the electronic and print media, for the individual vote to be confidential, for full cooperation to be given to local and international observers, and for all parties to act in a constructive manner and to accept the outcome of the elections; strongly encouraged the government to establish an independent body to supervise the holding of the elections; endorsed the view that the most serious human rights violations in Cambodia in recent history have been committed by the Khmer Rouge and that their crimes, including the taking and killing of hostages, have continued to the present; noted with concern that no Khmer Rouge leader has been brought to account for crimes committed; urged the government to take concrete action to combat child prostitution and trafficking and welcomed the signing of a memorandum of understanding, in May 1997 with the ILO to formalize areas of cooperation in the field of child labour; encouraged the government to include Cambodian human rights NGOs in the rehabilitation and reconstruction of the country and recommended that their skills be drawn upon to assist in ensuring that forthcoming elections are free, fair and credible; encourages the government to request the OHCHR to provide advice and technical assistance with respect to the creation of an independent national institution for the promotion and protection of human rights; expressed grave concern at the devastating consequences and destabilising effects of the use of landmines, encouraged the government to continue its support and efforts for the removal of these mines, and urged that priority be given to banning all landmines.

SECURITY COUNCIL

In July 1997 the President of the Security Council made a statement (S/PRST/1997/37) in which the Council, *inter alia*: expressed grave concern at developments in Cambodia, including violence, that had jeopardized continued progress of the peace process; called for an immediate end to the fighting; reaffirmed the need to respect the principles of national unity, territorial integrity and sovereignty of Cambodia; called on all parties to respect fully their commitments under the Paris Agreements on Cambodia; urged all parties to resolve their differences and to ensure the effective and smooth operation of constitutional institutions; condemned all acts of violence and called on all parties to ensure the

safety and security of persons, and to respect the principles and rules of humanitarian law; reminded the government of its public undertaking that free and fair legislative elections would be held in May 1998 and stressed the importance of this electoral process.

FIELD OPERATIONS

The UN Human Rights Field Offices were established, 1 October 1993, in Phnom-Penh, Siem Reap, Battambang, Kompung Cham, Prey Veng, Kampot and Kompong Chngang. The functions of the field presence are to assist in: building institutions and legal structures for human rights and democracy; securing a system for the administration of justice consistent with international standards; strengthening of civil society, including through non-governmental organizations; strengthening of human rights activities at the local and provincial levels; and, raising awareness of human rights and encouraging public support for democratic institutions. The projects are carried out through advisory services and technical assistance, training courses, seminars and fellowships, documentation and information and support to non-governmental organizations and civil society.

The report of activities carried out notes a number of priorities in 1997, including: contributing to the various reports to the Commission on Human Rights; preparing for and assisting with the visit to Cambodia by the Special Representative; continuing to monitor the human rights situation in the country and to investigate complaints and allegations of human rights violations; continuing assistance to the government with regard to the drafting of several laws; conducting training on human rights and law for the Royal Gendarmerie, several Awareness Programmes for the Royal Cambodian Armed Forces and, workshops on human rights training for prison officials and on minority rights; in cooperation with the Cambodian Bar Association, weekly lectures on human rights and law for lawyer trainees; distribution to governmental offices and NGOs of human rights documentation; and, regular consultations with Cambodian human rights NGOs on their projects and requests for assistance.

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CHINA

Date of admission to UN: 24 October 1945.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: The core document prepared by the government (HRI/CORE/1/Add.21) includes information on the status of national minorities, religious belief, political history, the pattern of political organization, bodies with jurisdiction over human rights, compensation and rehabilitation systems for victims and constitutional and legal provisions to protect human rights.

The report indicates that constitutional and legal protections of citizen's rights and freedoms consist in preventing injury to personal rights and liberties by strictly applying laws related to investigations, arrests and other encroachments on personal rights and provision of a right of complaint for any citizen whose rights have been violated. The Constitution

stipulates equality before the law, inviolability of home, the right to own lawfully earned income, savings, houses and other property, the inviolability of personal dignity, freedom of speech, the press, assembly and association, freedom of religion or belief, the duty as well as the right to receive an education, the right to lodge complaints and lay charges against state organs and their personnel, the right to compensation, and the right of every nationality to use and develop its own language and script.

Economic, Social and Cultural Rights

On the transfer by the U.K. of Hong Kong to China, 1 July 1997, China assumed reporting obligations under the ICESCR for Hong Kong. China's reporting schedule has not yet been confirmed.

Civil and Political Rights

On the transfer by the U.K. of Hong Kong to China, 1 July 1997, China assumed reporting obligations under the ICCPR for Hong Kong. China's reporting schedule has not yet been confirmed.

Racial Discrimination

Acceded: 29 December 1981.

China's eighth periodic report was due 28 January 1997.

Reservations and Declarations: Article 22.

Discrimination against Women

Signed: 17 July 1980; ratified: 4 November 1980.

China's third and fourth periodic reports were submitted as one document (CEDAW/C/CHN/3-4) which has not yet been scheduled for consideration by the Committee; the fifth periodic report is due 3 September 1998.

Reservations and Declarations: Paragraph 1 of article 29.

Torture

Signed: 12 December 1986; ratified: 4 October 1988.

China's third periodic report was due 2 November 1997.

Reservations and Declarations: Paragraph 3 of article 30.

Rights of the Child

Signed: 29 August 1990; ratified: 2 March 1992.

China's second periodic report is due 31 March 1999.

Reservations and Declarations: Article 6.

COMMISSION ON HUMAN RIGHTS

At its 1997 session, the Commission considered a draft resolution on the situation in China (E/CN.4/1997/L.91).

The main elements in the text: welcomed China's economic progress; noted the references in the reports of the Commission's various thematic mechanisms; welcomed the government's interest in acceding to the ICESCR and ICCPR; expressed concern at violations related to the rights of assembly, association, expression, religion, due process and fair trial; expressed concern at continued restrictions on cultural, religious and other freedoms of Tibetans and the case of eleventh Panchen Lama; called on the government to improve the impartial administration of justice, release political prisoners, preserve and protect the cultural, linguistic and religious identity of Tibetans and others; called on the government to strengthen bilateral dialogues in order to achieve additional positive developments affecting human rights before the 1998 session of the Commission; called on the government to

cooperate fully with all thematic mechanisms and engage in a dialogue with the High Commissioner for Human Rights; and, requested the High Commissioner for Human Rights to report to the 1998 session of the Commission on any progress made in the dialogue with the Chinese government.

As has been case for a number of years, the government proposed a motion to take no action on the draft text. Following debate, by roll call vote, the Commission decided to take no action with 27 states in favour of no action, 17 opposed and 9 abstentions.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on: (E/CN.4/1997/4, paras. 23-35)

A preliminary visit to China, from 14 to 21 July 1996, was made by the Chairman-Rapporteur of the Working Group (WG) on arbitrary detention, Mr. Louis Joinet, in preparation for a more extensive visit of the WG which was scheduled to take place after July 1997. It was felt that this would help the WG to: understand better certain constraints, political or technical (for example the problem of distances), facing such a visit; have a better understanding of Chinese law, in particular with regard to the difficulties entailed in bringing it into conformity with the international instruments on human rights; and, explain to the authorities the constraints to which the WG is subject, by the nature of its mandate, when it undertakes such visits.

During the visit a number of key areas related to arbitrary detention were explored in a preliminary way within the context of reforms currently under way in China. This included reforms concerning criminal and administrative procedures and the status of judges, prosecutors and lawyers. The government has abolished "shelter and investigation" (a provision which had permitted the police to detain a person administratively for 30 days without any supervision); now there is a requirement that any detention by the police be authorized by the Prosecutor's Office and take place under its supervision for specified, relatively short maximum periods. The lawyer, who was previously not allowed to see the detained person and the case file until seven days before the hearing, will henceforth be admitted as soon as the client is in police custody. The police will no longer have direct power to drop proceedings and close the case; in future this will be done under the supervision of the Prosecutor's Office. Remand in bail under financial guarantee is instituted. The provisions that made lawyers state officials have been abolished and lawyers can now practice in private chambers; the supervision of the profession, formerly exercised directly by the Ministry of Justice, will henceforth be entrusted to the National Association of Lawyers, with the State playing only an indirect role. Under the reformed rules for the conduct of hearings, the President's monopoly of the right to direct the proceedings has been reduced in favour of a more adversarial debate between Prosecutor and advocate; the latter is now able to present evidence and testimonies not yet entered in the file during the investigation phase. These are areas the Working Group will take up in more detail during the next visit.

The preparatory mission included a visit to a Beijing prison where convicted persons are incarcerated and to the re-education facility at Zibo, where individuals were being held by administrative decision. At both facilities, interviews were conducted with prisoners chosen by the WG without witnesses and in the presence only of the UN interpreter.

In light of the fact that a formal visit by the Working Group was planned for the latter half of 1997, the WG decided to defer all deliberations regarding communications received, on the basis that more information on the cases could be gathered through direct contacts and consultations. The WG indicated, however, that should the government not formally confirm arrangements for a visit, all pending cases would be taken up immediately.

The addendum to the Working Group's main report includes summaries of cases considered by the WG in 1995 and 1996 (E/CN.4/1997/4/Add.1, Decisions 46, 19).

Decision 46/1995 concerned 81 people, most of whom were still detained at the time the cases were considered, and primarily related to the freedoms of conscience, religion, opinion, expression, assembly and association. In cases related to conscience, religion, opinion or expression, detentions had been imposed as a result of: demonstrations accompanied by slogans and the singing of religious-patriotic songs and prayers, in particular praising the Dalai Lama; distribution by Muslims of leaflets protesting restrictions imposed on religious activities, in particular the shutting down of mosques; contact with foreign journalists or having sent information abroad, in particular regarding human rights issues; writing and publication of a book supporting views on the question of Uighur which were different from the official ones; distribution of an "unofficial magazine"; the drafting and distribution of pro-democracy leaflets; distribution of a document on the question of human rights entitled "Statement on the Question of Human Rights in China"; and, actions against a former journalist and founder of the Chinese League of Human Rights, a historian who protested against alleged official discrimination regarding minorities, and a school administrator who had sent a petition to the UN alleging human rights violations by government officials.

The cases related to freedom of peaceful assembly arose from actions by authorities against: the hanging of a banner with the slogan "We have not forgotten 4 June"; the writing and distribution of leaflets calling for a public commemoration of the anniversary of 4 June 1989; placement of posters on a college campus to the same effect; and, attempts to organize a meeting of veteran pro-democracy campaigners. Detentions arising from freedom of association related to individuals who had been active in unrecognized non-violent associations of a political or trade union character.

The government defended its actions by stating that the individuals involved were either "taking part in subversive activities", or "disrupting public order", or "illegally organizing workers' pickets" or "illegally supplying State secrets to persons outside the country". The WG declared that the detentions were arbitrary on the basis that they violated articles 18 and 19 of the UDHR and the ICCPR (conscience, religion, opinion, expression), article 20 of the UDHR and articles 21 and 22 of the ICCPR (peaceful assembly, association).

Decision 19/1996 concerns the cases of four individuals and involved: acting as interpreter during an interview between the father of one of the students killed on 4 June 1989 and a foreign newspaper; organizing an independent labour rights group, the League for the Protection of the Rights of the Working People, for which registration had been refused by the Beijing authorities; arrest of a former pro-democracy activist in the days leading up to the fifth anniversary of Tiananmen; sending an open letter to the government asking for a national human rights organization to be set up to investigate issues such as free labour unions, freedom of religion and the protection of the rights of women and children. The Working Group declared two of the four cases to be arbitrary detention and left two pending until more information could be gathered.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1997/34, paras. 12, 101-110)

The Working Group (WG) transmitted 17 newly-reported cases of disappearance to the government, six of which reportedly occurred in 1996. The report notes that most of the 73 cases of disappearance in China are alleged to have taken place between 1988 and 1990. The majority of them concern Tibetans. Other victims reportedly were human rights activists involved in pro-democracy activities.

One newly-reported case of disappearance concerned a writer in Beijing who was reportedly arrested two days after signing a petition entitled "Greeting the United Nations Year of Tolerance, we appeal for the realization of tolerance in China", on the occasion of the sixth anniversary of the 1989 Tiananmen Square incident. The remaining 16 cases are all said to have occurred in Tibet and concern eight monks, a church leader, an accountant, a driver, a mechanic, a teacher, two businessmen and one person of unknown profession. In all cases, the Public Security Bureau Police are alleged to be responsible. Reasons for arrest were noted as including: participation in a religious ceremony in which a prayer was offered for the long life of the Dalai Lama; distribution of leaflets containing political messages; production of pro-independence posters and leaflets containing prayers for the health and safety of the child reported as disappeared, recognized by the Dalai Lama on 14 May 1995 as the reincarnation of the late Panchen Lama; and, participation in celebrations to mark the 30th anniversary of the founding of the Tibetan Autonomous Region.

Information received by the WG from non-governmental sources alleges that there is "an emerging pattern of disappearances in Tibet", characterized by so-called "recurrent detention", where a person is taken into custody for a few days or hours, then released, and the process is repeated several days later. Families are reportedly given no information or documentation to indicate that their relatives are being detained. Human rights monitors, or those suspected of human rights activities-including those suspected of sending abroad information on the situation in China-are said to be particularly targeted by this practice. The report also notes that the prison system in Tibet is under the jurisdiction of the Ministry of Public Services (police) rather than the Ministry of Justice, creating a situation whereby a single government agency not only investigates and prosecutes, but also retains custody of the accused person after trial. The report recalls

that this kind of arrangement has been condemned under international standards on the ground that it is likely to lead to human rights violations.

The WG expressed concern over the recent increase of disappearances in China, particularly in Tibet, and reminded the government of its responsibility under article 3 of the Declaration on the Protection of All Persons from Enforced Disappearance, to take effective measures to prevent and terminate acts of enforced disappearances in any territory under its jurisdiction. The WG also reminded the government of its commitment, under article 14 of the Declaration, "to bring to justice all persons presumed responsible for an act of enforced disappearance". Twenty-eight cases of disappearance in China remain to be clarified.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1997/60, paras. 15, 16, 17, 18, 19, 22, 28, 32, 83, 86, 87, 91; E/CN.4/1997/60/Add.1, paras. 100-114)

In 1993 the Special Rapporteur (SR) requested an invitation from the government to visit China. That request has been reiterated in subsequent years. During the 1997 session of the Commission on Human Rights, the government indicated that it would consider extending an invitation to the SR after visits by the High Commissioner for Human Rights and "another mechanism of the Commission of Human Rights" [most probably the Working Group on Arbitrary Detention] had been completed.

The report notes that the SR transmitted a number of cases to the government and expressed particular concern that the death penalty is allowed in cases involving minors, and well as those related to economic and/or drug-related offences. The report specifically comments on information received which indicates that the nationwide anti-crime campaign, launched on 28 April 1996, has resulted in the execution of at least a thousand people. The focus of the campaign was primarily on criminal gangs and on crimes such as murder and robbery. The campaign also fully mobilized the media to publicize arrests and executions on a daily basis and to exhort local leaders, the police and the judiciary to punish "swiftly and severely" offenders targeted in the campaign. The report notes that the vast majority of those sentenced to death in the campaign were reportedly executed immediately after summary trials. There is also a reference to the fact that the number of crimes for which the death penalty can be imposed has increased from 21 under the 1980 Criminal Law to 68 under present laws and includes a number of non-violent crimes. According to the report, the death penalty can be imposed for offences such as tax fraud, drug-related crimes, forgery, robbery, killing of protected species, smuggling of ivory, and crimes endangering social order.

In summary comments based on information received, the SR notes that trials resulting in the imposition of a death sentence continue to fall short of internationally recognized fair trial standards, including: the lack of a presumption of innocence; the placement of the burden of proof on the accused; the fact that the determination of guilt is usually decided by the authorities and not by the court, which leads to political interference; failure to observe defendants' right to counsel until a few days before trial; lack of prior notice of the

trial date for defendants and associated lack of timely access to a lawyer; prohibition on witnesses giving evidence in court; limitation of a lawyer's access to the file concerning the defendant; and, a provision that lawyers may not challenge the validity of the charges against their clients but only call for mitigation of the sentence.

The SR observed that safeguards to protect the rights of those facing the death penalty require that the scope of crimes subject to the death penalty should not go beyond intentional crimes with lethal or other extremely grave consequences. The SR therefore reiterated his position that the death penalty should be eliminated for economic and drug-related crimes. Distressed at the increase in the number of reported executions, especially in connection with the above-mentioned anti-crime campaign, the SR expressed the view that the death penalty is not an appropriate tool for fighting the growing crime rate in China, and that he was opposed to public executions as a means of public education.

Freedom of opinion and expression, Special Rapporteur on: (E/CN.4/1997/31, Section III)

The report notes that, in a joint initiative with the Working Group (WG) on Arbitrary Detention and the Special Rapporteur (SR) on the independence of judges and lawyers, the SR transmitted information on the case of Wei Jingsheng and expressed concern that the detention and trial were solely motivated by his non-violent pro-democracy activities, and therefore appeared to be in violation of his right to freedom of opinion and expression. The report summarizes a detailed response from the government, the basic points of which were that: Wei Jingsheng had been on parole and therefore deprived of his political rights when he had engaged in activities aimed at overthrowing the government; and, the trial and judgement had been rendered according to the law and in conformity with provisions of relevant international human rights instruments.

With respect to a second case referred to the government by the SR, the government again responded that the arrest and sentencing were: in response to subversive activities and collusion with anti-Chinese organizations abroad in order to disrupt social order; and that re-education through labour was not a criminal punishment but applied to individuals in urban areas who engage in anti-social behaviour or whose "delinquency" falls short of criminal offences. The government asserted that individuals undergoing re-education through labour retain their right to freedom of expression and opinion. The Special Rapporteur indicated that further clarifications would be sought on this case.

Independence of judges and lawyers, Special Rapporteur on: (E/CN.4/1997/32, paras. 10, 11, 21, 48, 94)

The Special Rapporteur (SR) has been exploring the possibility of establishing a system whereby he or a representative may observe important trials. In response to this suggestion, the government indicated that trial observation was expressly prohibited under national law and would constitute a significant obstacle to the Special Rapporteur's undertaking trial observation in China. The report refers to the joint appeal on behalf of Wei Jingsheng (see above).

Religious intolerance, Special Rapporteur on: (E/CN.4/1997/91, paras. 9, 10, 17, 22, 23, 24, 26, 45, 59, 60, 66)

The summary of information received indicates that, in China, religious discrimination and intolerance has taken the form of: restrictions and bans on Christian and Buddhist public manifestations, closure and/or destruction of some places of worship; and, detentions of Tibetan nuns and monks. In terms of the latter, the report notes that the Special Rapporteur had sent an urgent appeal to the government following the detention of a Tibetan monk with whom the SR had consulted during his 1994 visit to China.

The Special Rapporteur's interim report to the General Assembly (A/52/477, paras. 8, 12, 13, 21, 25, 26, 28, 33, 36, 37, 38, 53) recalls that a mission to China was undertaken in 1994 and that efforts continue to follow up on points raised as a result of the visit. The report includes a reply from the government to the case of the Tibetan monk whom the Special Rapporteur had met while on mission. The government stated that, in 1959, the monk had been sentenced to life imprisonment for having participated in rebel movements and was pardoned in 1979. In 1987 he was sentenced to ten years' imprisonment for incitement to acts of subversion aimed at overthrowing the government and dividing the country and was paroled in 1994 for good behaviour. The period of parole expired in December 1995 and, contrary to reports received by the SR, he is not under house arrest and is not deprived of the right to freedom of movement.

The report refers to violations of religious freedom against Christians and Buddhists and notes information indicating that the authorities have imposed controls on or interfered illegally with religious activities of all or certain religious groups or communities, as well as arrests, detentions and disappearances. On the latter, the report refers to the situation of the eleventh Panchen Lama.

The government replied to some of the cases transmitted by the SR, variously stating: legislation and policy guaranteed the protection of freedom of religion; all religious organizations operate independently, are autonomous and disseminate their teachings; in Shanghai the authorities responsible for religious affairs had begun to register all places of worship and had searched and closed some where "nefarious" beliefs were being taught; religious buildings in the town of Wenzhou were destroyed because they did not comply with regulations; the Dalai Lama was agitating for the independence of Tibet; in the cases involving Tibetan monks, their arrest and/or death had resulted from attacks on government officials and destruction of a police station.

Sale of children, child prostitution, child pornography, Special Rapporteur on: (E/CN.4/1995/95, para. 39)

The report refers to the ILO International Programme on the Elimination of Child Labour (IPEC) and notes that the Mekong region in Asia, which includes China, is rife with child trafficking.

The Special Rapporteur's report to the 1997 General Assembly (A/52/482, paras. 24, 108) refers to child pornography on the Internet and notes that Internet users in China must register with the police and that efforts by the government are under way to acquire technology enabling it to censor the Internet.

Torture, Special Rapporteur on: (E/CN.4/1997/7, Section III; E/CN.4/1997/7/Add.1, paras. 70-85)

The Special Rapporteur has requested an invitation to visit China to assess the impact of recent legal reforms on practices in detention centres, prisons and re-education camps. The government has not acted on the request.

The Special Rapporteur has received information indicating that torture and ill-treatment are used on a widespread and systematic basis against both common criminal detainees and persons detained for political reasons. Criminal suspects were allegedly tortured or otherwise ill-treated during preliminary or pre-trial detention to intimidate, to coerce "confessions", or to elicit information about the detainee or other persons. The forms of punishment reported to be administered in prisons and labour camps include beatings, shackling and prolonged solitary confinement. In some instances, torture was reportedly carried out for discipline or punishment by inmates, known as "trustees", acting as surrogates for or at the instigation of prison officials. Arrangements of this nature were said to allow prison officials to avoid accountability for abuse inflicted upon prisoners. The report notes that information also indicates that torture is endemic to police stations and detention centres in Tibet and includes: kicking; beating; application of electric shocks by means of batons or small electrical generators; the use of self-tightening handcuffs; deprivation of food; exposure to alternating extremes of hot and cold temperatures; enforced standing in difficult positions; enforced standing in cold water; prolonged shackling of detainees spread-eagled to a wall; placing of heated objects on the skin; and striking with iron rods on the joints or hands.

Toxic wastes and products, Special Rapporteur on: (E/CN.4/1997/19, para. 39)

The report refers briefly to the handling of computer waste exported to China, during which workers strip the cables for copper wire and the remaining material is either burned or stockpiled. The report simply notes that these practices can be dangerous and it is uncertain whether workers are informed about the risks involved.

Violence against women, Special Rapporteur on: (E/CN.4/1997/47, Section IV)

The report notes that men in Hong Kong are much less inclined than women to view sexual harassment as a valid complaint. On the issue of trafficking in women, the Special Rapporteur (SR) reports that, in China, the incidence of kidnapping and selling of women in rural areas has been increasing since the mid-1980s; in some counties and villages, between 30 and 90 per cent of all marriages result from trafficking. Factors contributing to the demand for women trafficked for forced marriages in China are identified in the report as: a shortage of women in rural areas; traditional views on maintaining the family line which require all sons to marry; and, the high expenses associated with weddings and betrothal gifts of non-forced marriages. The report notes that public security officials in Shandong province have reported that 13,958 women were bought and sold in the province in 1990; of those, 3,966 women were freed and 1,690 individuals were arrested on charges of slave-trading. In Jiangsu province, between 1986 and 1988, 48,100 women from all regions of China were sold.

Mechanisms and Reports of the Sub-Commission**Contemporary forms of slavery, Working Group on:**

(E/CN.4/1997/78, paras. 9–10)

The report refers to a submission by Human Rights Watch/Asia which included a copy of a HRW/Asia report published in 1994 and entitled "Organ procurement and judicial execution in China".

Traditional practices affecting the health of women and children, Special Rapporteur on: (E/CN.4/Sub.2/1997/10/Add.1, para. 23)

The report simply notes that the Chinese government has made a commitment to undertake appropriate measures against practices such as infanticide and prohibits "prenatal selection for medical purposes".

Other Reports**HIV/AIDS, Report of the S-G to the CHR:**

(E/CN.4/1997/37)

The report of the Secretary-General on the Second International Consultation on HIV/AIDS and Human Rights (Geneva, September 1996) refers to law reform and the fact that in Hong Kong general anti-discrimination legislation has been enacted which defines disability broadly and sensitively enough explicitly to include HIV/AIDS.

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COOK ISLANDS

Date of admission to UN: Cook Islands is not a member of the UN.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Cook Islands has not submitted a core document for use by the treaty bodies.

Rights of the Child

Acceded: 6 June 1997.

Cook Islands' initial report is due 5 June 1999.

Reservations and Declarations: Articles 2, 10 and 37.

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CYPRUS

Date of admission to UN: 20 September 1960.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Cyprus has submitted a core document (HRI/CORE/1/Add.28) for use by the treaty bodies. The report prepared by the government contains demographic and statistical data as well as information related to the economy, recent political history and developments, the constitutional structure and the general legal framework for the protection of human rights and those rights that may be suspended during a publicly proclaimed state of emergency.

The legal system in Cyprus is based on common law and the legal framework for the protection of human rights is established in Part II of the Constitution which incorporates and expands on the Universal Declaration of Human Rights

and the European Convention on Human Rights. Remedies for violations include right of petition, civil action, state or private criminal prosecution, habeas corpus, *mandamus*, restitution and compensation. Rights are protected and remedies may be sought through various levels of the courts, the Supreme Court, special commissions of enquiry, parliamentary committees, the office of the Attorney-General, the Commissioner for Administration (Ombudsman) and, in cases where all domestic remedies have been exhausted, the relevant procedures of various international human rights instruments. Cyprus has accepted the compulsory jurisdiction of the European Court of Human Rights and the International Court of Justice. International human rights treaties are superior in force to domestic law and are generally self-executing. In those cases where an international instrument contains non-self-executing provisions the Legislature has a legal obligation to enact appropriate legislation to harmonize domestic law with the convention and make the latter enforceable.

Economic, Social and Cultural Rights

Signed: 9 January 1967; ratified: 2 April 1969.

Cyprus has submitted its third periodic report (E/1994/104/Add.12) which is scheduled for consideration at the Committee's April/May 1998 session; the fourth periodic report is due 30 June 1999.

Civil and Political Rights

Signed: 19 December 1966; ratified: 2 April 1969.

Cyprus' third periodic report (CCPR/C/94/Add.1) has been submitted but is not yet scheduled for consideration by the Committee; the fourth periodic report was due 18 August 1994.

Optional Protocol: Signed: 19 December 1966; ratified: 15 April 1992.

Racial Discrimination

Signed: 12 December 1966; ratified: 21 April 1967.

Cyprus' 14th periodic report was due 4 January 1996.*Reservations and Declarations:* Declaration under article 14.**Discrimination against Women**

Acceded: 23 July 1985.

Cyprus' third periodic report was due 22 August 1994.

Reservations and Declarations: Paragraph 2 of article 9.**Torture**

Signed: 9 October 1985; ratified: 18 July 1991.

Cyprus' third periodic report is due 16 August 2000.

Reservations and Declarations: Declaration under articles 21 and 22.

The second periodic report of Cyprus (CAT/33/Add.1) was considered by the Committee at its November 1997 session. The report prepared by the government contains information on: mental health and the internment of mental patients; detention or isolation of individuals with contagious diseases; the interpretation and implementation of international treaties; provisions in the Criminal Code related to punishment and jurisdiction; the establishment, work and conclusions of the Commission of Public Inquiry concerning complaints of ill-treatment by police; provisions in law related to the handling and investigation of complaints against police; and, actions taken in response to the recommendations of the European Committee for the Prevention of Torture.

The Committee's concluding observations (CAT/C/CYP) welcomed legislative initiatives related to mental health, the proposed creation of a National Institution for the Promotion and Protection of Human Rights and reform of the law of evidence. The Committee acknowledged the actions taken by the Ombudsman and the Council of Ministers in response to established cases of police violence and welcomed the fact that the Convention has been incorporated into domestic law, including the Convention's definition of torture.

Concern was expressed that a few cases of casual violence by police officers continue to be reported. Further, it noted that the inability or unwillingness of a victim to give evidence in such cases should not be a reason for non-prosecution where the case can otherwise be made. The Committee recommended that a strong programme of reeducation directed to law enforcement personnel be implemented in which emphasis is given to the government's policy of honouring its commitment to human rights.

Rights of the Child

Signed: 5 October 1999; ratified: 7 February 1991.

Cyprus's second periodic report was due 8 March 1998.

COMMISSION ON HUMAN RIGHTS

Report of the S-G to the CHR: (E/CN.4/1997/48)

Resolution 1996/112, adopted at the 1996 session of the Commission, requested the Secretary-General to submit a report to the 1997 session on the situation of human rights in Cyprus. The report referred to the most recent resolution on the question (1987/50), in which the Commission: reiterated its previous calls for the full restoration of all human rights to the population of Cyprus, in particular to the refugees; considered attempts to settle any part of Varosha by people other than its inhabitants illegal; called for the immediate cessation of such activities; called for the tracing of, and accounting for, missing persons in Cyprus without delay, and for the restoration and respect of human rights and fundamental freedoms of all Cypriots, including freedom of movement, freedom of settlement and the right to property.

The report notes that the Secretary-General's mission of good offices in 1996/1997 did not succeed in resolving the impasse in the negotiating process. It refers to an informal meeting held in mid-April 1996 during which the permanent members of the Security Council underlined the importance they attached to a comprehensive approach to a settlement of the Cyprus problem. It also notes that Han Sung-Joo, former Minister for Foreign Affairs of the Republic of Korea, was appointed as the new Special Representative for Cyprus. Efforts to resolve the impasse between the two Cypriot leaders, so that direct talks, on the basis of mutual acknowledgment of each other's concerns and a willingness to compromise, did not lead to an agreement on the early convening of direct talks. The report also noted that tension in Cyprus had escalated in 1995 and that there had been a level of violence along the cease-fire lines which had not been seen since 1974.

The report reviews the operations of the UN Force in Cyprus (UNFICYP), including: humanitarian functions on behalf of the Greek Cypriots living in the northern part of the island; private interviews with Greek Cypriots who applied

for "permanent transfer" to the southern part of the island, in order to verify that the transfer was voluntary; facilitation of temporary visits by Greek Cypriots from the Karpas area to the southern part of the island for family and other reasons; assisting in arranging contacts between Maronites living on the island and delivery to them of food and other supplies provided by the government of Cyprus; continuation of periodic visits to Turkish Cypriots living in the southern part of the island and assistance in arranging family reunion visits for Turkish Cypriots; and, provision of emergency medical evacuation of civilian members of both communities residing in the northern part of Cyprus. The report notes that UNFICYP also continued its efforts to promote and facilitate bi-communal events with a view to increasing communication and cooperation between the two communities. The report refers to the fact that these bi-communal events have been hindered by: demonstrations on the Greek Cypriot side, close to the Ledra Palace crossing point, which have frequently prevented passage across the UN buffer zone and caused Turkish Cypriots to postpone numerous bi-communal activities until normal conditions at the checkpoint have been restored; insistence by the Turkish Cypriot authorities on case-by-case authorization for Turkish Cypriots wanting to attend bi-communal activities, even inside the UN buffer zone; and, denial of permission with little or no notice and without explanation.

Referring to capricious discrimination or police harassment against Turkish Cypriots living in the southern part of Cyprus, the report notes that the government undertook an investigation of several incidents leading to the dismissal of the District Commissioner, and of the Chief and the Deputy Chief of police in Limassol. Further measures being considered by the government, partly on the basis of material collected by the Ombudsman include: extending the investigative powers of the Ombudsman to incorporate the power of criminal investigation; providing the Attorney General with the right to appoint criminal investigators for cases involving complaints against the police; implementing reforms to make public prosecutors independent of the police headquarters; and changes to the curriculum of the Police Academy to promote greater police awareness of constitutional and human rights issues. Additionally, the report notes that the government has opened an information/liaison office in Limassol staffed by Turkish-speaking personnel where Turkish Cypriots can obtain information on and assistance with their entitlements and agreed to establish a Turkish Cypriot elementary school staffed by a Turkish Cypriot teacher.

The report suggests that the humanitarian situation of the Greek Cypriots and Maronites living in the northern part of Cyprus did not change significantly during 1996 and key restrictions remain on Greek Cypriots and Maronites living in the northern part of Cyprus, including: the stipulation that Greek Cypriot school children (over the age of 16 for boys and 18 for girls) who attend school in the southern part of Cyprus, may never return to their homes in the northern part, not even to visit; restrictions on travel by Greek Cypriots within the northern part of Cyprus, and restrictions on access to sites of religious significance; the stipulation that Greek Cypriots living in the Karpas can still not bequeath fixed property to their next of kin living outside of the northern part of Cyprus; and, the continuing policy of the Turkish Cypriot

authorities to consider property "abandoned or ownerless" whenever the Greek Cypriot or Maronite owner dies or permanently leaves the area.

Other information in the report relates to: difficulties encountered in trying to arrange for the repair of religious sites in the northern part of the island; ensuring the presence of religious leaders and teachers in the area; restrictions on freedom of movement; temporary suspensions from employment; and, obstacles to access to detainees by UNFICYP.

Decision of the CHR: (1997/121)

At its 1997 session, the Commission on Human Rights adopted without a vote a decision on the situation in Cyprus. It states that the Commission decided to keep the question of human rights in Cyprus on its agenda and that the actions required, as set out in previous resolutions, remain operative; it also requested the Secretary-General to provide a report to the 1998 session of the Commission on implementation of those actions.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1997/34, paras. 123–125, 393)

The report notes that the Working Group continued to remain available to assist the Committee on Missing Persons in Cyprus (CMP) and, further, that the Secretary-General was considering the merits of continuing UN support to the CMP.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1997/60, paras. 16, 34, 36; E/CN.4/1997/60/Add.1, para. 575)

The report notes two cases that were transmitted to the leader of the Turkish Cypriot community. The first case involved a Greek Cypriot, who was reported to have been beaten to death during a clash between Greek Cypriot and Turkish demonstrators on 1 August 1996 in the buffer zone. The information received indicated that the Turkish participants in the incident acted under the protection and with the active involvement of members of the Turkish armed forces. The second case related to another Greek Cypriot who was shot and killed in mid-August 1997 by a member of the Turkish Armed Forces in Cyprus.

Racial discrimination, Special Rapporteur on: (E/CN.4/1997/71, para. 38)

The report cites information provided by the government, stating that legislative measures are being considered for the regulation and monitoring of broadcasts and films with regard to programming that may seek to incite acts or activities likely to cause hatred, discrimination or violence based on racial, sexual, religious or national differences.

Religious intolerance, Special Rapporteur on: (E/CN.4/1997/91, paras. 9, 17, 21, 24, 26, 66; A/52/477, paras. 21, 51, 54)

The reports refer to violations of religious freedom against Jehovah's Witnesses and to incidents of ill-treatment, arrest and detention of clergy and believers. The Special Rapporteur (SR) notes that cases of imprisonment for refusal to perform military service have been reported, and that,

although some legal provisions recognize conscientious objection and provide for non-armed military service, this is not in conformity with international law. The government's response to a case previously transmitted is cited, stating that the Turkish Cypriot man who had been sentenced to three years' imprisonment for conscientious objection was released after serving three-quarters of his sentence and then detained again for 24 hours on an arrest warrant to which he objected. The government informed the SR the individual had been awarded compensation and the case was closed.

Sale of children, child prostitution, child pornography, Special Rapporteur on: (E/CN.5/1997/95, para. 56)

The report refers to information indicating that Cyprus is one of the countries to which girls from Romania are trafficked for the purposes of prostitution.

Torture, Special Rapporteur on: (E/CN.4/1997/7, Section III; E/CN.4/1997/7/Add.1, para. 114)

The Special Rapporteur transmitted to the government one case involving a Turkish Cypriot who had been detained by Greek Cypriot police under accusation of smuggling and spying in the buffer zone under the control of UNFICYP. Information received indicated that he was subjected to extensive beatings that resulted in hospitalization, and that a UNFICYP doctor reported serious injuries. A medical report from his family doctor confirmed that he had been subjected to torture and that his body was covered with wounds caused by beatings and slashing with implements. He had sustained injuries to his eyes, ear, hip, back, the soles of his feet and around his kidneys.

Mechanisms and Reports of the Sub-Commission

Traditional practices affecting the health of women and children, Special Rapporteur on: (E/CN.4/Sub.2/1997/10, para. 29)

The report notes the government statement that there are no traditional practices (including mutilation) in Cyprus affecting the health of women and children.

Other Reports

Decade for Human Rights Education, Report of the S-G to the GA: (A/52/469, paras. 42)

The report of the Secretary-General notes that the government has established the National Institute for Human Rights, the main objectives of which are to: raise public awareness for human rights; further educate civil servants, teachers, and lawyers on human rights; strengthen human rights education in the Cyprus educational system at all levels; strengthen the capacity of the mass media for human rights education by appropriate means; promote the active engagement of national non-governmental organizations in the realization of the goals of the Decade; and, establish a human rights library in order to enhance public awareness. The report also notes that the Ministry of Education was developing new curricula and teaching methods following a review of the status of human rights education in schools.

Detention of international civil servants, Report of the S-G to the CHR: (E/CN.4/1997/25, paras. 8–9)

The report of the Secretary-General summarizes information received from the UN Peace-Keeping Force in Cyprus (UNFICYP) which states that, in general, the privileges and immunities of civilian officials of the UN specialized

agencies and related offices in Cyprus have been respected and the safety and security of staff ensured. However, incidents have been reported. One was the overnight detention and interrogation of two Greek Cypriot staff, returning after completing an authorized journey; they had been stopped at a checkpoint by Turkish Cypriot police.

Environment, Report of the S-G to the CHR:
(E/CN.4/1997/18, Section I. B, paras. 1-4)

The report of the Secretary-General refers to a statement by the Director of Environment Service at the Ministry of Agriculture, Natural Resources and Environment in Cyprus, during the international seminar on the contribution of the Organization for Security and Cooperation in Europe to the security of smaller States (Nicosia, 15 and 16 January 1996). The points in the statement that are summarized are that: environment and fundamental human rights are indivisible; environmental damage and changes in the demographic structure and to the political, cultural, religious and other characteristics of the occupied part of the country, have had direct effects on the enjoyment of practically all human rights by the people evicted from their land and resources; and, all definitions of sustainable development encompass intergenerational responsibility which implies international responsibility and cooperation for the protection of the environment, to which all countries have already committed themselves.

Mass exoduses, Report of the HCHR to the CHR:
(E/CN.4/1997/42, Section I.A., Section II.A.)

The report of the High Commissioner for Human Rights summarizes information received from the government referring to the Turkish invasion in 1974 and the consequent occupation of 37 per cent of the territory of Cyprus; this resulted in about 200,000 Greek Cypriots being forced by the occupation forces to leave their homes and properties and becoming refugees in their own country. The government stated that these people continue to be prevented by the Turkish forces from returning to their homes in the northern part of Cyprus.

The government informed the High Commissioner for Human Rights that it had prepared a bill on granting asylum to refugees and that consideration of the bill by a special committee, consisting of representatives of appropriate ministries and the representative of UNHCR in Nicosia, was at an advanced stage. The government also highlighted the fact that Cyprus had adopted legislation providing for the granting of nationality to a person whose mother was a national of Cyprus and whose father was stateless.

Restitution, compensation, rehabilitation, Report of the S-G to the CHR: (E/CN.4/1997/29/Add.1, Cyprus, paras. 1-4)

The report of the Secretary-General contains comments submitted by the government, stating that: Cyprus does not face a problem of grave violations of human rights and fundamental freedoms committed by its authorities or any state organs; there is no ad hoc legislation regarding restitution, compensation and rehabilitation of victims of grave violations of human rights and fundamental freedoms; legal machinery exists for any isolated cases for restitution and compensation of the victims; Cyprus is a party to the

European Convention on the Compensation of Victims of Violent Crimes and enactment of a law ratifying the Convention is being pursued; and, a bill entitled "Compensation to Victims of Violent Crimes" was to be presented to the House of Representatives which will pay compensation to victims of violent crimes who cannot obtain compensation from other sources or from the perpetrator.

SECURITY COUNCIL

The report of the Secretary-General on UN operations in Cyprus (S/1997/437) covers the period from 11 December 1996 to 5 June 1997 and updates information on UNFICYP. Activities included continuation of humanitarian tasks in respect of Greek Cypriots and Maronites in the northern part of the island and Turkish Cypriots in the southern part. It notes that UNFICYP continued to be impeded by the presence of police officials whenever its humanitarian officers were interviewing Greek Cypriots in the Karpas area. Further, the report notes that, in the aftermath of intercommunal violence, unemployment of Turkish Cypriots in the southern part of the island, or in the buffer zone in the mixed village of Pyla, remains high; the government is paying unemployment benefits, and measures have been taken to extend payments beyond the normal limit. In terms of economic and social activities, UNFICYP continues to act as the intermediary between the two communities. Efforts have been made to ensure the equitable distribution of water and electricity and to develop cooperation between the communities in areas such as sanitation, health, environment, agriculture, veterinary science and rehabilitation of culturally important sites.

On 27 June 1997 the Security Council adopted a resolution (S/RES/1117) in which it, *inter alia*: expressed concern that tensions along the ceasefire lines remained high and negotiations on a final political solution had been at an impasse for too long; called on the military authorities on both sides to refrain from any action, particularly in the vicinity of the buffer zone, which would exacerbate tensions; reiterated grave concern at the continuing excessive levels of military forces and armaments in Cyprus and the rate at which they are being expanded, upgraded and modernized; called upon the parties to create a climate for reconciliation and genuine mutual confidence on both sides, and to avoid any actions which might increase tension; and, welcomed the efforts of the UN and others to promote the holding of bi-communal events so as to build trust and mutual respect between the two communities.

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FIJI

Date of admission to UN: 13 October 1970.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Fiji has submitted a core document (HRI/CORE/1/Add.76) for use by the treaty bodies. The report prepared by the government contains demographic and statistical data and information on the economic system. There is some commentary as well on the political system, noting that the 1990 Constitution emphasizes fundamental rights and freedoms. The report states that, while

guaranteeing special rights of protection and privileges to indigenous Fijians, the Constitution does not deny to others the rights to life, liberty, security of person, expression, assembly and association and protection of privacy. The report acknowledges that some provisions of the Constitution have proven to be contentious. A Constitution Review Commission was established to carry out the required review of the Constitution and was scheduled to present its report by the end of June 1996.

Racial Discrimination

Succeeded: 11 January 1973.

Fiji's sixth through 12th periodic reports (covering the period 1984-1996) have not been submitted; the 12th periodic report was due 11 January 1996.

Reservations and Declarations: Articles 2, 3 and 4; paragraphs (c), (d) (v), and (e) (v) of article 5; article 6; article 15.

Discrimination against Women

Acceded: 28 August 1995.

Fiji's initial report was due 27 September 1996.

Reservations and Declarations: Paragraph (a) of article 5; article 9.

Rights of the Child

Signed: 2 July 1993; ratified: 13 August 1993.

Fiji's initial report (CRC/C/28/Add.7) has been submitted and is pending for consideration at the Committee's May 1998 session; the second periodic report is due 11 September 2000.

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INDIA

Date of admission to UN: 30 October 1945.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: India has not provided a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Acceded: 10 April 1979.

India's second periodic report was due 30 June 1991; the third periodic report was due 30 June 1996.

Reservations and Declarations: Articles 1, 4 and 8; article 7 (c).

Civil and Political Rights

Acceded: 10 April 1979.

India's fourth periodic report was due 9 July 1995; the fifth periodic report is due 31 December 2001.

Reservations and Declarations: Articles 1, 9 and 13; paragraph 3 of article 12; paragraph 3 of article 19; articles 21 and article 22.

India's third periodic report (CCPR/C/76/Add.6) was considered by the Committee at its July/August 1997 session. In addition to constitutional, legal and administrative measures related to implementation and protection of the rights in articles 1 through 27, the report prepared by the government includes information on: socio-economic and cultural diversity; the separation of powers and the independence of the judiciary; the legal status of the ICCPR; poverty and

underdevelopment; affirmative action for disadvantaged sectors; and, the National Commission for Women, National Commission for Scheduled Castes and Tribes, National Commission for Minorities and the National Human Rights Commission.

The Committee's concluding observations and comments (CCPR/C/60/IND/3) noted that India's report provides comprehensive information on the constitutional and legislative norms applicable to human rights in India. However, the Committee regretted the lack of information on difficulties encountered in implementing the provisions of the Covenant in practice.

The Committee acknowledged several factors and difficulties that are obstacles to full implementation of the Covenant, including: terrorist activities in the border states, with the Committee recalling, however, India's obligation to ensure that measures adopted to combat terrorism must conform with the government's obligations under the Covenant; the size of the country, its huge population, massive poverty and great disparities in the distribution of wealth among various social groups; the persistence of traditional practices and customs, which results in women and girls being deprived of their rights, their human dignity and their lives; discrimination against members of the underprivileged classes and castes and other minorities; and, ethnic, cultural and religious tensions.

The Committee noted with satisfaction the existence of a broad range of democratic institutions and a comprehensive constitutional and legal framework for the protection of human rights and welcomed frequent references to provisions of international human rights instruments by the courts and, in particular, the Supreme Court. The Committee also welcomed the establishment of the National Human Rights Commission in 1993 and acknowledged the attention given by the government to the Commission's recommendations. Reference is made to the powers of the Commission which, although limited, enabled it to inquire into complaints of human rights violations, intervene in court proceedings involving allegations of human rights violations or otherwise dealing with human rights issues, review constitutional and legal norms and the conformity of laws with international human rights instruments, make specific recommendations to the Parliament and other authorities and undertake activities in the field of human rights education. The Committee welcomed the establishment of Human Rights Commissions in six states, including Punjab and Jammu and Kashmir, and of Human Rights Courts in several other states.

Other administrative, institutional and legal steps taken by the government that were viewed favourably by the Committee included: establishment of the National Commission for Scheduled Castes and Tribes, the National Commission for Women (1992) and the National Commission for Minorities (1993); the decision to allow the 1995 Terrorist and Disruptive Activities Act (TADA) to lapse-under this Act, members of the security and armed forces enjoyed special powers in the use of force, arrest and detention; the review of cases under the 1995 Act and the decision to drop a number of them; and, the directives given by the Supreme Court to deal with questions of bail under the TADA, though a number of cases remain to be decided.

The Committee noted that positions in elected bodies are reserved for members of Scheduled Castes and Tribes and that a constitutional amendment has reserved one third of the seats in elected local bodies (Panchayati Raj) for women. As well, the Committee noted the introduction of a Bill to reserve one third of the seats for women in the Federal Parliament and in state legislatures.

Restoration of elected legislatures and governments in all states, including Punjab and Jammu and Kashmir, was welcomed. Also welcomed were: the holding of federal parliamentary elections in April–May 1996; a constitutional amendment giving a statutory basis to village self-rule institutions; and the enactment of a law designed to increase participation in the conduct of public affairs at the community level. Further, the Committee welcomed the government's declared intention to introduce legislative measures to further freedom of information.

The Committee expressed concern about a number of subjects. It was noted, for example, that international treaties are not self-executing in India. The Committee recommended that steps be taken to incorporate fully the provisions of the Covenant into domestic law, so that individuals may invoke them directly before the courts. The Committee also recommended that consideration be given by the authorities to ratifying the Optional Protocol to the Covenant. The Committee, noting India's reservations and declarations to six articles of the Covenant, invited the government to review them with a view to withdrawing them.

Concern was expressed over the fact that, despite measures taken by the Government, members of Scheduled Castes and Scheduled Tribes, as well as the so-called backward classes and ethnic and national minorities continue to be subjected to severe social discrimination and to suffer disproportionately from many violations of their rights, including, inter-caste violence, bonded labour and discrimination of all kinds. The Committee observed that the de facto perpetuation of the caste system entrenches social differences and contributes to these violations. While noting India's efforts to eradicate discrimination, the Committee recommended that further measures be adopted, including education programmes at national and state levels, to combat all forms of discrimination against these vulnerable groups.

The measures taken to outlaw child marriages, the practice of dowry and dowry related violence, and *sati* (i.e., self-immolation of widows), were welcomed but the Committee remained gravely concerned that legislative measures are not sufficient and that measures designed to change the attitudes which allow such practices should be taken. The Committee also expressed concern over the persistent practice of giving male children preferential treatment and deplored the fact that practices such as foeticide and female infanticide continue. The Committee further noted that rape in marriage is not an offence and that rape committed by a husband separated from his wife incurs a lesser penalty than for other rapists. The Committee requested that additional information be provided in India's next report on the functions, powers and activities of the National Commission for Women.

Additional comments on women's human rights included that women in India have not been accorded equality in the

enjoyment of their rights and freedoms. Women remain underrepresented in public life and in the higher levels of the public service, and are subjected to personal laws which are based on religious norms and which do not accord women equality in respect of marriage, divorce and inheritance rights. The Committee pointed out that the enforcement of personal laws based on religion violates the right of women to equality before the law and non-discrimination.

Concern was expressed at the continuing reliance on special powers under legislation such as the Armed Forces (Special Powers) Act, the Public Safety Act and the National Security Act in areas declared to be disturbed. The Committee noted that serious human rights violations are committed by security and armed forces under these laws as well as by paramilitary and insurgent groups. It was emphasized that terrorism should be fought with means that are compatible with the Covenant. The Committee endorsed the views of the National Human Rights Commission to the effect that the problems in areas affected by terrorism and armed insurgency are essentially political in character and that the approach to resolving such problems must also, essentially, be political.

Other areas of concern addressed by the Committee included: continued imposition of the death penalty on minors and the need to limit the number of offences carrying the death penalty to the most serious crimes; the requirement that the government give its agreement before criminal prosecutions or civil proceedings can commence against members of the security and armed forces, acting under special powers; Clause 19 of the Protection of Human Rights Act, which prohibits the National Human Rights Commission from directly investigating complaints of human rights violations against the armed forces- instead, the Commission must request a report from the government; the application of a one-year time limit to complaints to the Commission, preventing the investigation of many alleged past human rights violations; allegations that police and other security forces do not always respect the rule of law and that, in particular, court orders for habeas corpus are not always complied with, particularly in disturbed areas; continued reports of custodial deaths, rape and torture; and, the failure of the government to receive a visit by the UN Special Rapporteur on the question of torture.

Concern was also expressed in regard to: widespread powers of detention, including preventive detention, and the fact that, although the Terrorist and Disruptive Activities (Prevention) Act has lapsed, 1,600 people remain in detention under its provisions; overcrowding and poor health conditions and sanitation in many prisons, the inequality of treatment of prisoners, and lengthy periods of pre-trial detention; imposition of fines on communities in areas declared as disturbed, without hearing; bonded labour and lack of effective measures to eradicate the practice and secure the release and rehabilitation of bonded labourers; forcible repatriation of asylum seekers; the high incidence of child prostitution and trafficking of women and girls into forced prostitution and the lack of effective measures to prevent such practices and to protect and rehabilitate the victims; the criminalization of women who have been forced into prostitution under the Immoral Trafficking Prevention Act and the provision in this Act which puts the burden of proof on a woman to prove that she is not a prostitute; lack of national legislation to outlaw

the practice of *devadasi* (a practice that was most common in southern India, whereby a family donated a daughter to the temple who, in effect, becomes a sexual slave to the priest), the plight of street children and the reportedly high level of violence against children, including child mutilation.

The Human Rights Committee recommended that the government:

- ▶ enact legislation for mandatory judicial inquiry into cases of disappearance and death, ill-treatment or rape in police custody;
- ▶ adopt special measures to prevent the occurrence of rape of women in custody;
- ▶ institute a system of mandatory notification of relatives of detainees without delay;
- ▶ guarantee the right of detainees to legal advice and assistance and to have a medical examination;
- ▶ give priority to providing training and education in the field of human rights to law enforcement officers, custodial officers, members of the security and armed forces, as well as judges and lawyers, taking into account the UN Code of Conduct for Law Enforcement Officers in this regard;
- ▶ ensure that the question of continued detention is determined by an independent and impartial tribunal; maintain a central register of detainees under preventive detention laws;
- ▶ allow the International Committee of the Red Cross and Red Crescent access to all types of detention facilities, particularly in areas of conflict;
- ▶ take measures to ensure either the early trial or release of those previously detained under the Terrorist and Disruptive Activities (Prevention) Act;
- ▶ take measures to reduce overcrowding in prisons, release those who cannot be given speedy trial, and upgrade prison facilities as quickly as possible;
- ▶ institute reforms to the procedure of the courts to ensure a speedy trial of those charged with offences, prompt hearing in civil cases and similar urgency in hearing appeals;
- ▶ monitor and effectively implement relevant penal provisions so that the imposition of fines in communities in declared disturbed areas is prohibited;
- ▶ undertake a study to identify the extent of bonded labour and implement more effective measures to eradicate this practice;
- ▶ give due regard to the provisions of the Covenant and other international norms in the process of repatriation of asylum seekers or refugees;
- ▶ repeal the application of the Immoral Trafficking Prevention Act to women and take measures to protect and rehabilitate women and children whose rights have been violated in this way; and
- ▶ take urgent steps for the protection of children, including the removal of all children from hazardous occupations; implement the recommendation of the National Human Rights Commission to respect the constitutional

requirement to make it a fundamental right for all children under 14 to have free and compulsory education; strengthen efforts to eliminate child labour in both the industrial and rural sectors and consider establishing an independent mechanism with effective national powers to monitor and enforce the implementation of laws for the eradication of child labour and bonded labour.

The Human Rights Committee requested that India's next report, due 31 December 2001, contain information corresponding to the points raised in its concluding observations and that these observations be publicly and widely disseminated in all parts of India.

Racial Discrimination

Signed: 2 March 1967; ratified: 3 December 1968.

India's 15th periodic report is due 4 January 1998

Reservations and Declarations: Article 22.

Discrimination against Women

Signed: 30 July 1980; ratified: 9 July 1993.

India's initial report was due 8 August 1994.

Reservations and Declarations: Articles 5 (a), 16 (1), 16 (2) and paragraph 1 of article 29.

Rights of the Child

Acceded: 11 December 1992.

India's initial report (CRC/C/28/Add.10) is pending for consideration at the Committee's May 1999 session; the second periodic report is due 10 January 2000.

Reservations and Declarations: Article 32.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on: (E/CN.4/1997/4, paras. 17, 21)

The report notes that four urgent appeals were sent to the government concerning 800 people but provided no details. The government's response stated that the persons had been released.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1997/34, paras. 177-189)

India has declined the request from the Working Group (WG) on Disappearances for permission to visit the country.

The report indicates that the WG transmitted 23 newly reported cases of disappearance to the government, five on an urgent appeal basis. Six previous cases were clarified and another six were sent to the government, again on the basis of new information. A total of 255 cases of disappearance have been transmitted to the government, with the majority of them occurring between 1983 and 1994 in the context of ethnic and religious disturbances in the Punjab and Kashmir regions. The disappearances in both regions were primarily attributable to the police authorities, the army, and paramilitary groups acting in conjunction with, or with the acquiescence of, the armed forces.

The report states that in Jammu and Kashmir numerous persons are said to have disappeared after "shoot-outs" with security forces. The disappearances were alleged to have been the result of a number of factors related to the wide powers granted to the security forces under emergency legislation, in

particular the Terrorist and Disruptive Activities Act (TADA) and the Public Safety Act. The report notes that in addition to allowing preventive detention, these laws allow prolonged detention without the many other safeguards available under the criminal law. The victims have included shopkeepers, a lawyer who was reportedly well known for defending Sikhs detained in the Punjab, journalists, students and others.

Most of the newly reported cases of disappearance occurred in the Punjab and concerned persons who were said to have been arrested by the police. Two cases concerned members of a political opposition party who were reportedly arrested by the Indian Army in Jammu and Kashmir and later released. One case concerned a human rights activist from Jammu and Kashmir and Chairman of the Kashmir Commission of Jurists, who was said to have filed a petition in the High Court on behalf of detainees and planned on attending the 51st session of the Commission on Human Rights. Ten cases concerned disappearances which reportedly occurred between 1991 and 1995 in Jammu and Kashmir, and concerned persons from a variety of professional backgrounds who were allegedly arrested by the Special Task Force of the Jammu and Kashmir police, the Border Security Forces or members of the army. The report notes that the information received by the WG indicates that none of the perpetrators of disappearances has been brought to justice.

In considering the situation in Punjab, the report observes that information received indicates that the police act with impunity, do not respond to writs of habeas corpus, fail to produce detainees in court, and deny their detention. The report includes the further allegation that the police have secretly cremated hundreds of bodies of individuals who had disappeared following their arrest, and have harassed and threatened those who file complaints against them in the Supreme Court and High Court.

The government's response to 15 cases that had been transmitted by the WG claims that, in ten of those cases, the Commission of Inquiry had not found sufficient evidence to prove that the police had arrested the individuals; and in two cases, the persons concerned had been killed in a confrontation with the police. In terms of two other cases, one was pending before the court and the other involved a person who was being held on criminal charges in judicial custody. And, with respect to the final case, this involved a detainee found missing from detention; an investigation determined that officials of the Punjab police department had been involved in the abduction, and they were being prosecuted.

The government responded to information of a general nature on Jammu and Kashmir that the WG had sent. The government stated that allegations received by the WG are a distortion of the facts — that the situation in Jammu and Kashmir has not deteriorated but had undergone a radical change for the better. India asserted that the human rights situation has been improving steadily and that the state government was elected through a free and fair electoral process. The government informed the WG that allegations of human rights violations committed by the security forces were immediately investigated and had resulted in some 272 security personnel being punished.

In terms of Punjab, the government informed the WG that the Supreme Court had received a writ of petition alleging

that the police had secretly cremated hundreds of bodies. Consequently, this matter was under investigation by the Central Bureau of Investigation (CBI) on orders of the Supreme Court. The CBI had submitted an interim report in that regard. The government's response included as well a review of provisions in the National Security Act related to the protection of rights of citizens and the protection of citizens against terrorism.

Despite the assurances given in the government's response, the WG expressed its continuing concern at the increase in reported cases of disappearance, particularly in the Punjab and Kashmir regions. Further, the WG reminded India of its responsibility under the Declaration on the Protection of All Persons from Enforced Disappearance, namely that any person deprived of liberty shall be held in an officially recognized place of detention and shall be brought before a judicial authority promptly after detention. The report notes that India's National Security Act, which permits detention without trial for extended periods, does not conform to this provision of the Declaration and facilitates enforced disappearances and other human rights violations. There remain 255 cases of disappearance in India to be clarified.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1997/60, paras. 15, 16, 18, 19, 22, 32, 33, 65, 66, 71, 96; E/CN.4/1997/60/Add.1, paras. 218–230)

India is among the countries that have received communications from the Special Rapporteur (SR) concerning cases of extrajudicial, summary or arbitrary executions. In some cases, the information transmitted to the government related to cases of deaths in custody, which suggest patterns of violence against detainees or life-threatening conditions of detention. The report notes that in India there is very little indication of effective action by authorities to bring to justice those responsible for this type of violation of the right to life, or to compensate the families of victims.

The majority of the information received by the SR related to the situation in Jammu and Kashmir where, according to sources, the Indian security forces were responsible for human rights violations, including deliberate killings of detainees in custody and reprisal killings of civilians. The perpetrators of these violations reportedly continue to enjoy virtual impunity and the government appears to continue to support paramilitary troops which are reportedly also responsible for the killing of a large number of civilians. The point is made that members of paramilitary troops are not in uniform and therefore difficult to identify. Killings have also been attributed to a number of armed militant opposition groups. In referring to the imposition and execution of the death sentences, the report includes information on cases where defendants in capital cases were not represented by counsel during pre-trial proceedings.

The response of the government to cases transmitted by the SR indicated that, among other things, deaths either in custody or under curious circumstances had been the result of either cardiac failure, tetanus, a fall from a police vehicle or natural causes. On other cases raised by the Special Rapporteur, the government's response indicated that investigations or commissions of inquiry were continuing.

The report expresses continuing concern about the situation in Jammu and Kashmir and calls on the government to take further measures to ensure that the security forces and paramilitary units comply with international human rights law and principles, as well as with international humanitarian law standards. The SR repeated the hope that the government will invite him to visit India in the near future.

Independence of judges and lawyers, Special Rapporteur on the: (E/CN.4/1997/32, paras. 110–114)

The Special Rapporteur (SR) referred one urgent appeal and two cases to the government. The urgent appeal related to the alleged abduction by government soldiers of a lawyer, who is a human rights activist and Chairman of the Kashmir Commission of Jurists. In response to a habeas corpus petition in the Srinagar High Court, the “Rashtriya Rifles” — the soldiers’ unit concerned—reportedly denied that the individual was in their custody. The lawyer’s body was subsequently found in a river. The report notes that the government promptly set up a special team and ordered an investigation into the murder. According to the government, the Jammu and Kashmir High Court was monitoring the investigation and the Advocate General of Jammu and Kashmir and the investigating team would be reporting directly to the Court. The government also informed the SR that the National Human Rights Commission of India had launched an independent investigation into the matter. A further response from the government stated that the lawyer had not been arrested by members of the military but had been abducted by unidentified armed persons. The government informed the SR that an investigation was being conducted by a special team of the State Police of Jammu and Kashmir.

Racial Discrimination, Special Rapporteur on: (E/CN.4/1997/71, para. 127)

The report states that, with regard to the situation of the untouchables in India, the Special Rapporteur plans to carry out preliminary studies in consultation with the government and the parties concerned and in conjunction with the Committee on the Elimination of Racial Discrimination, before undertaking a field mission if appropriate.

Religious intolerance, Special Rapporteur on: (E/CN.4/1997/91/Add.1)

The Special Rapporteur (SR) on religious intolerance visited India from 2 to 14 December 1996. The report of that visit contains summary commentary on constitutional provisions and legislation related to religion and tolerance as well as the situations of Muslims, Christians and Sikhs. The SR states that the situation in India in terms of tolerance and non-discrimination based on religion is generally satisfactory and acknowledges that India is committed to democracy, democratic institutions, legislative and government measures to promote tolerance, a concept of secularism based on equality of religions and “unity in diversity”.

However, a number of conditions and areas of concern are considered in the report, chief among them the fact that the economic and social structure of India is not always conducive to religious tolerance. The report notes that the economic and cultural poverty among the most disadvantaged provides fertile ground for the development of religious extremism and for the political exploitation of religion. These

phenomena are illustrated, for example, by the conflicts in Jammu and Kashmir and in Punjab, the destruction of the religious site of Babri Masjid, and intercommunal riots in Bombay.

The recommendations include that:

- ▶ the Representation of the People Act of 1951, which prohibits a member of a religious order from standing for election, be fully implemented and that supplementary legislation be enacted to prohibit political parties from using religion for political ends after an election;
- ▶ places of worship be used exclusively for religious and not political purposes and the government take steps to ensure that these places remain neutral and protected from political, ideological and partisan controversy;
- ▶ the implications and consequences of the financial dependence of political and religious movements on foreign countries be recognized;
- ▶ schools be protected from all forms of political and ideological indoctrination; and,
- ▶ use of school curricula and textbooks reflecting the principles of tolerance and non-discrimination be implemented in all private and public school systems in India.

The Special Rapporteur’s interim report to the General Assembly (A/52/477, paras. 8, 12, 15, 25, 28, 31, 33, 38) notes that communications were transmitted to the government related to violations of religious freedom against Christians and Christian converts and a draft law banning conversion.

Sale of children, child prostitution, child pornography, Special Rapporteur on the: (E/CN.4/1997/95, paras. 33, 41, 72)

The report notes that media in India have begun to report more frequently on the subject of child prostitution. It is estimated that between 50,000 and 130,000 children in India are engaged in prostitution. The report also refers to practices involving pre-teen and adolescent girls who are lured from families by operators for the purpose of prostitution, bought from families, and subjected to forced labour and prostitution; as well, it refers to the sale of Muslim girls from India to rich Arabs who intend to re-sell them to Middle Eastern Sheiks or local brothels. The report notes that there have been several instances of minors being forced to marry octogenarians with physical disabilities, and then legally taken from India to Saudi Arabia; there, their passports are confiscated and the marriages becomes master-slave relationships.

The Special Rapporteur’s interim report to the General Assembly (A/52/482, paras. 22, 26, 106) notes that India is among the countries in which there is extensive trafficking of women and girls to the Middle East and Western and Eastern Europe. The report refers to the fact that the media have started to play an active role in providing the public with facts concerning child prostitution and that articles now appearing regularly in the popular press have done much to break the silence around this sensitive subject. Referring to the Internet, the report notes that the government has tried to prevent its misuse by limiting access to the service to the academic world. As a result, the Internet remains inaccessible to the individual or commercial user. The report also notes that

controversy has accompanied the entry of foreign print and electronic media into India and that the government remains undecided about its stand on this issue.

Torture, Special Rapporteur on: (E/CN.4/1997/7, Sections II & III; E/CN.4/1997/7/Add.1, paras. 193–208)

The report notes that the government has not responded positively to the request of the Special Rapporteur (SR) for an invitation to visit India.

The report states that information continues to be received indicating that the security forces in Jammu and Kashmir tortured detainees systematically in order to coerce them to confess to militant activity, to reveal information about suspected militants, or to inflict punishment for suspected support or sympathy with militants. The use of torture was said to be facilitated by the practice of holding detainees in temporary detention centres without access to courts, relatives or medical care. Incommunicado detention was reported as facilitating torture and security forces were reported rarely to produce detainees before a magistrate, despite their being required by law to do so within 24 hours of detention. It is stated that since 1990 over 15,000 habeas corpus petitions have been filed to reveal the whereabouts of detainees and the charges against them, but that in the vast majority of these cases the authorities have not responded to the petitions. Further, the SR notes that on no occasion had information been made public regarding instances of action taken against security force personnel in Jammu and Kashmir for acts of torture.

The methods of torture identified in the cases referred to the government by the SR include: blows with an iron belt on the back and heels; beatings on the soles of the feet; electric shocks to sensitive organs as well as arms and feet; beatings with lathis (wooden poles) and rifle butts; dragging along a concrete floor; twisting of ankles and squeezing of testicles.

The report notes that the government had responded to the three urgent appeals and a number of cases that had been transmitted by the SR. In five of the cases the government denied that torture had occurred and imputed the injuries suffered by detainees to other causes, including: a pre-existing physical condition, abuse by rival political groups, injuries caused while attempting to escape custody, physical stress, prolonged fasting, death in detention as a result of suicide and cardiac failure resulting from heart disease.

The information on these cases also relates to violations such as denial of access to a lawyer or family—despite an order of the High Court that family visits be permitted, disregard of a magistrate's request that a detainee be placed on judicial remand and findings of wrongful confinement and extracting a bribe against police personnel. The response of the government indicates that in two cases compensation following deaths in custody were paid to relatives.

Toxic wastes and products, Special Rapporteur on: (E/CN.4/1997/19, paras. 50–51)

The report refers to Bharat Zinc Ltd., which has been accused of spreading toxic pollution, arising from zinc recovery processes, threatening the health of workers and residents near its Mandideep plant, 23 km outside of Bhopal. It is reported that the workers in the factory are neither informed of the dangers nor provided with protective clothing. The

report also asserts that some of the world's most toxic pesticides are among the most widely used insecticides in India, with the majority of them used on cotton fields. As a result, infants in the cotton-growing region of Mukteshwar are consuming 24 times the level of DDT designated safe by the World Health Organization. Residues of other pesticides were found in samples of mother's milk and infant formula in the Punjab region. The report attributes accidental occupational poisonings and deaths to pesticide use in India.

Violence against women, Special Rapporteur on: (E/CN.4/1997/47, Section III, III.A, III.B, III.C, III.D, IV.B, V, VI)

On the issue of rape, the report notes that the Indian Forum against the Oppression of Women has enumerated nine distinct forms of rape: communal rape; gang rape; political rape; rape of minors; marital rape; army rape and/or police rape (in situations of war or "peace-keeping"); institutional rape (in hospitals, remand homes and prisons); rape in economically dependent circumstances; and rape within political organizations. The report refers to the fact that the 1983 amendments to the Indian Penal Code shifted the burden of proving the lack of consent to the accused in cases of custodial rape. There is also a reference to the fact that the judiciary in India has recognized that the special circumstances of rape generally do not lend themselves to the presence of eyewitnesses. However, in cases where the victim is not a virgin or is unmarried, judges have tended to continue to require circumstantial evidence, such as physical injuries, torn clothing or the presence of semen, to corroborate the victim's story. The increasing presence of women advocates has, however, meant that there is increasing deviation from this practice.

The report reviews provisions in the Indian Penal Code, noting that under the Code rape is a gender-specific crime committed by a man against a woman and is a cognizable, non-bailable offence with a minimum sentence of seven years. Police have the power to investigate and arrest the suspect without a warrant but they do not have the authority to grant bail. There is a separate provision in the Code on sexual violence against both women and men, as well as one that prohibits words or gestures intended to insult the modesty of a woman. The report acknowledges that training seminars have been carried out in India in an effort to sensitize police to the realities of violence against women and to educate them about victims' needs.

On the question of trafficking in women and forced prostitution the report states generally that the promotion of tourism as a development strategy has contributed to the prevalence of trafficking in women for prostitution, noting that reports have been received indicating that women from India have been lured to Kenya to work as performers but have ended up as prostitutes. The report also refers to the practice of *devadasi* (the ritualistic marriage of young girls to the Gods) and notes that *devadasi* women are later forced into prostitution either out of economic necessity or after being sold by priests to brothels.

Prostitution is not illegal in India but arrests of prostitutes in brothel raids have occurred, as well as forcible detainment of the women arrested and forced testing for HIV and other sexually transmitted diseases without any subsequent medical treatment being provided.

Related to issues arising from religious extremism, the SR includes comments on the practice of women immolating themselves at the funeral of their husbands (*sati*) and the religious glorification of *sati* shrines and further notes that, although outlawed under the Sati (Prevention and Glorification) Act, these practices remain a matter of concern. The concern arises from the fact there is still tolerance of a *sati* culture in some Indian communities. Pro-*sati* factions, despite being heavily contested, insist that the practice is religiously sanctioned. The report also notes that although *sati* is outlawed, the state still appears to tolerate the many rituals and practices which glorify *sati* in different parts of India, including through acquittal of the male members of a woman's family who are responsible for her *sati*. The report observes that world religions are not the only belief systems that have an effect on the position of women in society and refers to continuing practices such the killing of women as witches. On average, in India, 200 women are murdered every year because they are believed to be witches. Most of the victims are widows who own land or women with unwanted pregnancies.

Mechanisms and Reports of the Sub-Commission

States of emergency, Special Rapporteur on: (E/CN.4/Sub.2/1997/19/Add.1, Section II)

The report notes information received from the government concerning measures taken in Kashmir, Punjab, areas in the north-east and in Andhra Pradesh, where certain constitutional guarantees were said to have been suspended under special laws which, in effect, established a continuing state of emergency.

Other Reports

Contemporary forms of slavery, Report of the S-G: (E/CN.4/1997/78, paras. 9-10)

The note by the Secretary-General includes information received from Human Rights Watch/Asia, a non-governmental organization. The information refers to an HRW/Asia report that was published in 1994 and deals with organ procurement, including a purported underground kidney transplant market in India.

International Decade of the World's Indigenous People, Report of the S-G to the CHR: (E/CN.4/1997/10, para. 29)

The report of the Secretary-General notes that the International Labour Organization (ILO) is carrying out a pilot project in India to support self-reliance on the part of indigenous and tribal communities through cooperatives and other self-help organizations.

National institutions, Report of the S-G to the CHR: (E/CN.4/1997/4, paras. 11-14)

The report of the Secretary-General summarizes the views of India. The government referred to the Vienna Declaration and Programme of Action which reaffirmed the importance of national institutions in the promotion and protection of human rights, in particular in their advisory capacity to competent authorities and in remedying human rights violations, disseminating information on human rights information and providing human rights education. India stressed that national institutions are independent from governments and that the Indian National Human Rights

Commission was set up by an act of Parliament. The government expressed support for an approach at the Commission on Human Rights that would enable national institutions to participate in their own right in meetings of the Commission, including through independent seating space and separate speaking time during discussions on the subject of national institutions. India is a member of the Coordinating Committee of National Institutions that meets under the auspices of the Centre for Human Rights.

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

At its 1997 session, the Sub-Commission considered a resolution on the situation in India (E/CN.4/Sub.2/1997/L.21). The draft text, *inter alia*: noted former colonial practices characterized by imperialism towards peoples and their territories, harsh military suppression of dissent, reactionary penal laws, double standards of enunciating human rights and the rule of law, and unrestrained capitalist and caste exploitation of labour and natural and other resources; recognized that 50 years after independence India has maintained much from these traditions and done little to correct economic, social and cultural ills and human rights violations; noted the constitutional Bill of Rights, the National Commission on Minorities, the National Commission on Human Rights and legal protections for Scheduled Castes and Scheduled Tribes; noted the concerns of various UN human rights mechanisms related to habeas corpus, deaths in custody, rape and torture, arrests for political reasons in Jammu and Kashmir, the inadequate number of personnel punished for human rights violations, secret cremations of the bodies of victims of violations, impunity and the reluctance of the government to extend invitations for visits by several thematic rapporteurs; noted excellent work being carried out by the National Commission on Human Rights; noted statutory prohibition on the National Commission on Human Rights investigating directly complaints of human rights violations against the armed forces; noted that use of special powers of detention remains widespread; noted concerns related to discriminatory treatment of Scheduled Castes, Scheduled Tribes, Kashmiris and other national or ethnic groups; noted discriminatory laws against and treatment of women; referred to concerns such as bonded labour, child prostitution, trafficking of women and girls and child labour; welcomed renewed talks between India and Pakistan under the Simla Agreements related to Jammu and Kashmir; urged the government to ratify the Convention against Torture, the Optional Protocol to the ICCPR, and reconsider its extensive reservations to the ICCPR; urged the government to invite the Special Rapporteurs on torture and extrajudicial and arbitrary executions to visit India; urged the government to consider strengthening the powers of the National Human Rights Commission; urged the government to end the virtual impunity of the police and armed and paramilitary forces employed to counter terrorism and crime; called on the government to ensure that police and security forces act in a manner consistent with international human rights standards; recommended that the Commission on Human Rights consider the situation in India at its next session.

By secret ballot the Sub-Commission decided to take no action on the draft resolution, with 20 votes in favour of no action, 3 opposed and 2 abstentions.

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INDONESIA

Date of admission to UN: 28 September 1950; readmitted: 28 September 1966.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Indonesia has not submitted a core document for use by the treaty bodies.

Discrimination against Women

Signed: 29 July 1980; ratified: 13 September 1984.

Indonesia's second and third periodic reports were submitted as one document (CEDAW/C/IND/2-3) and were scheduled for consideration at the Committee's January 1998 session; the fourth periodic report was due 13 October 1997. *Reservations and Declarations:* Paragraph 1 of article 19.

Torture

Signed: 23 October 1985.

Rights of the Child

Signed: 26 January 1990; ratified: 5 September 1990. Indonesia's second periodic report was due 4 October 1997. *Reservations and Declarations:* Articles 1, 14, 16, 17, 21, 22 and 29.

COMMISSION ON HUMAN RIGHTS

Report of the Secretary-General to the Commission on the situation in East Timor

The report of the Secretary-General on the situation in East Timor (E/CN.4/1997/51) provides a summary of activities of the good offices mission, noting that the ninth round of talks which had been scheduled for December 1996 was postponed to an undetermined later date. Summary comments are also included related to cases transmitted to the Indonesian government by various thematic rapporteurs, including those dealing with torture, arbitrary detention, disappearances and extrajudicial, summary or arbitrary executions. The balance of the report reproduces *in extenso* information supplied by the Indonesian and Portuguese governments.

In Annex I, the Indonesian government stated that steps continue to be taken to implement recommendations contained in the Chairman's statements adopted at previous sessions of the Commission on Human Rights; efforts continued to be made to locate persons missing following the Dili massacre; the government is committed to continuing its close cooperation with the Commission; as agreed in the Memorandum of Intention signed by the government and the High Commissioner for Human Rights, a branch office of the Indonesian National Commission on Human Rights was opened in Dili in July 1996; permission for Amnesty International to visit East Timor continues to be withheld because the government considers the organization's reports to be based on preconceived notions and uncorroborated facts; and, the

International Committee of the Red Cross continues to enjoy regular access to East Timorese prisoners, both in East Timor and other places.

The report also includes excerpts from a December 1996 *note verbale* from the Indonesian government to the Secretary-General which contained a number of statements related to the decision of the Nobel Selection Committee to award the 1996 Peace Prize to Jose Ramos Horta. These excerpts are critical of the decision and, among other comments, variously characterize Jose Ramos Horta as "an individual who has been a party to the extermination of his political opponents", "one of the Fretilin leaders who designed the civil war" and someone who has "manipulated and ruined the younger generations of East Timor". A second *note verbale* is cited in which the Indonesian government provided the Secretary-General with relevant portions of two multilateral texts. The first is the Declaration of Heads of Government of ASEAN (November 1996), in which ASEAN governments expressed their full support for the Indonesian position on East Timor. The second is the Final Communiqué of the Twenty-fourth Session of the Islamic Conference of Foreign Ministers in which the Conference expressed its full support for Indonesia's efforts to resolve the problems related to East Timor in a way that is internationally acceptable.

Annex II of the Secretary-General's report reproduces *in extenso* a memorandum from the Portuguese government. The memorandum refers to continuing human rights violations that occurred during 1996, including extrajudicial killings, disappearances, arbitrary detentions and torture. Commentary on political prisoners, the Indonesian military presence in East Timor, infant mortality, Indonesian migration to East Timor, and requests for asylum at Western embassies are also addressed. The information states that the Indonesian government has failed to comply with recommendations made by the Commission and its various mechanisms in a number of areas, including: failure to follow-up on the possibility of the High Commissioner for Human Rights assigning a programme officer with the UNDP Jakarta office to have regular access to East Timor; continuing obstacles to unrestricted access and independent monitoring of the human rights situation in East Timor; failure of the government to receive a visit by one of the Commission's relevant thematic rapporteurs during 1996 and refusal to accept a visit by either the Special Rapporteur on the question of torture or the Working Group on arbitrary detention; and, failure to release East Timorese sentenced after unfair trials and imprisoned for their opposition to Indonesian rule.

Additional information supplied by the Portuguese government included the text of a September 1996 resolution adopted by the Joint Assembly of the Asian, Caribbean and Pacific countries (ACP) and the European Union, condemning the Indonesian military repression of the people of East Timor, calling for the immediate release of all political prisoners, and reaffirming its support for the action taken under the aegis of the UN to resolve the situation in respect of human rights and the right to self-determination. Reference was also made to a resolution adopted by the European Parliament (EP) in June 1996 in which the EP expressed concern at various violations and gave its support to the UN-sponsored negotiations to resolve the question of the status of the

territory and to facilitate respect for human rights and the right to self-determination. And, finally, the information provided noted the June 1996 common position defined by the Council of the European Union in which the EU called on the Indonesian government to implement all of the relevant decisions adopted by the Commission on Human Rights.

In addition to the report of the Secretary-General, the Commission had before it an addendum containing further information supplied by Indonesia (E/CN.4/1996/51/Add.1). The document expands on commentary in the Secretary-General's report related to missing persons in Dili, closer cooperation with the International Committee of the Red Cross, access to East Timor, cooperation with UN human rights mechanisms, recent measures to improve fundamental human rights in East Timor, and the military's role in socio-economic development. On the question of measures to improve the human rights situation in the territory, the focus is placed on the rights to adequate food, housing, employment, health and education. In this regard, the measures noted include: programmes leading to an annual economic growth rate of 10 per cent; construction of 11 hospitals and 332 village health centres; programmes to ensure that every East Timorese child attends school, and construction of 175 elementary schools, 114 junior high schools, 58 senior high schools and 4 centres of higher education, including the University of East Timor; programmes to improve infrastructures such as roads, bridges and irrigation systems, the latter increasing significantly the amount of arable land available for farming; and, programmes designed to provide job training and employment for East Timorese both within and outside the territory.

The government also noted that it had given support to the Indonesian National Commission on Human Rights branch office in Dili to facilitate monitoring of the human rights situation in East Timor and that an extensive programme of voter registration had been undertaken in East Timor to ensure that people there would be able to participate in the May 1997 general elections.

Resolution of the Commission on Human Rights on East Timor

At its 1997 session, the Commission adopted, by roll call vote, a resolution on the situation in East Timor (UNCHR 1997/63). The resolution was adopted with 20 in favour, 14 opposed and 18 abstentions.

In the resolution the Commission: welcomed the decision of the Indonesian National Commission on Human Rights to investigate human rights violations and establish an office in Dili; welcomed the commitment of the government to continue the dialogue under the auspices of Secretary-General to achieve a just and comprehensive solution to the question of East Timor; expressed concern at reports of continuing violations, including extrajudicial killings, disappearances, torture, and arbitrary detention; expressed concern at the lack of compliance with commitments undertaken in the Chairman's statements at previous sessions of the Commission; expressed concern at the failure of the government to invite thematic rapporteurs to visit East Timor; called on the government to ensure the early release of East Timorese detained or convicted for political reasons; called on the government to ensure that the conditions of imprisonment and detention

conform with international standards; called on the government to invite the Special Rapporteur on the question of torture to visit East Timor, as well as other thematic rapporteurs; called on the government to facilitate the appointment of a programme officer in the UNDP office in Jakarta to monitor human rights and grant that person access to East Timor; called on the government to grant access to East Timor to human rights organizations; encouraged the Secretary-General to continue his good offices mission to achieve a just, comprehensive and internationally acceptable solution to the question of East Timor; and, encouraged the Secretary-General to continue the all-inclusive intra-East Timor dialogue to assist in achieving a settlement to the question of East Timor.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on: (E/CN.4/1997/4, paras. 4, 5, 6, 14, 15, 17, 18, 21; E/CN.4/1997/4/Add.1, Decision 36)

The main report notes that 22 cases were transmitted to the government as well as three urgent appeals involving 166 people. The government responded to these communications as well as to cases previously transmitted. The government also informed the Working Group (WG) that the three people named in Decision 18/1995 had been released.

Decision 36 (1996) related to the cases of 13 people involving arrests in Dili by Indonesian security forces. Some of the arrests were in response to demonstrations against Indonesia's presence in East Timor, where those arrested were charged under the Anti-Subversion Law for unjustly accusing Indonesia of human rights violations in East Timor; expressing hostility towards Indonesia and planning disruptions of law and order. Others arrested were charged with belonging to the clandestine branch of an anti-integration group, preparation of propaganda material, identifying and creating opportunities for violating the law, and disrupting public order. Still others were arrested on charges of membership in a clandestine pro-independence East Timorese movement; and others were arrested in connection with a labour dispute on charges of organizing a public meeting without first obtaining police permission under article 510 of the Indonesian Criminal Code.

In its decision the Working Group (WG) noted the response received from the government to each case, generally asserting that: Law No. 8 (1981) of Indonesia's Criminal Procedure Law provides the relevant legal basis for the arrest and detention of those who violate the law; arrest and detention can be effected only by police officers; those arrested and the members of their family are informed of the reasons for their arrest and detention; those who allege that they have been arbitrarily arrested can take recourse to legal remedies for their protection; the judiciary is independent and ensures protection of a person's constitutional guarantees; laws in Indonesia are aimed at guaranteeing civil and political rights as well as the independence and impartiality of the judiciary; the anti-integration campaign in East Timor is composed of three arms — the "forsa" or the core of armed groups, the "cellula" or supporting units of armed groups, and

the "clandestine" or the urban undercover groups; the activities of those involved in the anti-integration campaign violate two basic principles of human rights — the exercise of the right to self-determination of the majority of the people in East Timor to integrate with Indonesia, and international instruments guaranteeing the respect of Indonesian territorial integrity and national sovereignty; and, those involved in the anti-integration campaign should be considered as violators of both national and internationally recognized instruments.

The WG decided one case to be arbitrary, kept one case pending and filed the remainder, three on the basis that the persons named had never been detained.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1997/34, paras. 12, 190–195)

The Working Group transmitted 10 newly reported cases of disappearance, nine of which were reported to have occurred in 1996. The majority of the 378 cases remaining to be clarified occurred in 1992 following the incident at the Santa Cruz cemetery in Dili, East Timor, when security forces opened fire on peaceful demonstrators during a memorial service for two youths who had been killed in a clash with the police. The report notes that all of the newly reported cases occurred in East Timor. The government replied to nine of the cases, indicating that the people had been arrested but released at a later date and stated that in the other case the person named had never been arrested.

The Working Group expressed concern at the increase in cases of disappearance which reportedly occurred in 1996 in East Timor and reminded the government of its commitment under the Declaration on the Protection of All Persons from Enforced Disappearance to take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1997/60, paras. 15, 16, 17, 18, 19, 35; E/CN.4/1997/60/Add.1, paras. 231–247)

The report refers to information indicating that violations of the right to life in Indonesia continued to take place during 1995 and 1996, and that in East Timor during 1995, at least 13 civilians were thought to have been killed, although access and travel restrictions made independent monitoring in East Timor difficult. Information received also referred to violations of the right to life as the result of the excessive use of force by police and security forces and the fact that the National Commission on Human Rights (Komnas HAM) lacked the powers and resources to be fully operational and independent, and that there was no consistency in the cases taken up.

Cases transmitted to the government included: a joint appeal with the Special Rapporteurs on freedom of expression and torture on behalf of university students demonstrating after it had been reported that several students had been beaten to death in April 1996 in the context of continuing confrontations between demonstrating students and military personnel; the deaths of 11 civilians, including a woman and four children, killed by security forces after they had gathered for a prayer meeting; and, the deaths of at least five unidentified persons reportedly killed in connection with a raid by

Indonesian security forces on the office of the Partai Demokrasi Indonesia in Jakarta in July 1996.

The government variously responded to the cases transmitted, stating that: the allegations were invented or without any foundation; the police officers had killed the persons named in self-defence; the police officers had killed the persons named when they resisted arrest and tried to escape; the security officer involved had been sentenced to five years' imprisonment and dismissed dishonourably from the service for causing death by negligence in maintaining weapon safety; the two officers responsible had been sentenced by a military court to four years' imprisonment and had been dishonourably discharged from the army; the military court had sentenced the three responsible officers to from 14 years', to 9 months', to 5 months' imprisonment; those found guilty had been punished in accordance with the law. The government also stated that security forces had killed 10 armed separatists in the course of a security operation, but that no clergyman and no women and children had been among them. However, the National Commission on Human Rights had recommended that those responsible should be brought to justice and, in February 1996, the military court handed down a verdict that the officers involved were guilty of violating standard operation procedures and causing loss of life. This resulted in their dishonourable discharge from their duties and prison terms ranging from one to four years. A number of cases were still under investigation and *sub judice*.

The government denied the allegations that independent human rights monitoring in Irian Jaya and East Timor had become very difficult and noted that the ICRC and journalists, including foreign journalists, had unrestricted access to both areas. In other cases previously transmitted, the government informed the Special Rapporteur that: compensation had been provided by order of the court, and was equivalent to the sum that would have been acquired and saved by the deceased during his lifetime, and that the court had requested the state to provide free education for the family; and, the court had sentenced the perpetrators to seven, nine, and six years and five months' imprisonment respectively.

The report notes that the government has never responded to the report prepared by the SR following his visit to Indonesia and East Timor in 1994.

Freedom of opinion and expression, Special Rapporteur on: (E/CN.4/1997/31, Section II)

The report refers to the Special Rapporteur's request for an invitation to visit Indonesia. The report notes that a joint appeal was sent to the government, with the Special Rapporteurs on extrajudicial, summary or arbitrary executions and torture, related to a confrontation, in April 1996, between university students protesting a rise in transport fares and military personnel. Reports indicated that more than 200 students and members of the security forces were wounded after the military entered four university campuses to put down the protests. In the course of the operations, some soldiers fired directly at demonstrators. The report notes that at least three students died after being subjected to severe beatings and a number of others were taken into custody.

The government replied that the confrontation had occurred between students and the Association of Public

Transportation Drivers, who were holding a demonstration aimed at demanding higher fares. The government stated that the confrontation resulted in a number of injuries, material destruction and attacks by uncontrolled and aggressive students on innocent bystanders, resulting in injuries. Security officers had used rubber not live bullets, tear-gas, water canons and other standard measures to restore order. The deaths that had been reported were not the result of beatings but rather drowning when a number of students fled and jumped into the Pampang River. The government further stated that the students had gathered to roam about the city and damage property and not for the purpose of exercising the right to freedom of opinion. Two investigations were carried out, one by the VII Military District Command and the other by the National Commission on Human Rights. The National Commission later stated that there were leads pointing to possible irresponsible conduct by the security officers and the VII Military District Command had concluded that a number of security officers were suspected of having acted irresponsibly. Twelve officers, including three senior officers and nine privates, were arrested and faced a military court in May 1996. The government pointed out that, following the incident, a number of peaceful demonstrations to show solidarity with the students of Ujung Pandang had been held in many universities and they were not banned, interfered with nor repressed by the government in any way.

Independence of judges and lawyers, Special Rapporteur on the: (E/CN.4/1997/32, paras. 17, 20, 116–117)

The report notes that two cases involving lawyers were transmitted to the government. The first related to threat of arrest and criminal prosecution of a lawyer for refusing to answer summonses arising from legal representation of his clients. The information received indicated that the summonses were an effort to undermine the lawyer's professional obligations to his clients. Specifically, there was an attempt to interfere with the lawyer's representation of another lawyer—a trade union lawyer involved with "Mjelis Rakyat Indonesia", an alliance of 32 pro-democracy non-governmental organizations—who was arrested on charges of being an accomplice in subversive activities.

The government replied that the summons in the first case related to past activities concerning clients and that questioning had not related to client-attorney privileges. In the second case, the government stated that the man was not a lawyer and had never worked as a representative of workers, nor was he a member of "Mjelis Rakyat Indonesia". He had been arrested because of his participation in an illegal organization and for activities which resulted in rioting in July 1996, during which some people had been killed or injured.

Racial Discrimination, Special Rapporteur on: (E/CN.4/1997/71, para. 117–119)

The report refers to the situation of the indigenous people of Irian Jaya and information indicating that: widespread abuses appear to be ongoing within the context of an oppressive military presence and there is continuing environmental damage and the cultural subordination of indigenous people in the face of the massive exploitation of resources by powerful multinational corporations; trans-migrants, mainly from Java, are being given the local people's land; all aspects of the locals' lives have been altered and they are forcibly resettled;

the politics, culture, economy, education and work opportunities are Indonesian, imposed from Jakarta; and, the Freeport Mines Company controls the economy of Irian Jaya.

The reply from the government states that the allegations are half truths and uncorroborated facts and that the Free Papua Movement (OPM) has killed, tortured or threatened many people; the suggestion that, in Indonesia, there are strong racist feelings on the part of one ethnic group against another (specifically the Irianese), and that the people in Irian Jaya are tortured, arbitrarily detained and extrajudicially executed because of such racist attitudes, is totally unacceptable.

Religious intolerance, Special Rapporteur on:

(E/CN.4/1997/91, paras. 9, 17, 26, 32, 41, 58, 66; A/52/477, paras. 10, 21, 30, 89)

The reports refer to discrimination and intolerance towards Christians, Baha'is, Jehovah's Witnesses and Darul Arqam. Discrimination is manifested through bans on the Jehovah's Witnesses, the Baha'is and Darul Arqam in Indonesia, bureaucratic obstacles to the acquisition of property and arson against places of worship. The reports cite information provided by the government, stating: religious tolerance is the very foundation of the unity of the country because of its ethnic and religious diversity; legislation guarantees religious freedom as well as the freedom to establish places of worship; and, the prohibition of the Baha'is, the Jehovah's Witnesses and fundamentalist sects of Islam is in conformity with paragraph 3 of article 1 (limitations on religious freedom prescribed by law) of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. The government stated that allegations related to the unilateral appointment of Muslim, Catholic and Protestant teachers by the authorities were unfounded and as were those concerning arson against two churches and a temple. The reports note that the Special Rapporteur has requested an invitation to visit Indonesia.

Sale of children, child prostitution, child pornography, Special Rapporteur: (A/52/482, para. 26)

The Special Rapporteur's interim report to the General Assembly notes the involvement of the press in addressing the problem of child prostitution and that it has led to a considerable increase in public awareness and acknowledgment of the problem.

Torture, Special Rapporteur on: (E/CN.4/1997/7, Section III; E/CN.4/1997/7/Add.1, paras. 209–241)

The report notes that the Special Rapporteur (SR) continued to receive reports indicating that torture or other ill-treatment of both criminal suspects and persons detained for political reasons was occurring on a widespread basis in Indonesia, and that those arrested within the context of counter-insurgency operations in Irian Jaya and East Timor, workers engaging in strikes or unauthorized union activities, student demonstrators and journalists were particularly vulnerable to such abuse. Among the facts facilitating torture identified in the report were: the near-impunity enjoyed by members of the security forces; the frequent practice of unacknowledged and/or arbitrary detention; denial of access to legal counsel; and, restrictions on such access by human rights monitors. The report notes that the methods of torture include beatings all over the body with fists, pieces of wood,

iron bars, cables, bottles or rocks; burning with cigarettes; electric shocks; rape and sexual abuse; suspension upside-down by the ankles; sleep and food deprivation; and death threats.

Referring to the National Commission on Human Rights (Komnas HAM) the report notes information received indicating that it lacks full independence and effectiveness. The SR suggests that this is seen by its apparent failure to consider, in its investigation of the riots in East Timor of September and October 1995, a number of human rights violations, including torture, allegedly committed by members of the security forces. The report notes that the government is under no formal obligation to act on the Commission's findings and that it has ignored those findings either partially or wholly.

The government responded by questioning the SR's methods of work on the basis that the information transmitted to it was in the nature of sweeping allegations, lacking all any substance. The government asserted that allegations of that kind should not be processed by the SR and stressed that it had neither the time nor the inclination to explain that the Indonesian National Commission on Human Rights had all the power and resources to be operational and independent. According to the government, any explanation it offered on behalf of the Commission would be an irresponsible attempt to tamper with its work. The report notes that the government also provided quotations from an Indonesian human rights lawyer, a former Chairman of the Indonesian Legal Aid Foundation, the United States Secretary of State and a United States Under-Secretary of State, all commenting favourably upon the work of the Human Rights Commission.

The report notes that the SR informed the Indonesian government of his visit to Portugal in September 1996 to meet East Timorese persons living there who had allegedly been tortured by Indonesian security forces prior to leaving their country. The information gathered during that visit indicated that: the use of torture against suspected supporters of the East Timorese resistance movement was widespread; torture was carried out by the military, most frequently by members of the SGI (Special Intelligence Unit) forces, as well as the police, especially in East Timor, but also in Jakarta or other cities in Indonesia where the activists might be arrested; few of those arrested were brought before a judge or prosecuted; judges did not normally take into consideration allegations of torture made by those being prosecuted, who were frequently not assisted by defence lawyers; torture usually occurred during the first hours or days following the arrest, during which time the detainees were deprived of contact with their families and interrogated about their links with the resistance movement; and, arrests frequently took place in the context of demonstrations or other acts of protest, even if they were peaceful. The most common methods of torture reported included severe beatings with fists, lengths of wood and iron bars, kicking, burning with cigarettes and electric shocks, and sexual abuse and rape of women under detention or in other circumstances, such as when house-to-house searches were conducted.

The report summarizes the oral accounts of torture received by the SR during his visit to Portugal which were subsequently transmitted to the Indonesian government. The government responded that seven of the 10 cases involved

people who had never been detained and about whom the police and other law-enforcement officials had no criminal record. The government also expressed concern that the SR had used the term "oral testimonies" to refer to the allegations on the ground that it wasn't clear whether the statements of those interviewed had been made under oath. It was the government's view that even if the statements had been made under oath, taking such evidence was beyond the mandate of the SR because it did not include acting as a court of law.

In total, the SR transmitted to the government information on 26 individual cases, including the 10 brought to his attention during the visit to Portugal. The report notes that the government has not extended an invitation for the SR to visit.

Toxic wastes and products, Special Rapporteur on:
(E/CN.4/1997/19, para. 40)

The report refers to the export of battery scrape from Australia and the United Kingdom to Indonesia where lead acid batteries are burned and the waste slag dumped outside factory gates. The report also cites concerns related to the operations of Freeport-McMoRan, a New Orleans-based mining company, and information indicating that Freeport security cooperated with the Indonesian army during some incidents, including an attack in which three people were killed and five disappeared. The report notes that in 1996 a \$6 billion lawsuit was filed in a United States district court in New Orleans, charging the company with responsibility for a range of human rights and environmental abuses that have had a strong impact on the tribal communities whose natural habitats have been affected.

Violence against women: (E/CN.4/1997/47, para. 23, Sections V.A and B)

The report refers generally to the lack of statistical data on rape which arises by traditionally categorizing such violence as "private". As well, it is the result of a general lack of institutional will to effectively address women's complaints when victims seek redress from state agencies. Granting that statistics are under representative, the report notes that in Jakarta, city police recorded 2,300 cases of sexual violence against women in 1992, 3,200 cases in 1993 and 3,000 in only the first half of 1994. In the section dealing with violence against women migrant workers, the report notes that in countries of the Persian Gulf, the estimated 1.2 million domestic workers make up 20 per cent of the estimated 6 million migrants on whom these countries rely heavily. Indonesia is noted as one of the primary sending countries to the Gulf region. It noted further that, because of the violent situations of many domestic workers, an average of 75 women per day seek shelter in the Indonesian embassy in Jeddah, Saudi Arabia. Comments on state strategies to improve the position of female domestic migrant workers notes that Indonesia requires a minimum age of 30 for women migrant workers leaving for the Middle East and has instituted compulsory language and cultural training for domestic workers migrating to that region.

Mechanisms and Reports of the Sub-Commission
Contemporary forms of slavery, Working Group on:
(E/CN.4/Sub.2/1997/13, paras. 49)

The report refers to information provided by NGOs indicating that Indonesia is one of the countries in Asia where the indigenous population is the victim of slavery-like practices,

ranging from the sexual exploitation of women and children to bonded labour and bondage.

States of emergency, Special Rapporteur on:
(E/CN.4/Sub.2/1997/19/Add.1, Section I)

The report notes that a state of emergency was formally proclaimed in East Timor in September 1983 and that there remains a de facto state of emergency.

Other Reports

Detention of international civil servants, Report of the S-G to the CHR: (E/CN.4/1997/25, paras. 36, 76)

The report of the Secretary-General refers to the case of a UNESCO staff member, a Dutch national, who was taken hostage in Irian Jaya province by separatist rebels of the Free Papua Movement, together with a number of others. The report notes that efforts to secure the release of hostages through negotiations failed and they were finally freed by an Indonesian military intervention during which two of the hostages were killed by the rebels.

* * * * *

IRAN

(Islamic Republic of)

Date of admission to UN: 24 October 1945.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Iran has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Signed: 4 April 1968; ratified: 24 June 1975.

Iran's second periodic report was due 30 June 1995.

Civil and Political Rights

Signed: 4 April 1968; ratified: 24 June 1975.

Iran's third periodic report was due 31 December 1994.

Racial Discrimination

Signed: 8 March 1967; ratified: 29 August 1968.

Iran's ninth through 14th periodic reports (covering the period 1986-1996) have not been submitted; the 14th periodic report was due 4 January 1996.

Rights of the Child

Signed: 5 September 1991; ratified: 13 July 1994.

Iran's initial report was due 11 August 1996.

Reservations and Declarations: General reservation.

COMMISSION ON HUMAN RIGHTS

Report of the Special Representative on Iran

The Commission on Human Rights (CHR) appointed a Special Representative (SRep) on Iran at its 1984 session and has renewed the mandate of the SRep annually since that time. Maurice Copithorne, was appointed in 1995 and reported to the 1997 sessions of the Commission and the General Assembly. Although Iran argues that the mechanism is out of date and no longer needed, Iran did allow the Special Representative to visit the country early in 1996, and hosted

visits for the Special Rapporteurs on freedom of opinion and expression and on religious intolerance.

The report to the 1997 session of the Commission (E/CN.4/1997/63) pre-dates the presidential elections in 1997.

The report addresses a number of issues including the death penalty, religious dissidents, extrajudicial groups, amendments to the Islamic Criminal Code, freedom of expression, the situation of the Baha'is and human rights institutions in Iran. The reports notes: a number of death sentences were imposed for drug trafficking and there was an increase in the number of allegations of spying which carry the death penalty; there remain widespread allegations that there were still some prisoners of conscience in Iran, viz. persons detained because of their race, religion, politics, language, beliefs or for similar reasons; detentions of persons who support Grand Ayatollah Shirazi and were accused of cooperating with foreign powers; activities by private and semi-private groups sometimes exceeding the threshold of peaceful expression of opinion and activities including violence and threats of violence on others as a means of coercion; changes to the Islamic Criminal Code which appeared to have resulted in a toughening of criminal sanctions; the lack of assurance that the right to seek a pardon, a commutation and an appeal was assured; reports of confessions obtained by coercion and that the "testimony of righteous men" effectively excluded women and religious minorities; widespread allegations of torture; reports of application of corporal punishment, including stoning and amputation, contrary to existing international norms; and discrimination against Baha'is, including arbitrary detentions, refusal of entry to universities, dismissals from employment and confiscation of properties.

In terms of freedom of expression the report to the 1997 Commission refers to the fact that there appeared to be a wider public debate of public issues in Iran than in the past but also that a number of disciplinary actions were taken against newspapers and magazines, including closures, and that reports had been received of arrests and disappearances of writers. Note is made of statements by authorities which appear to espouse tighter controls on expression generally and book publishing specifically.

In terms of the status of women and possible positive developments in that area, note is made of the fact that: women have been elected to the Fifth Majlis; a Women's Commission has been established of which the majority of members will be women; it has been affirmed that there is no religious impediment in Islam to a woman becoming President; new laws on family allowances for working and retired women have been adopted; new laws on the provision of support to working nursing mothers and on extending pre-maternity leave to four months have been adopted; there has been public criticism of the Guardian Council for having no women as members; women have themselves expressed irritation at the patriarchal control of Islamic tradition; a woman has been appointed as district mayor in Tehran; and, there is a proposal before Cabinet that Iran accede to the Convention on the Elimination of All Forms of Discrimination against Women. The report also notes, however, that in some areas developments related to the status of women have been retrogressive, as for example, with respect to actions

concerning "improper veiling". The SRep notes differences of view, drawing on religion and culture, as to the appropriateness of norms concerning *hijab*, the tolerance with which such norms are applied, and allegations of harassment by Al-Zahra teams in the way they enforce such norms. The report concludes that there remained a considerable distance to go before the status of women in Iran conforms to the international standards of non-discrimination set out in various human rights instruments.

The report includes information on the Islamic Human Rights Commission in Iran and notes that the Commission has: taken up minority issues including education, property rights and passports; provided advisory services to more than 1,000 claimants and taken up the claims with the judiciary; provided human rights education for officials of the legal system, including judges and prison guards; initiated a public human rights education programme through the media; planned a specialized periodical on human rights; and, recommended the establishment of a juvenile court in Tehran, a step the government subsequently took.

The report concludes that, despite whatever positive developments there may have been in Iran, human rights require urgent and sustained attention.

Resolution of the Commission on Human Rights

At its 1997 session, the Commission on Human Rights adopted a resolution on Iran (1997/54). The resolution was adopted by roll call vote with 26 in favour, 7 opposed, 19 abstentions.

In the resolution the Commission expressed concern at: the large number of executions, torture, amputations and public executions; the failure to meet international standards in areas of justice and absence of due process; violations of the human rights of Baha'is; discrimination against other religious minorities and intimidation and assassination of members of those minorities; the lack of cooperation by the government with mechanisms of the Commission; the continuing *fatwa* against Salman Rushdie and all those associated with his work, and the increase in bounty for the assassination of Rushdie announced by the 15 Khordad Foundation; violations of right to peaceful assembly, restrictions on freedoms of expression, thought, opinion and the press; intimidation of writers and journalists and the arrest of Faraj Sarkuhi; and lack of full and equal enjoyment of human rights by women. It called on the government to: resume cooperation with the Commission and to allow the Special Representative to make an in-country visit; implement all standing recommendations related to religious intolerance and freedom of opinion and expression; eliminate discrimination against women in law and practice; refrain from violence against members of the Iranian opposition living abroad; provide satisfactory written assurances that the government does not support or incite threats to the life of Salman Rushdie; and ensure that capital punishment is not imposed for apostasy or non-violent crimes or in disregard of safeguards in the International Covenant on Civil and Political Rights and other UN safeguards. The resolution extended the mandate of Special Representative for another year and requested the Special Representative to submit an interim report to the 1997 General Assembly and a full report to 1998 Commission.

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

At its 1996 session the Sub-Commission adopted a resolution on the situation in Iran and requested the Secretary-General to keep it informed of relevant reports and UN measures to prevent human rights violations in Iran, including violations of the religious freedoms of the Baha'i and Christian communities. In response, a report of the Secretary-General was prepared for the 1997 session of the Sub-Commission. The report (E/CN.4/Sub.2/1997/5) refers to the report of the Special Representative on Iran, the resolution adopted by the General Assembly in 1996, the reports of the Working Group on Arbitrary Detention, the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteurs on extrajudicial, summary or arbitrary executions, torture, and religious intolerance as well as the resolution adopted by the Commission at its 1997 session. The report also notes the concluding observations of the Committee on the Elimination of Racial Discrimination, the Committee on Economic, Social and Cultural Rights, and the Human Rights Committee which were published in previous years.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on: (E/CN.4/1997/4/Add.1, Decision 14)

Three cases were considered by the Working Group (WG) to which the government did not respond. The first involved a writer who was arrested by members of the Anti-Vice Department of the Revolutionary Prosecutor's Office and subsequently held in the "special sector" of the Evin prison in Tehran. No charges were filed against him. The Director-General of National Security at the Iranian Ministry of Intelligence was reported to have said, in an interview published in the Iranian press, that the man had "confessed" to using drugs, making alcoholic drinks, homosexual acts, links with espionage networks and receiving money from "counter-revolutionary" circles based in the West. The second case concerned a poet and publisher, also arrested and held in the "special section" of Evin. The third case was that of the Deputy-Prime Minister in the Cabinet of Dr. Mehdi Bazargan. He was arrested after being recalled from abroad by the Iranian Foreign Ministry, and allegedly tried summarily inside the Evin prison on charges of spying for the United States. He was sentenced to life imprisonment.

The WG decided that the detentions of the writer and poet/publisher were based solely on the grounds that they had peacefully exercised their right to freedom of expression. As to the former Deputy-Minister, the WG noted the facts of the summary trial, and the denial of the right to defence counsel, the right to legal assistance and the right to appeal. The denial of rights in each of the three cases was considered by the WG to be a violation of international standards and it therefore declared the detentions to be arbitrary in character.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1997/34, paras. 196–200)

No new cases of disappearance were received by the Working Group (WG) but 496 cases remain in the files. The majority relate to disappearances which occurred between 1981 and 1989. Some of those who disappeared were reported to have been arrested and imprisoned for their alleged membership in armed opposition groups. The information provided by the government to date on the outstanding cases has not been sufficiently detailed to allow any of the cases to be considered clarified.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1997/60, paras. 15, 16, 17, 18, 19, 28, 31, 51, 52, 67, 89, 91; E/CN.4/1997/60/Add.1, paras. 248–267)

The report notes that information continues to be received related to the lack of procedural safeguards in trials before Islamic Revolutionary Courts which can lead to the imposition of the death penalty. The Special Rapporteur (SR) received reports that executions in the form of hanging, stoning and shooting continue to take place following trials that do not conform to internationally recognized standards of fair trial. The SR also received information indicating that capital punishment was applied for crimes such as espionage, drug-trafficking, adultery, and murder, and that there had been an increase in the number of executions recorded in 1996. The report also notes receipt of information indicating that there was a new wave of violence against Iranian exiles living abroad, including murder, as well as attacks by Iranian forces on Kurds in Iran and in Iraqi Kurdistan.

Some of the cases and appeals transmitted to the government related to death sentences following trials on charges of apostasy, adherence to the Baha'i faith, activities in the Kurdish Democratic Party of Iran, activities for an illegal opposition group, sedition and armed robbery. Others referred to the murders of Iranian expatriates reportedly killed outside Iran by men acting under the orders of Iranian authorities, and random shootings by police during a demonstration.

The government variously responded to the cases and information sent by the SR that: those executed had pleaded guilty to the charges; investigations were proceeding; death in custody was the result of cardiac problems; the individual had died in a car accident and not by the action of another person; the individuals had been lawfully sentenced to death following trial on charges of espionage and sabotage; economic crimes were sanctioned by death; and, the appeal of the death sentence was rejected by the Supreme Court and the persons were executed since they had been found guilty of membership in a terrorist group and of participating in terrorist operations, subversive acts, armed robbery and illegal possession of arms.

The report notes that the replies received from the government, particularly in cases of capital punishment, do not address the SR's concerns about fair trial guarantees in proceedings before Islamic Revolutionary Courts. The SR also referred to the increasing number of allegations of killings of members of the political opposition outside the Islamic Republic of Iran, allegedly by individuals linked to the Iranian security forces. He called on the Iranian authorities to

make every effort to investigate these allegations, to make their results public, and to ensure that the perpetrators of such crimes are brought to justice.

Religious intolerance, Special Rapporteur on: (E/CN.4/1997/91, paras. 9, 10, 11, 45, 60)

The report refers to urgent appeals on cases related to: the unexplained death of a Muslim man who had converted to Christianity; a Muslim who had converted to the Baha'i faith and was sentenced to death for apostasy by a revolutionary tribunal; and death sentences against three other Baha'is.

The Special Rapporteur's interim report to the 1997 General Assembly (A/52/477, paras. 8, 12, 13, 25, 28, 36, 37, 51, 57) notes the mission to Iran in December 1995 and the SR's hope that, following the presidential elections, the follow-up procedure for the visit can be initiated. The report notes that communications were transmitted to the government related to violations of religious freedom against the Baha'is, and mistreatment, arrests and detention, and murders of clergy and believers. The government replied to communications related to the deaths of Christian religious leaders; it provided statements by the Assyro-Chaldean churches urging that those events not be exploited politically with a view to discrediting Iran; and it stated that the perpetrators of the murders had confessed.

Torture, Special Rapporteur on: (E/CN.4/1997/7, Section III; E/CN.4/1997/7/Add.1, paras. 242–246)

The report notes that 20 individual cases and four urgent appeals on behalf of 24 persons were transmitted to the government. One of the urgent appeals concerned the alleged resumption of amputation as a punishment for criminal offences. A number of the cases addressed by the SR involved supporters of the Grand Ayatollah Shirazi who were detained and subjected to various forms of torture, including beatings on the soles of the feet and head, burns, prolonged enforced standing, detention in extremely confined spaces, suspension by the hands, ankles or other body parts, electric shocks, exposure to extreme cold for long periods and prolonged sleep deprivation. The Special Rapporteur (SR) asked that safeguards be put in place against prolonged incommunicado detention, and that amputation, flagellation and other forms of corporal punishment be ended.

Violence against women, Special Rapporteur on: (E/CN.4/1997/47, Section VI)

In the section of the report dealing with religious extremism the report observes that a woman's physical autonomy and her freedom to dress as she likes are challenged in various societies. Going against community is likely to make the woman an easy target for violence. The report notes that in Iran these so-called community mores are policed by the state. Under the dress code for women enacted by Iran (called *Hijab e Islam*), non-conformism can lead to severe punishment. The code encourages the community to police itself, and members of the community are seen to have a duty to warn or attempt to arrest women who are in violation of the code. Once a woman is arrested, she can be subjected to 75 lashes or, at the discretion of the guards, she may only receive verbal abuse and be set free. The practice of abusing women who exercise the freedom of dress is justified by the government and certain members of the community as being sanctioned by the holy texts.

Other Reports

Cooperation with representatives of UN human rights bodies, Report of the S-G to the CHR: (E/CN.4/1997/50, para. 18)

The report of the Secretary-General refers to the information in the report of the Special Representative (SRep) on Iran in which it is noted that, on 22 June 1996, Mehrdad Kalani was executed after having been sentenced to death on charges of, *inter alia*, having met with the previous SRep and the delegation who accompanied him on a visit to Iran. The government responded to the case by stating that the allegations were false and that no one had been punished on the charge of meeting with the former SRep. According to the government, Kalani had been convicted of activities against national security and active participation in the Mojaheddin Khalgh Organization's military operations against the Islamic Republic of Iran from Iraq.

World Public Information Campaign on Human Rights, Report of the S-G to the CHR: (E/CN.4/1997/36, para. 85)

The report of the Secretary-General notes that, during the visit of the Special Rapporteur on Iran in February 1996, the UN Information Centre Tehran arranged for interviews with AFP, the Islamic Republic News Agency (IRNA) and the Persian daily *Ettela'at*. The Centre also produced a press release in Farsi and English for all major newspapers. During the visit of the Special Rapporteur on freedom of opinion and expression in December 1995, UNIC Tehran organized a meeting with representatives of Reuters, Kyodo, AFP and the Italian News Agency.

ECONOMIC AND SOCIAL COUNCIL

Women's human rights, Report of the S-G: (E/1997/64)

The report of the Secretary-General on follow-up to the Fourth World Conference on Women refers to country-specific resolutions adopted at the 1997 session of the Commission and notes that the text on Iran requested the Special Representative to keep a gender perspective in mind when seeking and analysing information.

GENERAL ASSEMBLY

Report of the CHR Special Representative: (A/52/472)

The Special Representative's interim report to the 1997 General Assembly contains information on freedom of expression, executions, apostasy and conversion, torture, the status of women, the *fatwa* against Salman Rushdie, the situation of the Baha'is, the Islamic Human Rights Commission, violence outside Iran, the situation of certain religious minorities, and democracy. The report notes that discussions between the SRep and the government were continuing in terms of the government allowing a field mission to be conducted.

The report notes that Iran has gone through turbulent times, which have had an impact on the human rights situation in the country. It states that there has been some progress and some backsliding, but in most areas the pace of change for the better has been imperceptible, or at least so modest as to represent little substantive improvement. The report refers to the 4 August 1997 inauguration speech of President

Khatami. It considers it noteworthy from a human rights perspective that considerable attention was devoted in the statement to opening up to the people the discourse about government policy, in key areas, *inter alia*; the culture and capacity for participation, evaluation, critique and reform; tolerance and empowerment for the people; and, the need to prevent any violation of the integrity, dignity and constitutional rights and freedom of individuals. The report notes that subsequent statements emphasized, among other things: respect for human dignity and integrity; ensuring civil rights and freedom; defending public trials and the right to a lawyer; fostering an independent mass media; and fostering the principles of pluralism and diversity.

On the question of freedom of expression, the report notes that there are "islands of liberty", which tolerate lively debate about many public issues, including freedom of expression itself, the role of the clergy in government, and the limitations on the authority of the President. The report states, however, that there are both implicit and explicit boundaries to free expression and that the rights of the press and the media in general, the film industry, authors, publishers and bookstores appear in practice to be significantly circumscribed. The report notes that various means of official and unofficial control exist: including the press tribunal; restricted access to newsprint; the need for approval of book and film manuscripts; various licensing systems; and, unofficial strong-arm enforcers of their own view of religion and morality. The report recalls the 1995 visit to Iran by the Special Rapporteur on freedom of opinion and expression and notes the concluding observations and recommendations made which included a significant list of changes that needed to be made by the government in order to meet international norms and, in particular, nourish a culture of free expression.

On other issues, the report notes: the number of executions in Iran in 1996 was at least double that in 1995; there continue to be troubling reports of disappearances and deaths under suspicious circumstances; an August 1997 report on Iranian radio stated that a new law would "increase the seriousness of [drug] trafficking tenfold" and give judicial authorities "a free hand" to deal with drug traffickers; public hanging appeared to be on the increase; the use of apostasy in two situations, one to describe the conduct of the British writer Salman Rushdie and the other as an offence of which adherents of the Baha'i faith and sometimes Christian Protestants are from time to time charged and sometimes convicted; there would appear to be no provision in codified Iranian law making apostasy a crime; the fact that article 167 of the Constitution authorizes judges, in the absence of applicable law, to apply "authoritative Islamic sources and authentic *fatwa*"; statements by senior officials from time to time declaring that no one is convicted on the grounds of religion, and that Baha'ism is not a religion but "a web of espionage activities"; and, continuing reports of the use of cruel, inhuman or degrading treatment or punishment, in particular stoning.

With regard to the status of women, the report notes: both the laws and policies in Iran do not recognize the equality at law of women and men; the system frequently tolerates discrimination against women by private groups; some senior members of the governing circles continue to incite violence in support of discriminatory conduct against women; information indicating that hospitals were to be segregated on the

basis of gender; provisions in law of imprisonment of up to 12 months, fines and flogging up to 74 lashes for some offences related to the dress code; a new programme entitled, "Extension of the culture of chastity", which would impose stricter veiling requirements; the fact that the new President appointed a woman as one of eight Vice-Presidents and several other women were reported to have been candidates for ministerial appointments; and, the fact that the discourse about the role of women continues, including public discussions of subjects such as women being precluded from decision-making in areas affecting them (e.g., education and medicine), the many obstacles and barriers blocking the advancement of women according to their competence, and the complaints of a number of married women concerning the unfair treatment they had received from judicial authorities in the context of matrimonial disputes.

Referring to the *fatwa* against Salman Rushdie, the report recalls the statement, in February 1997, by an Iranian charitable foundation increasing its reward to US\$2.5 million for the death of Mr. Rushdie and extending the reward to non-Muslims. The SRep notes that efforts by certain governments in recent years to reach an accommodation with the Iranian government on this matter have been unsuccessful and that, in his view as well as the view of others, the offered reward is an incitement to murder. On the Baha'is, the report notes that the SRep continues to receive information of cases in which the human rights of Baha'is were violated including extrajudicial executions, arbitrary detentions, refusal of entry to universities, confiscation of property and dismissal from employment.

The report refers to a report prepared by the Islamic Human Rights Commission in which it is stated that, between January 1996 and January 1997: 1,300 complaints related to violations were received; seven per cent were found to have no probative value; 14 per cent were found to have no merit after investigation; and 42 per cent required "legal advice and necessary guidance"; the Commission held several meetings with judicial authorities and, in most cases, received good cooperation from the courts; and, the Commission conducted periodic and regular visits to prisons, judicial centres, executive centres and the police, and has effectively conducted investigations whenever required into an individual complaint. The SRep notes that the President and several members of the Commission itself and its subcommittees are current or former senior figures or officials in the government and states that it remains to be seen whether the Commission has significant freedom of action. The SRep recommended that the Commission move quickly to begin publishing a detailed description of the types of complaints it is receiving, of the interventions it is making and of the success it is having in reversing the conduct that gives rise to the complaints.

In the section dealing with certain religious minorities, the report refers to the Sunnis, noting that: there are an estimated 12 to 15 million Sunnis in Iran; many of the ethnic minority groups in Iran are in whole or in part Sunni Muslims; the great majority of Iranian Kurds, Baluchis and Turkmens are Sunnis; information indicates Sunnis, along with other religious minorities, are denied by law or practice access to such government positions as cabinet minister, ambassador, provincial governor, mayor and the like, Sunni schools and mosques have been destroyed, and Sunni leaders have been imprisoned, executed and assassinated. The report notes that

while some of the information received may be difficult to corroborate there is a clear impression that the right of freedom of religion is not being respected with regard to the Sunni minority.

The Special Representative recommended that the government, *inter alia*:

- ▶ with regard to the death penalty, implement key provisions in the resolution adopted at the 1997 session of the Commission (1997/12), namely: not to impose the death penalty for any but the most serious crimes; observe the safeguards guaranteeing the protection of the rights of those facing the death penalty set out in the annex to Economic and Social Council resolution 1984/50 of 25 May 1984; progressively restrict the number of offences for which the death penalty might be imposed; and make available to the public information with regard to the imposition of the death penalty;
- ▶ set aside the existing convictions and take appropriate steps to prevent future prosecutions for acts of religious conversion, whether or not they be categorized as apostasy;
- ▶ remove article 82 (b) from the Islamic Criminal Code prescribing stoning as punishment and undertake a policy of actively suppressing recourse to such conduct throughout the country;
- ▶ attach high priority to reforming the status of women, not only to bring itself into compliance with international human rights norms, but also out of respect for the dignity of the individual;
- ▶ attach a high priority to the issue of the *fatwa* against Salman Rushdie and approach its settlement in a fresh and positive manner;
- ▶ implement the recommendations made by the Special Rapporteur on religious intolerance following his mission to Iran in December 1995, including the recommendations to: urgent revise the death sentences passed on Baha'is and promulgate amnesties or other appropriate measures to prevent the enforcement of the penalties imposed; lift the ban on the Baha'i organization to enable it to organize itself freely through its administrative institutions; end discrimination in access to higher education or to employment in the administration; return confiscated personal and community property; reconstruct places of worship that were destroyed, or at least, establish compensatory measures in favour of the Baha'i community; lift restrictions regarding the burial and honouring of the dead; and, eliminate the question on religion from passport application forms in order to guarantee freedom of movement; and,
- ▶ denounce acts of violence outside Iran and forswear direct or indirect involvement in it.

There are four appendices to the report.

Appendix I notes correspondence with the government, concerning allegations of violations including cases of torture, imposition of the death penalty, detention without charge or trial, extrajudicial executions and floggings. Appendix II provides a selection of recent reports illustrating constraints against freedom of expression. Appendix III details information on the situation of the Baha'is. Appendix

IV reproduces responses received from the government, related to some of the cases transmitted.

Resolution adopted by the General Assembly

At its 1997 session, the General Assembly adopted a resolution on the human rights situation in Iran (A/C.3/52/L.72). The GA: welcomed the report of the CHR Special Representative; noted with interest that presidential elections were held in Iran in 1997; expressed concern at the continuing violations of human rights, in particular the large and increasing number of executions in the apparent absence of respect for internationally recognized safeguards, cases of torture and ill-treatment, including stoning, amputation and public executions, the failure to meet international standards in the administration of justice and the absence of due process of law; expressed concern at the grave breaches of the human rights of the Baha'is, the discrimination against members of other religious minorities, including Christians, and death sentences pronounced on the charge of apostasy and because of religious beliefs; expressed concern at the lack of continuity in the cooperation of the government with the mechanisms of the Commission on Human Rights; expressed concern at the continuing threats to the life of Salman Rushdie, as well as to individuals associated with his work, which appear to have the support of the government of the Islamic Republic of Iran, and deeply regretted the increase announced in the bounty offered for the assassination of Mr. Rushdie by the 15 Khoradad Foundation; called on the government to: (a) resume its cooperation with the mechanisms of the CHR, in particular with the Special Representative to allow him to continue his inquiry first-hand and continue his dialogue with the government; (b) abide by its freely undertaken obligations under the International Covenants on Human Rights and under other international instruments on human rights; (c) implement fully the conclusions and recommendations of the CHR Special Rapporteur on religious intolerance related to the Baha'is and other minority religious groups; (d) take effective measures to eliminate human rights violations against women, including all discrimination in law and in practice against them; (e) refrain from violence against members of the Iranian opposition living abroad and cooperate fully with the authorities of other countries in investigating and prosecuting offences reported by them; (f) provide satisfactory written assurances that it does not support or incite threats to the life of Mr. Rushdie; (g) ensure that capital punishment will not be imposed for apostasy or non-violent crimes, or in disregard of the provisions of the ICCPR and the UN safeguards; decided to continue the examination of the situation of human rights in Iran, including the situation of minority groups such as the Baha'is, at its fifty-third session.

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IRAQ

Date of admission to UN: 21 December 1945.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Iraq has not provided a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Signed: 18 February 1969; ratified: 25 January 1971.

Iraq's fourth periodic report is due 30 June 2000.

Reservations and Declarations: General declaration.

Iraq's third periodic report (E/1994/104/Add.9) was considered by the Committee at its November/December 1997 session. The introduction in the report prepared by the government refers to the consequences of the war with Iran and the sanctions applied against Iraq related to the Gulf War. In terms of the latter, the introduction comments on the negative impact of the sanctions and embargo particularly on health, food, the standard of living and the provision of basic services. In terms of specific rights in the Covenant, the report includes information on: work and conditions of work; trade union rights; social security benefits; the effects of the embargo on economic rights; protection of the family; the effects of the embargo on the standard of living and living conditions; physical and mental health; and the effects of the embargo on social rights.

The Committee's concluding observations and comments (E/C.12/1/Add.17) noted positively: the fact that the Covenant forms an integral part of national law and may be invoked directly before the courts; the establishment of a Human Rights Commission within the National Assembly; laws to promote women's participation in national development and establishing equal rights in areas such as education, health, employment and land ownership, and protection from exploitation and sexual harassment in the work place; and, the fact that women have a right to six months maternity leave with full salary, six months at half salary and a retirement age of 55 years.

The Committee acknowledged the impact of the war with Iran, the Gulf War and the embargo on implementation of the Covenant but also stated that, notwithstanding the effect of sanctions and the blockade, the state is still responsible for fulfilling its obligations under the ICESCR to the maximum of its available resources. The principal subjects of concern identified by the Committee were: the continuing deterioration of economic, social and cultural rights dating from the war with Iran; the failure of the authorities to take sufficient measures to alleviate the difficult living conditions of the Iraqi population; the lack of statistical information on the economic, social and cultural situation; the lack of information on any measures taken to increase awareness of human rights among the population; reports of discrimination against certain minorities and especially the Kurds, Marsh people, Assyrians, Ma'dan, Shi'a Muslims and Turkomans; the report stating that the effect of the embargo is harsher on members of racial, ethnic or religious minorities; and, the existence of discrimination in the allocation of limited resources between rural and urban areas and against the southern region with regard to the Marsh people.

The Committee also expressed concern over: discrimination against women in law and practice in areas such as inheritance, movement, family law, equal pay for equal work and access to employment; provisions in law for compulsory labour; the prohibition on independent trade unions; the prohibition on public sector employees and workers in state-owned enterprises joining trade unions; irregularities in the payments of pensions and social security; the increase of child labour and the lack of information on any measures taken to address the problem; reports about forced evictions

of members of certain minorities and the situation of "squatters" in urban areas; the lack of access to safe drinking water in the rural areas in central and southern Iraq; the rapid decline in the standard of physical health of the population; the reappearance of certain diseases such as typhoid, tetanus, viral hepatitis and rabies; the rapidly increasing rate of illiteracy, especially among women; and, the lack of information on, for example, mandatory and free education, human rights education, educational opportunities for women, infringements of academic freedom and government control over the choice and broadcasting of minority-language radio programmes.

The Committee recommended that the government:

- ▶ take urgent and concrete steps to ensure that the provisions of the Covenant are made widely known among the population;
- ▶ set up systematic education programmes on the Covenant in all schools and other educational institutions;
- ▶ ensure the independence of the existing Human Rights Commission and empower it to receive and investigate complaints from individuals for violations of human rights, including economic, social and cultural rights;
- ▶ measures be taken to guarantee non-discrimination in the enjoyment of rights, with particular attention given to the situation of Kurds, Marsh people, Assyrians, Ma'dan, Shi'a Muslims and Turkomans;
- ▶ thoroughly review domestic legislation to eliminate discriminatory provisions against women and make available specific remedies for women victims of sexual discrimination;
- ▶ review and bring into conformity with the Covenant and ILO Convention No. 29 provisions related to forced labour in cases of expression of political opinions or ideological opposition to the political, social or economic system, breach of labour discipline or participation in strikes;
- ▶ review legislation governing trade union rights as a matter of priority;
- ▶ apply without discrimination social security laws and review Law No. 39 of 1971 on Workers' Pension and Social Security;
- ▶ provide in the next report comprehensive information on measures taken or anticipated to address psychological and emotional problems affecting children and arising from conflict and related economic and social constraints, as well as child labour;
- ▶ review provisions in the labour code to ensure the protection of all working minors;
- ▶ take appropriate measures to implement without discrimination the right to adequate housing; and,
- ▶ make every effort to ensure access throughout the country to safe drinking water, especially in rural areas.

Civil and Political Rights

Signed: 18 February 1969; ratified: 25 January 1971.

Iraq's fifth periodic report is due 4 April 1999.

Reservations and Declarations: General declaration.

Iraq's fourth periodic report (CCPR/C/103/Add.2) was considered by the Committee at its October/November 1997

session. The report prepared by the government refers to the effect of the embargo and sanctions, stating that an environment has been created in which the rates have risen for all types of crime and that this situation has forced the state to take punitive measures of a deterrent, exceptional and provisional nature to protect the basic right of citizens to life, security and preservation of their property. The government stated that the report focussed on the manner in which the state is dealing with the violation of its citizens' right to survival, and the legislative, administrative and judicial measures taken to apply the provisions of the Covenant. The iteration of decrees and laws is extensive and covers areas such as the death penalty, judicial guarantees, conditions of detention and imprisonment, amnesty, due process, the juvenile justice system, entry and departure from the country, the independence of the judiciary and non-discrimination. The report also refers to the powers and authority of the Human Rights Directorate at the Ministry of Foreign Affairs as well as the Department of Criminal Justice.

The Committee's concluding observations (CCPR/C/79/Add.84) acknowledged the negative impact of both the war with Iran and the sanctions and embargo on the country. The Committee reminded the government, however, of its responsibility to implement its obligations under the Covenant. The Committee welcomed: repeal of Decree No. 111 of 1990 which exempted from prosecution certain "crimes of honour" involving the killing of female relatives and the adoption of Decree No. 91 which repealed the application of the death penalty and amputation in certain cases.

The principle subjects of concern identified by the Committee were: the concentration of all government power in the hands of the Executive which is not subject to scrutiny or accountability, either politically or otherwise; the failure of the government in its report to answer a number of questions, in part related to the high incidence of summary executions, arbitrary arrests and detention, torture and ill-treatment, disappearances, and forced relocations; the lack of information on the functions or powers of the non-governmental Committee established to deal with disappearances; the increase in the categories of crimes punishable by the death penalty, including non-violent and economic infringements; application of the death penalty for repeated evasion of military service; imposition of amputation and branding; the incompatibility between family and inheritance laws and general equality; the imposition of arbitrary restrictions on freedom of movement and freedom to leave the country; failure of special courts to provide all procedural guarantees, including the right of appeal; the severe restrictions on the right to express opposition to or criticism of the government or its policies; provision in law for life imprisonment, and in certain cases death, for insulting the President; the restrictions, prohibitions and censorship imposed on the creation and functioning of independent broadcasting media, as well as the diffusion and broadcasting of foreign media; and, discrimination against members of religious and ethnic minorities.

The Committee recommended that the government:

- ▶ fully, publicly and impartially investigate all allegations of summary executions, arbitrary arrest and detention, disappearances, torture and ill-treatment and forced

relocations, publish the results of such investigations and bring the perpetrators to justice;

- ▶ provide in the next report information on the powers, functions and activities of the Committee set up to deal with disappearances;
- ▶ undertake a thorough review of existing temporary laws and decrees to ensure their compliance with provisions of the ICCPR;
- ▶ abolish the death penalty for crimes which are not among the most serious and consider the general abolition of the death penalty;
- ▶ cease immediately and revoke with delay all laws and decrees authorizing the punishments of amputation and branding;
- ▶ promote and ensure full equality between women and men and eliminate all forms of legal and de facto discrimination against women;
- ▶ take measures to ensure freedom of movement and reduce the administrative costs for the issue of passports;
- ▶ ensure that courts exercising criminal jurisdiction are constituted only by independent and impartial judges and that the jurisdiction of such courts are strictly defined by law; provide all procedural safeguards including the right of appeal;
- ▶ amend laws and decrees related to restrictions on freedom of expression, assembly and association to bring them into line with the provisions of the ICCPR;
- ▶ amend laws on the press and other media to bring them into conformity with the provisions of the ICCPR;
- ▶ take steps to ensure the right of citizens to take part in public affairs, either directly or through freely elected representatives;
- ▶ ensure that individuals, whose rights have been violated by laws, decrees and decisions issued by the Revolutionary Command Council without independent scrutiny or review, have effective remedy;
- ▶ take measures to ensure full equality of rights for members of all religious groups as well as ethnic and linguistic minorities; and,
- ▶ take steps without delay to facilitate the establishment and free operation of independent non-governmental organizations, and particularly those working in the field of human rights.

Racial Discrimination

Signed: 18 February 1969; ratified: 14 January 1970.

Iraq's 14th periodic report was due 13 February 1997.

Reservations and Declarations: General declaration; article 22.

Iraq's 11th through 13th periodic reports were submitted as one document (CERD/C/240/Add.3) which was considered by the Committee at its August/September 1997 session. The introduction to the report prepared by the government provides background on the evolution of the situation of the Kurds, the Turkomans, Assyrians, Chaldeans and members of the East Syrian Church. The report includes sections on: the political structure of authority; legislative measures to combat racial discrimination; measures taken to protect ethnic groups

and safeguard their rights; the cultural rights of Turkomans and Syriac-speakers; measures taken to punish crimes of racial discrimination and segregation; civil, political, economic, social and cultural rights; legislative measures to protect individuals from discrimination; measures taken to combat racial discrimination in education, information and culture; and, the situation in northern Iraq.

The Committee's concluding observations and comments (CERD/C/304/Add.28) acknowledged the economic and social hardships created by the embargo and stated that the withholding of basic supplies of food and medicine in itself constitutes a grave violation of human rights. The Committee also stated, however, that the difficulties created by the embargo do not absolve the government of its responsibility to implement the Convention.

The Committee welcomed the fact that under the legal system the Convention forms an integral part of national law and may be invoked directly before the courts, as well as the laws and regulations providing for the autonomy of the Kurdish minority in the north, and regulations protecting the cultural identity of several minority groups, including the protection of languages spoken by them.

The principal subjects of concern identified by the Committee were: the failure to implement fully Security Council resolutions dealing with the elimination of all forms of racial discrimination; the fact that the Kurdish population living in the Northern Governorates was not able to participate in the popular referendum because of the prevailing situation and restraints imposed on the exercise of the jurisdiction of Iraq; the situation of the inhabitants of the southern marshes; and, the fact that a number of provisions in the Penal Code do not meet the requirements of article 4 of the Convention (racist organizations and incitement to racial violence).

The Committee recommended that the government:

- ▶ comply with relevant Security Council resolutions and release all Kuwaiti nationals and nationals of other countries who might be still held in detention and provide all available information on missing persons of such states;
- ▶ review legislation in order to bring it into conformity with article 4 of the Convention;
- ▶ provide in its next report economic and social data on the situation of ethnic minorities;
- ▶ substantiate its statement that the provisions of the Convention may be directly invoked in the courts; and,
- ▶ provide information about the political, economic and geographical structure of the country in a separate core document.

Discrimination against Women

Acceded: 13 August 1986.

Iraq's second and third periodic reports were due 12 September 1991 and 1995 respectively.

Reservations and Declarations: General declaration; article 2; paragraphs 1 and 2 of article 9; article 16; and, paragraph 1 of article 29.

Rights of the Child

Acceded: 15 June 1994.

Iraq's initial report (CRC/C/41/Add.3) has been submitted and is pending consideration at the Committee's May 1998 session; the second periodic report is due 14 July 2001.

Reservations and Declarations: Paragraph 1 of article 14.

COMMISSION ON HUMAN RIGHTS

Special Rapporteur on the situation in Iraq

The report of the Special Rapporteur on the situation in Iraq (E/CN.4/1997/57) includes commentary on: violations of civil and political rights, including the rights to life, liberty and personal security, disappearances, and freedom of opinion and expression and the rights to food and health care, including consideration of the "food-for-oil" agreement.

The report takes into account the findings from the 1996 visits to Jordan and Iran and incorporates further information received during a follow-up visit to Jordan and a visit to Kuwait from 20 to 27 January 1997 as well as other sources. The conclusions drawn from this information were that there had been no change in the politico-legal system in Iraq and that, as a result, systematic violation of civil and political rights was continuing throughout the country despite the fact that Iraq had freely undertaken human rights obligations under numerous international human rights instruments (as above) and, the ILO Constitution, ILO Conventions Nos. 98 (right to organize and collective bargaining), 107 (indigenous and tribal peoples) and 111 (non-discrimination in employment and occupation), the Convention on genocide and the four Geneva Conventions of 1949. The report states there were no special circumstances which Iraq could invoke for failure to respect its undertakings and noted that Iraq has never notified the Secretary-General of any derogation from its specific obligations. As a consequence all relevant obligations of Iraq maintained their normal legal effects.

The report further states that Iraq is a dictatorial, totalitarian state in which: no political dissent is allowed; the freedoms of opinion, expression, association and assembly do not exist; there are no genuine periodic elections; and, all authority is held in the hands of the President who, through all-powerful offices of government and the Arab Baath Socialist Party which he heads, conducts life in Iraq as he wishes. The report recalls that the present political system in Iraq is maintained by a complex and all-encompassing security apparatus controlled directly by the President and, further, that abuse of power is not only tolerated but in some ways encouraged through a comprehensive system of impunity for perpetrators of violations of human rights, including those who violate the rights to life, liberty and security of person. Violations of these rights are noted as including extrajudicial executions, indiscriminate killings of civilians, arbitrary arrest and detention, torture and disappearance.

Specifically on the issue of freedom of opinion and expression, the report states that the total suppression of these freedoms is at the core of the situation of human rights in Iraq because there is an absence of respect for the human dignity of the population as a whole in so far as the dictatorial leadership accepts absolutely no dissent and, in fact, essentially requires that thought, expression and behaviour conform to the tenets of Arab Baath Socialism and the whims of the ruling elite, i.e., President Saddam Hussein and his coterie. As a

result, the report states, over time, the normally creative sides of civil society have been suffocated so that not only has political dissent been liquidated but cultural, artistic and literary endeavour has also been vanquished if not perverted.

The report cites various laws that suppress thought, opinion and expression, including: Press Act No. 206 of 1968 which prohibits writing on 12 subjects, including anything considered detrimental to the President, the Revolution Command Council (RCC) or the revolution; Act No. 94 of 1981 which empowers the Ministry of Culture and Information to supervise all aspects of media and culture to ensure that they conform to the principles of the Arab Baath Socialist Party; and, RCC Decree No. 840 of 1986 which sets out penalties for anyone criticizing the President, the RCC, the National Assembly, the government or the Baath Party.

The report also notes that the Criminal Code prescribes the death penalty for certain "media crimes" including incitement of public opinion against the ruling authorities. In further commentary, the report observes that while the government has successfully acted to eviscerate the essence of journalism (i.e. independent, accurate reporting and commentary), it has groomed an army of technicians to perform the required functions of propagandists in order to effect a further measure of control over the minds of the Iraqi population. The report states that this is achieved not only through the above-noted laws and severe penalties, but also through the ownership of the media itself, with the government owning both national television channels, both national radio channels, the main newspapers, and employing the "journalists" who work for them who have formal status of civil servants. Further, the report states that private media are subject to strict control and private satellite dishes are forbidden and the Law on Publications is equally an important instrument of repression of opinion and expression. This Law requires authorization for publication and imposes penalties for publishing any of a long list of books. It also prohibits anything which may damage relations with Arab countries as well as anything that challenges the revolution and its principles, the state, its institutions and its internal and external security. Supervision of foreign publications is characterized as no less severe, and mention is made of the fact that foreign journalists must obtain permission to travel within the country and pursue their profession.

The recommendations in the report are drawn from the Special Rapporteur's observations and commentary on violations of the entire range of human rights: thought, opinion, expression, association, assembly, movement, life, liberty and personal security. In general terms, the report calls on the government to abrogate all laws and decrees that prescribe cruel, unusual, disproportionate and other violative penalties and, further, to bring the security apparatus and all other aspects of government, including the executive branch under the rule of law. The Special Rapporteur recalls recommendations contained in previous reports and commends them to the government for action. These recommendations include that the government:

- ▶ abrogate all laws granting impunity;
- ▶ take immediate steps to stop the practice of torture;

- ▶ release immediately all persons arbitrarily detained and provide compensation for them as well as anyone who has suffered any other miscarriage of justice, especially under special courts such as the Revolutionary Court;
- ▶ establish immediately a national commission on disappearances and cooperate with the Working Group on disappearances to resolve the thousands of cases that remain outstanding;
- ▶ end its internal economic embargo on the northern region and its discriminatory practices restricting access to food and health care in the southern region;
- ▶ abrogate all laws penalizing free expression of competing views and ideas;
- ▶ take all necessary steps to ensure that the genuine will of the people serves as the basis of authority in the state; and,
- ▶ agree to the stationing of human rights monitors throughout the country.

In addition to these long-standing recommendations, the report to the 1997 session of the Commission recommends that the government:

- ▶ cooperate in the search for missing Kuwaiti and third-country nationals by allowing the International Committee of the Red Cross full access to places of detention throughout Iraq; and
- ▶ cooperate fully in the implementation of Security Council resolution 986 (1995) — “food for oil” — and ensure an equitable distribution of the benefits of this agreement as well as the unobstructed movement of observers throughout the country.

Resolution of the Commission on Human Rights

At its 1997 session, the Commission on Human Rights adopted a resolution by roll call vote in which it: recalled Iraq's obligations under numerous international human rights instruments; condemned violations of human rights and humanitarian law, including suppression of freedom of thought, expression, religion, information, association, assembly and movement; condemned summary/arbitrary executions, including political killings, disappearances, arbitrary arrests and detention and failure to respect due process and rule of law; condemned widespread and systematic torture, as well as mutilation as a penalty for offences and diversion of medical care services for such mutilations; called on the government to abide by obligations freely undertaken under various international human rights instruments; called on the government to bring the actions of military and security forces into conformity with international standards; called on the government to receive a visit by the Special Rapporteur and cooperate with the stationing of human rights monitors throughout Iraq, as set out in various resolutions of the General Assembly and the Commission on Human Rights; called on the government to restore independence of the judiciary and abrogate all laws granting impunity to perpetrators of human rights violations and laws and decrees penalizing free expression and ensure that the will of people is the basis of state authority; called on the government to cooperate with the Tripartite Commission to establish the whereabouts and resolve the fate of remaining missing persons, including prisoners of war, Kuwaiti nationals and third country nationals as

a result of Iraq's invasion of Kuwait; called on the government to cease immediately repressive practices against Kurds in the north, Assyrians, Shi'a, Turkomen and the population in the southern marsh areas; called on the government to ensure equitable distribution without discrimination of humanitarian supplies purchased with the proceeds of the sale of Iraqi oil; called on the government to cooperate in the identification of mine fields throughout Iraq; requested the Secretary-General to approve the allocation of adequate human and material resources for the sending of human rights monitors to appropriate locations to facilitate improved information on the situation of human rights in Iraq.

The vote on the resolution was 31 in favour and none opposed, with 22 abstentions.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1997/34, paras. 11, 12, 201–210, 392, 394)

The Working Group transmitted a total of 198 newly reported cases of disappearance to the government, four of which reportedly occurred in 1995 and eight in 1996. Information received indicated the cases included government officials who were suspected of trying to locate the whereabouts of persons who disappeared during the Gulf War; persons who openly expressed opposition to government actions in quelling the Al-Ramadi uprising in 1995, those who supported newly established parties engaged in Islamic activity; officers of Al-Mukhabarat and Estikhbarat (military intelligence), imams, a policeman, a general in the Iraqi army, a college graduate, a medical professor from the University of Baghdad and his son, an engineering student, and two Shari'a law professors from the same university. The information indicated that the latter four were arrested by Al-Mokhabarat for Islamic activity and membership in an Islamic party.

The report states that the great majority of the 16,329 cases of disappearance reported to have occurred in Iraq concern members of the Kurdish ethnic group who allegedly disappeared in 1988 while a significant number of other cases concern ethnic Arabs of the Shi'a faith who are reported to have disappeared in the late 1970s and early 1980s in the course of the expulsion of their families to Iran on the allegation that they were of “Persian ancestry”. Most of the cases transmitted in 1996 were reported to have occurred in the early 1980s and 1990s and concerned ethnic Arabs and Kurds of the Shi'a faith in the same circumstances.

During 1996, the Working Group received information from non-governmental organizations according to which disappearances continue to be carried out in Baghdad and in other areas of the country, including the southern marsh area. A number of disappearances were reported to have occurred in Samara in May 1995 following the defection of Lieutenant General Kamel to Jordan while others were detained on the basis of their political affiliations and their whereabouts remain unknown. The information indicated that their families are unable to take steps to report the disappearances or to resort to domestic remedies for fear of reprisal by the government. Profound concern was again expressed over the huge number of disappearances in Iraq which remain unresolved, and the total impunity with which the perpetrators are able to act.

The government provided information on 32 individual cases in which it reported the addresses of the persons concerned in 31 cases and stated that one person had left for Iran. The report notes that with regard to the 31 cases, the Working Group wrote directly to the individuals concerned. In 10 cases, the letters were returned by the Iraqi post office marked "address incorrect" or "person un-known". In no case was any response received from the individuals concerned. The Working Group expressed astonishment at the fact that the Iraqi post office was unable to find the persons whose addresses the government had provided.

The Working Group expressed great concern at the fact that Iraq is still the country with the most cases of disappearance reported to it and the country to which the Working Group transmitted the highest number of new cases this year. The report notes that the government has not yet replied to the Working Group's request for an invitation to visit in an effort to clarify the more than 16,000 cases of disappearance in Iraq still on file.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1997/60, para. 19; E/CN.4/1997/60/Add.1, paras. 268–271)

The report refers to information received indicating that numerous violations of the right to life occurred in the course of security operations in northern Iraq, conducted jointly by armed forces of the government and forces of the Kurdish Democratic Party. The operations were reportedly targeted against any person or group considered hostile to the government and the people killed in the course of the events included members of armed units of opposition parties and other members of these groups, among them many students. According to the sources, the number of those killed in these operations was estimated to be in the hundreds. The Special Rapporteur also received several reports regarding the killings of Kurds and Assyrians by Kurds in northern Iraq.

The government provided a reply on several cases that had been transmitted 1995. With regard to the 200 people, among them at least 100 civilians, killed in clashes in the town of Al-Ramadi in the governorate of al-Anbar, the government informed the Special Rapporteur that these allegations were factually incorrect and based on rumours. Regarding the death of five members of the Iranian Mojahedin-e Khalq organization, who were reportedly killed in two separate incidents in Baghdad in 1995, the government replied that the individuals responsible for those killings had all been killed in the second incident, with the exception of one, who had confessed that they had been working for the benefit of Iran by engaging in acts of assassination and sabotage against the Mojahedin-e-Khalq organization in return for monthly salaries.

Religious intolerance, Special Rapporteur: (A/52/477, paras. 21, 25, 28, 31, 33, 36, 37, 38, 89)

The Special Rapporteur's interim report to the General Assembly refers to communications transmitted to the government related to: violations of religious freedom against Christians and followers of Islam; the fact that Christians can be killed if an imam issues a fatwa to this effect; the case of a young Christian woman who was reportedly forced to marry a Muslim and convert to Islam; the murder of clergy and

believers; information received indicating that the security forces attacked Shiite pilgrims in Karbala'; and, concerns related to the issue of "women and religion".

Torture, Special Rapporteur on: (E/CN.4/1997/7, Section III)

The report notes information received over the years by the Special Rapporteur and cites the observation of the Special Rapporteur on the situation in Iraq related to cruel torture and gross mistreatment upon arrest. The SR on torture stated concern at continuing resort to measures of amputation and mutilation.

Mechanisms and Reports of the Sub-Commission

States of emergency, Special Rapporteur on: (E/CN.4/Sub.2/1997/19/Add.1, Section I)

The report states that a de facto state of emergency exists in the north of the country.

Other Reports

Children and juveniles in detention, Report of the S-G to the CHR: (E/CN.4/1997/26, Section I)

The report of the Secretary-General refers to information provided by the government citing the Juvenile Welfare Act No. 76 of 1983 which prescribes measures and procedures appropriate to the personalities of the juveniles concerned in order to ensure their freedom, education and reform. The government noted that the Act also established a special juvenile judiciary and stipulates that juveniles may be detained only in cases involving serious felonies.

Detention of international civil servants, Report of the S-G to the CHR: (E/CN.4/1997/25, para. 3)

The report of the Secretary-General notes that three members of the Department of Humanitarian Affairs were killed in an explosion in Iraq in December 1995.

Mass exoduses, Report of the HCHR to the CHR: (E/CN.4/1997/42, Sections I, III)

The report of the High Commissioner for Human Rights refers to the views of the government on the main causes of mass exoduses, citing the political motivation of some mass exoduses as some states, wishing to harm one of their neighbours for political purposes, encouraged the latter's population to migrate to the former's territory, ostensibly in order to find protection from imminent danger or to enjoy economic benefits not available in the country of origin. In the context of economic causes of mass exodus the government referred to the imposition of international sanctions that contribute to difficult economic and living conditions and created an appropriate environment for migration, particularly to neighbouring states, as in the case of Iraq. The government stated that the civilian population should be spared the effects of such measures, and foodstuffs and medical requisites should be effectively exempted from embargoes or economic sanctions. The government also referred to unbalanced international political relations as an important factor in the occurrence of mass exoduses through the threat to use force or interference in a country's internal affairs, as was also happening in the case of Iraq, where direct or indirect interference by some states was creating tension, encouraging some of the population to leave, particularly for neighbouring countries.

The High Commissioner's report also cited the government's reference to Iraq's cooperation with states and international organizations and its solidarity with the efforts of the UN and humanitarian organizations, particularly in the field of human rights, intended to establish an early-warning system to avoid the problem of mass exodus or to address it when it was brought about by causes such as natural disasters or regional or international armed conflicts. The government also emphasized the need to keep the problem of refugees and displaced persons within its humanitarian context and to refrain from using it as a means to achieve political objectives or interfere in the internal affairs of states.

Women's human rights, Report of the S-G to the CHR:
(E/CN.4/1997/40, para. 100)

The report of the Secretary-General on the integration of women's human rights throughout the UN system refers to information in the 1996 report of the Special Rapporteur on Iraq, noting that women were among the more than 1,000 people arrested in al-Ramadi in May 1995 and that, with regard to the rights to food and health care, the constantly deteriorating situation had a particular harsh impact on the most vulnerable segments of the population, including pregnant and nursing mothers.

**SUB-COMMISSION ON PREVENTION OF
DISCRIMINATION AND PROTECTION OF
MINORITIES**

At its 1997 session the Sub-Commission adopted without a vote a decision on the humanitarian situation in Iraq (1997/119) in which it, *inter alia*: noted with concern the delay in the supply of food and medicines to Iraq; recalled the right of every person to sufficient food and to basic health care; considered that the embargo still in force was seriously jeopardizing the health and nutritional state of civilians in Iraq, especially children, women and the most underprivileged sectors of the population; expressed the view that measures such as embargoes should be limited in time and should be lifted, even though the legitimate objectives of the measures have not yet been attained; and appealed once again to the international community and to all governments, including that of Iraq, to alleviate the suffering of the Iraqi population, in particular by facilitating the supply of food and medicines to meet the needs of the civilian population.

GENERAL ASSEMBLY

The Special Rapporteur's interim report to the General Assembly (A/52/476) is based on information received as of 31 August 1997 and contains commentary on, *inter alia*: summary, arbitrary and extrajudicial executions; arbitrary arrest and detention; freedom of expression; forced displacement; the rights to food and health care; and the food for oil agreement, related to the actual distribution of food, conditions under which UN monitors of the programme work, and the process by which Iraqis must register to receive a ration and benefit from the programme. The report notes that Special Rapporteur (SR) has not yet received an invitation for a return visit to Iraq and the government has not altered its repeated refusal to deny the stationing of human rights monitors throughout the country.

Citing selected cases to illustrate violations, the SR refers to: extrajudicial and collective executions in relation to military operations in the southern marsh area and towns, involving shelling and burning of homes; executions of hundreds of political detainees, carried out twice a week, on each Sunday and Wednesday, with a Special Committee made up of three "judges" directly connected to the Presidential Bureau reportedly preparing lists of names of detainees to be executed on each day; death under torture in detention or following poisoning while in prison resulting in loss of hair, paralysis and severe bleeding; extrajudicial executions, torture and sentences of death against suspected government opponents, such as members of the Al-Nadha Movement and supporters of the Iraqi National Congress (INC); execution of members of Saddam Hussein's family and tribe as well as high-ranking civilian, military and tribal leaders allegedly involved in plotting against the President; and, deaths in custody arising from lack of appropriate health-care facilities, inadequate food and communicable diseases such as tuberculosis. The report states that arbitrary arrests and detentions are still said to be common throughout Iraq.

Referring to the freedom to seek, receive and impart information the SR recalls that all means of mass communication, including the press, television, radio and the news agencies, are state-owned or controlled by persons or institutions extremely close to the President or state. Restrictive measures against journalists are noted as including: the fact that journalists are sometimes forbidden by the government to make phone calls abroad; foreign correspondents in the capital are reportedly obliged to work from a room at the Ministry of Culture and Information; and, foreign journalists must be accompanied wherever they go by an official from the same Ministry, who restricts their movements and evidently makes it virtually impossible to learn the genuinely held views of citizens. The SR also notes that Iraqis are banned from owning satellite dishes and the penalty imposed on anyone proven to have a dish is reportedly the confiscation of the entire household furniture plus imprisonment in solitary confinement until further notice; there are said to be rewards given by the government for whoever reports the presence of a satellite dish in any home, with the reward amounting to half the value of the dish.

The section on food and health care and the economic situation states that individual purchasing power has virtually been wiped out with the collapse of the dinar, resulting in a cumulative deterioration in the economy and in the provision of basic needs-food, medicine, and water and sanitation. Escalating prices, lower purchasing power, reduced food production and a breakdown of health services and facilities has caused a continual worsening of living standards throughout the country. In commentary on the food for oil agreement, the report cites information indicating that the inhabitants of the southern regions (in the marshland triangle between the cities of Nasseriyah, Basrah and Amarah), which are considered by the government as hiding places for its opponents, are still being denied ration cards, as are thousands of people in the north of Basrah Governorate in the regions of Qurna and in remaining marshes north of Basrah. The SR states that the same reportedly applies in the Governorate of Amarah, particularly towards the Iran-Iraq border and that the system is being widely used by the government to reward political

supporters and to silence opponents. The SR also states that, rather than ensuring the rights to food and health care for all its citizens, since the beginning of the implementation of the distribution plan the government has taken advantage of the programme to end its own pre-existing ration distribution and to obtain as much as possible of the oil revenues in local currency by increasing the cost of registration for the individual food ration.

The SR states that recommendations contained in previous reports remain valid and further recommends, *inter alia*, that the government:

- ▶ bring Iraqi law into line with accepted international standards regarding protection of physical integrity rights, including the right to life, protection against disappearance, prohibition of torture, cruel, inhuman or degrading treatment, providing humane conditions for all persons under detention, and assurance of the minimum standards of judicial guarantees;
- ▶ establish a separation of powers to render the executive accountable to the citizenry in a clear and meaningful way, and take steps to restore the independence of the judiciary and to subject the executive to the rule of law and render executive action justiciable;
- ▶ facilitate and guarantee the enjoyment of the freedoms of opinion, expression and association, in particular by decriminalizing the expression of oppositional views and relinquishing government controls over the media;
- ▶ give particular attention to conditions in the prisons and take all the necessary steps to allow international humanitarian organizations to have access to them and to communicate freely and confidentially with prisoners;
- ▶ cease all discriminatory policies which interfere with the free and equal enjoyment of property, and compensate appropriately those who have been arbitrarily or unjustly deprived of their property;
- ▶ take urgent steps to put an end to the enforced displacement of persons;
- ▶ maintain cooperation and facilitate the work of UN personnel by ensuring the free and unobstructed movement of observers throughout the country;
- ▶ ensure equitable distribution without discrimination to the population of the humanitarian supplies purchased with the proceeds of the sale of oil;
- ▶ take the necessary steps to ensure that additional resources are available for vulnerable groups throughout the country, in particular in southern Iraq; and,
- ▶ accept the stationing of UN human rights monitors throughout the country to facilitate an improved information flow and to help in the independent verification of reports on the situation of human rights in Iraq.
- ▶ The General Assembly adopted a resolution on the situation of human rights in Iraq (A/C.3/52/L.71) in which the GA, *inter alia*: recalled that Iraq is a party to the International Covenants on Human Rights and other international human rights instruments as well as the Geneva Conventions of 12 August 1949; recalled Security Council resolutions, including resolution 688 (5 April

1991), in which the Council demanded an end to repression of the Iraqi civilian population and insisted that Iraq cooperate with international humanitarian organizations and that the human rights of all Iraqi citizens be respected; strongly condemned: (a) the massive and extremely grave violations of human rights and of international humanitarian law, resulting in all-pervasive repression and oppression sustained by broad-based discrimination and widespread terror; (b) suppression of freedom of thought, expression, religion, information, association, assembly and movement through fear of arrest, imprisonment and other sanctions, including the death penalty; (c) summary and arbitrary executions, including political killings, enforced or involuntary disappearances, routinely practised arbitrary arrests and detention and consistent and routine failure to respect due process and the rule of law; (d) widespread, systematic torture and the enactment and implementation of decrees prescribing cruel and inhuman punishment, namely mutilation, as a penalty for offences and diversion of medical care services for such mutilations; called on the government to: (a) abide by its freely undertaken obligations under international human rights treaties and international humanitarian law; (b) bring the actions of its military and security forces into conformity with the standards of international law; (c) cooperate with UN human rights mechanisms, in particular by receiving a return visit by the Special Rapporteur to Iraq and allowing the stationing of human rights monitors throughout Iraq pursuant to the relevant resolutions of the General Assembly and the Commission on Human Rights; (d) restore independence of the judiciary and abrogate all laws granting impunity to specified forces or persons killing or injuring individuals for any purpose beyond the administration of justice under the rule of law as prescribed by international standards; (e) abrogate all decrees that prescribe cruel and inhuman punishment or treatment and ensure that torture and cruel punishment and treatment no longer occur; (f) abrogate all laws and procedures that penalize free expression and ensure that the genuine will of the people shall be the basis of authority of the state; (g) cooperate with the Tripartite Commission to establish the whereabouts and resolve the fate of the remaining several hundred missing persons, including prisoners of war, Kuwaiti nationals and third-country nationals who were victims of the illegal Iraqi occupation of Kuwait, to cooperate with the Working Group on Enforced or Involuntary Disappearances for that purpose, and to pay compensation to the families of those who died or disappeared in custody of the Iraqi authorities; (h) cease immediately its repressive practices aimed at the Iraqi Kurds in the north, Assyrians, Shi'a, Turkomen, the population of the southern marsh areas, and other ethnic and religious groups; (i) put an end without delay to the enforced displacement of persons; (k) release immediately all Kuwaitis and nationals of other states who may still be held in detention; (l) ensure equitable distribution without discrimination to the Iraqi population of the humanitarian supplies purchased with the proceeds of the sale of Iraqi oil; (m) cooperate in the identification of minefields throughout Iraq with a view to facilitating their marking and eventual

clearing; and (n) continue to facilitate the work of UN humanitarian personnel in Iraq by ensuring the free and unobstructed movement of observers throughout the country; and, requested the Secretary-General to approve the allocation of sufficient human and material resources for the sending of human rights monitors to such locations as would facilitate improved information flow and assessment and help in the independent verification of reports on the situation of human rights in Iraq.

SECURITY COUNCIL

The Secretary-General's report of 10 March 1997 (S/1997/206) notes that as at 3 March 1997, no consignment of humanitarian goods authorized under resolution 986 (1995) had reached Iraq. The report focusses on the status of preparations for the observation process and for the implementation of activities in the three northern governorates and contains information on the sale of Iraqi petroleum and petroleum products; the purchase of supplies for essential civilian needs; and the status of funds received and disbursed from the escrow account established under paragraph 7 of resolution 986 (1995). The report notes that as of 3 March 1997 a total of US\$625,596,347.69 had been paid into the escrow account of which \$322.6 million was allotted for the purchase of humanitarian supplies by the government and \$79.1 million allotted for the purchase of humanitarian supplies to be distributed in the three northern governorates by the UN. In terms of oversight of the delivery of humanitarian goods, the report notes that a multidisciplinary observation unit was planned, comprised of international experts in the areas of food logistics, public health, pharmaceuticals, hospital equipment, water and sanitation, agricultural inputs and machinery, animal health, plant protection, education and electricity. The report notes that, as part of the deal, the government had reaffirmed its commitment to guarantee to UN personnel unrestricted freedom of movement and was cooperating in obtaining a range of official baseline data essential to the work of the observation process to assist in tracking supplies imported under and facilitate reporting on the efficiency, equitableness and adequacy of supplies. Reference is also made to a training programme for observers designed by the Department of Humanitarian Affairs and including: familiarization visits to government distribution facilities, information on the humanitarian situation in each sector, the functioning of national and local distribution networks, the interaction needed between observers and local authorities, and a variety of related issues. Other UN agencies involved were noted as being the World Food Programme, the Food and Agriculture Organization, UNICEF, UNESCO, the UNDP and the World Health Organization.

The resolutions adopted by the Security Council (S/RES/1111, 4 June 1997; S/RES/1129, 12 September 1997) related to the "food for oil" deal and, *inter alia*: stressed the need for equitable distribution of humanitarian relief to all segments of the Iraqi population throughout the country; noted the government's decision not to export petroleum and petroleum products during the period 8 June to 13 August 1997; expressed concern about the resulting humanitarian consequences for the Iraqi people, since the shortfall in the revenue from the sale of petroleum and petroleum products would delay the provision of humanitarian relief and create

hardship for the Iraqi people; stated the Council's determination to avoid any further deterioration of the current humanitarian situation; and, expressed full support for the Secretary-General's intention to follow up on the needs of vulnerable groups in Iraq by monitoring the actions of the government in respect of these groups.

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ISRAEL

(and the Occupied Territories)

Date of admission to UN: 11 May 1949.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Israel has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Signed: 19 December 1966; ratified: 3 October 1991.
Israel's initial report was due 30 June 1994.

Civil and Political Rights

Signed: 19 December 1966; ratified: 3 October 1991.
Israel's initial report was due 2 January 1993.
Reservations and Declarations: Articles 4, 9 and 23.

Racial Discrimination

Signed: 7 March 1966; ratified: 3 January 1979.

Israel's seventh through ninth periodic reports have been submitted as one document (CERD/C/294/Add.1) which is not yet scheduled for consideration by the Committee; the 10th periodic report was due 2 February 1998.
Reservations and Declarations: Article 22.

At its August 1997 session, the Committee reviewed the situation in Israel and the occupied territories under its early warning and urgent procedures. The Committee's concluding observations and comments (CERD/C/51/ Misc.30/Rev.2) fully endorsed the peace process and stated that the principles and obligations of the Convention should be an essential ingredient in that process. The Committee confirmed its view that the Israeli settlements in the occupied territories violate international law and are an obstacle to peace and to the enjoyment of the rights of all people in the region, without distinction based on national or ethnic origin. The Committee expressed its concern at the policy of expanding the settlements which changes the physical character and demographic composition of the occupied territories.

The Committee strongly condemned terrorism in all its forms and, citing article 4 (racist organizations, hate speech and incitement to racial violence), emphasized the need to take appropriate measures against extremist and terrorist organizations that promote racial hatred, invite violence, and commit terrorist acts. The Committee urged all States Parties to prevent such organizations from carrying on any activities, including training, recruiting and fund-raising in territories under their control.

The Committee rejected the Israeli imposition of closures and the blocking of reimbursement of fees and revenues to the Palestinian Authority following the suicide bombings of July 1997. The Committee considered these actions a form of

collective punishment and a violation of article 33 (protection of civilians in time of war) of the Fourth Geneva Convention on the basis that they deprive a large number of Palestinians of their legal employment. The Committee called on the Israeli government to lift the measures immediately.

Discrimination against Women

Signed: 17 July 1980; ratified: 3 October 1991.

Israel's third periodic report is due 2 November 2000.

Reservations and Declarations: Paragraph (b), article 7, article 16, paragraph 2 of article 29.

Israel's initial and second periodic report were submitted as one document (CEDAW/C/ISR/1-2) which was considered by the Committee at its July 1997 session. The report prepared by the government is extensive in both scope and detail and includes demographic and statistical data as well as information on, *inter alia*: constitutional and legislative provisions related to the elimination of discrimination against women; governmental machinery, mechanisms and measures to promote the status of women, such as the Prime Minister's Advisor on the Status of Women and the Knesset Committee for the Advancement of the Status of Women; non-governmental women's organizations, including Jewish and Arab organizations; affirmative action measures in government corporations, the civil service and other areas; special measures aimed at protecting maternity; women employed in the media, women and media, media campaigns against violence against women, and pornography; women and religion; new immigrants from the former Soviet Union; violence against women; suppression of the exploitation of women; political and public life, including the right to vote and be elected, women in political parties, women's representation in the Knesset, and women in government, the civil service, public institutions, the judiciary and religious bodies; women's political activism; women in the security forces; nationality, education, employment, and vocational and professional training; access to health care, family planning, violence as a health factor, AIDS, Arab women and health services; women in the economy, social benefits and the welfare state, poverty of women and measures to combat poverty; Bedouin women and women on the Kibbutz; equality before the law; equality in marriage and Family Law; and, the legal status of married women with regard to acquisition of property and division of marital property in cases of divorce.

The Committee's concluding observations (CEDAW/C/1997/II/L.1/Add.7) referred to factors and difficulties affecting implementation of the Convention, noting that: there is no basic law which embodies the principle of equality or prohibits discrimination; religious laws which govern family relations to a large degree discriminate against women; and, a consequence of the ongoing conflict is the concentration of power in the armed forces where women are not represented in senior leadership, are discriminated against, and do not have their perspective on peacekeeping and their negotiating skills utilized.

The Committee commended: the fact that Israel has developed progressive legislation, as well as comprehensive programmes on violence against women, and equal employment opportunities, and the Supreme Court can give effect to the principle of equality in its judgements; the high level of education of most Israeli women; the very extensive analysis

of women in the media and the programmes to reorient society against stereotypical images of women; and the National Health Insurance Law of 1995 which guarantees universal access to health care to all communities.

The principal areas of concern identified by the Committee included that: the government has not yet formulated an overall plan or measures to implement the Convention and the Beijing Platform for Action; there is no specific governmental machinery responsible for promoting and coordinating policies for women; non-Jewish women have worse living conditions than Jewish women, receive a lower level of education, participate less in the government service and occupy limited decision-making posts; non-Jewish women experience poorer health, resulting in very high maternal and infant mortality rates, and have fewer employment opportunities available to them; there remain instances of polygamy, forced marriage and genital mutilation, as well as "honour killings"; a very low percentage of women occupy political decision-making posts and this situation has barely changed over the years; there exists a marked disparity between the average earnings of women and men in many sectors and women are disproportionately represented in part-time employment; many more women than men work in the informal sector and perform unpaid work which prospectively limits their access to benefits associated with the formal sector; the public health system allocates considerable resources to in vitro fertilization while contraceptives are not free of charge; a large number of women are arrested for prostitution; there is a large number of advertisements for sex services in daily newspapers which contribute significantly to the increase in prostitution; and, despite the existing legislation, cases of violence against women still occur frequently, due in large measure to traditional ideas of the roles of women and negative societal attitudes towards the problem of violence against women.

The Committee recommended that the government:

- ▶ ensure that the Convention is implemented throughout the territory under its jurisdiction;
- ▶ adopt an overall plan for the implementation of the Convention and the Beijing Platform through specific measures and within a definite time-frame;
- ▶ ensure that the right to equality and the prohibition of both direct and indirect discrimination against women is reflected in a basic law;
- ▶ complete the secularization of legislation related to equal rights for women in marriage and family relations in Israel, place the law under the jurisdiction of the civil courts, and withdraw its reservations to the Convention;
- ▶ on the basis that full development and the cause of peace require the maximum participation of women on equal terms with men in all fields, take measures, with the full participation of women, Jewish, Christian, Muslim and Druze alike, to create an environment where women may enjoy their rights fully and where equality of opportunities in economic and social development, especially of rural women can be assured;
- ▶ adopt the bill creating the governmental machinery to be known as the "Authority on the Status of Women" and ensure this body sufficient resources to carry out its work;

- ▶ intensify measures to guarantee the exercise of human rights of non-Jewish women, including those living in the rural areas, particularly in relation to health, education and employment;
- ▶ take special measures to close the gap between Arab and Jewish schools and address the higher drop-out rates of Arab and Bedouin girls; allocate adequate resources for school facilities and education opportunities, including scholarships, and increase the participation of Arab women in the civil service and in decision-making posts;
- ▶ strengthen efforts and expand actions to eliminate violence against women, especially violence within the family, in all communities;
- ▶ take the necessary steps to eliminate practices which cannot be justified on any grounds, such as forced marriages, female genital mutilation, crimes of honour and polygamy;
- ▶ establish satellite accounts to evaluate the value of unpaid work and incorporate these into the national accounts;
- ▶ redirect some of the resources allocated to the treatment of infertility to study its causes and its prevention;
- ▶ ensure that public health services provide free and accessible contraceptives; and,
- ▶ address in its next report the issues of: the status of disabled women; measures to deal with indirect discrimination in the workplace; the leave entitlement of mothers and fathers for the birth of a child or when they have young children, and the actual use made of such entitlement; the impact on the social roles of women and men of programmes aimed at changing stereotypes; programmes for gender sensitization of the judiciary, police and health professionals; and financial support provided by the government for all NGOs in the territory of Israel.

Torture

Signed: 22 October 1986; ratified: 3 October 1991.

Israel's second periodic report was due 1 November 1996.

Reservations and Declarations: Article 20 and paragraph 1 of article 30.

At its July 1997 session, the Committee considered a special report (CAT/C/33/Add.2/Rev.1) that had been submitted by Israel at the Committee's request. The special report includes information on: Israel's interrogation policies and practices; the Landau Commission of Inquiry, which established basic guidelines on interrogation that are secret; safeguards and the system of review of interrogation practices; and the text of the Supreme Court decision dissolving the interim injunction on some interrogation practices.

In its concluding observations and comments (CAT/C/XVIII/CRP.1/Add.4) the Committee noted that the information provided by the government maintained its previously stated position—that interrogation, including the use of “moderate physical pressure” where it is thought that detainees have information of imminent attacks against the state which may involve deaths of innocent citizens, is lawful if conducted in accordance with the “Landau rules.” The Committee noted that these rules permit “moderate physical pressure” to be used in strictly defined interrogation circumstances. It also noted the government's position that

interrogations conducted in conformity with the “Landau rules” do not breach prohibitions against cruel, inhuman or degrading treatment as contained in article 16 of the Convention, and do not amount to torture as defined in article 1 of the Convention.

The Committee noted, however, that the methods of interrogation described by non-governmental organizations (on the basis of accounts given to them by people who had been interrogated), which appear to be applied systematically, were neither confirmed nor denied by the government. The Committee, therefore, assumed that the accounts must be accurate. It noted that the methods include: restraining in very painful conditions; hooding under special conditions; the playing of loud music for prolonged periods; sleep deprivation for prolonged periods; threats, including death threats; violent shaking; and, the use of cold air to chill. It was the Committee's view that these methods violate article 16 and also constitute torture as defined in article 1 of the Convention.

The Committee acknowledged the terrible dilemma that Israel confronts in dealing with terrorist threats to its security, but stated that as a State Party to the Convention the government is precluded from raising before the Committee exceptional circumstances as justification for acts prohibited by article 1 of the Convention. The Committee also expressed concern that the effect of the Supreme Court decision dissolving the interim injunction was to allow some of the interrogation practices, as above, to continue and to legitimize them for domestic purposes.

The Committee recommended that:

- ▶ interrogations in which the methods described above, and any other methods that violate articles 1 and 16 of the Convention, cease immediately;
- ▶ the provisions of the Convention be incorporated by legislation into Israeli law, particularly the definition of torture contained in article 1 of the Convention;
- ▶ the government consider making the declarations provided for under articles 21 and 22 (complaints by other State parties and individuals) and withdrawing its reservation to article 20;
- ▶ the interrogation procedures established in the “Landau rules” be published in full; and,
- ▶ the government include in its second periodic report information on the measures taken in response to these conclusions and recommendations and, further, that the second periodic report be presented no later than 1 September 1997, in order to allow the Committee to consider it at its next session.

Rights of the Child

Signed: 3 July 1990; ratified: 3 October 1991.

Israel's initial report was due 1 November 1993.

COMMISSION ON HUMAN RIGHTS

Special Rapporteur on the situation of human rights in the Palestinian territories

The mandate of the Special Rapporteur (SR) on the situation of human rights in Occupied Palestine was established by

the Commission at its 1993 session. The Special Rapporteur in 1997 was Mr Hannu Halinen.

The report to the 1997 Commission (E/CN.4/1997/16) notes that the SR visited the occupied Palestinian territories from 23 to 27 January 1997 and went to Gaza, Ramallah and Jericho. A visit was also made to the headquarters of the League of Arab States, in Cairo, on 28 and 29 January 1997. The report notes that during the year, the SR also had the occasion to meet informally with representatives of the Israeli government.

The report identifies principal concerns regarding the situation of human rights and states that the root cause of serious violations, the Israeli occupation of the Palestinian territories, remains legally in force during the transition period agreed through the Middle East Peace Process. Referring to the Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip, the report notes that the agreement leaves a great deal open to interpretation with respect to human rights and particularly the strengthening of the rule of law. Specific concerns cited in the report included: confiscation of Palestinian land and Israeli settlements in violation of articles 53 and 49 respectively of the Fourth Geneva Convention; the uprooting of olive trees and the dumping of waste from settlements on Palestinian-owned land, causing considerable environmental degradation; the diversion of fresh water from the Gaza Strip to Israel; increasing salinization of the water used by the inhabitants of Gaza; forcible expulsions; expropriation of land and the construction of bypass roads linking the various settlements and the settlements with Israel; settler violence against Palestinians; violent clashes between Israeli soldiers and Palestinian civilians as well as members of the Palestinian police; excessive and indiscriminate use of force by the Israeli forces against civilians, including live ammunition and heavy weaponry such as tanks, armed personnel carriers and helicopter gunships; closure of the territories, placing under virtual town arrest the inhabitants of some 465 localities populated by Palestinians in areas of the West Bank; the devastating impact of closures on the fragile Palestinian economy—unemployment is estimated to be 40 per cent in the Gaza Strip and 30 per cent in the West Bank; the deterioration of the situation of women in the occupied territories; the negative impact of closure on the health situation in the occupied territories in general, especially in Gaza, and a shortage of medical supplies; the fact that some 1,200 Gazan students are still not able to attend classes at the educational institutions in the West Bank where they are enrolled; the arrest, in February and March 1996, of some 1,000 Palestinians, of whom an estimated 100 were placed in administrative detention; the demolition of homes belonging to the families of those thought to be involved in the security incidents; and, the transfer of all Palestinian prisoners from the occupied territories to Israel.

The report also refers to the permission granted to the General Security Service by the Israeli High Court of Justice regarding the use of force in the interrogation of suspects in connection with security matters such as the prevention of terrorist attacks, and the authorization granted, since October 1994, to the General Security Service by an inter-ministerial committee to apply "special measures" related to physical pressure which are believed to amount to aggravated forms of

torture. Reference is also made to: an increasing tendency by Israeli authorities to treat Palestinian residents of East Jerusalem as resident aliens; the ban on Palestinians from other parts of the occupied territories entering Jerusalem; the lack of housing and job opportunities for Palestinians in Jerusalem; and, a ban on women from Jerusalem who are married to non-Jerusalemites from entering the city, complicating family reunification.

The Special Rapporteur made a number of recommendations, including that:

- ▶ all allegations of torture be investigated by independent judicial bodies and those found guilty not enjoy impunity;
- ▶ there be an immediate end to current interrogation practices and access to appropriate rehabilitation and compensation measures be granted to the victims of such practices;
- ▶ persons held in administrative detention be brought to a fair trial or released;
- ▶ the Israeli government stop new settlements from being built, not allow the expansion of existing ones and not create bypass roads or security areas without consulting the indigenous population;
- ▶ the closure and other indiscriminate measures amounting to collective punishment imposed on the inhabitants of the occupied territories be discontinued;
- ▶ the Interim Agreement of 1995 be fully implemented; and,
- ▶ there be more concerted action by relevant parties to focus on human rights in the context of the peace process.

Resolution of the Commission on Human Rights

At its 1997 session, the Commission on Human Rights adopted by roll call vote a resolution on the question of the violation of human rights in the occupied Arab territories, including Palestine (1997/1). The resolution was adopted with 25 in favour, 1 opposed and 23 abstentions.

The Commission: recalled the applicability of the Geneva Conventions to Palestinian territories, including Jerusalem; noted the reports of the Special Committee to Investigate Israeli Practices Affecting Human Rights of the Palestinian People and Other Arabs of the Occupied Territories; noted Israel's continuing refusal to abide by Security Council resolutions; welcomed the signing of the Declaration of Principles on Interim Self-Government Arrangements on 13 September 1993; condemned continued violations of human rights in occupied territories; condemned the opening of the tunnel under the Al Aqsa mosque, the establishment of the Israeli settlement on Jabal Abu Ghenaïm and revocation of the identity cards of Palestinian citizens of Jerusalem; called on the Israeli government to close the tunnel and put an immediate end to other mentioned practices; condemned torture against Palestinians during interrogation and called on the Israeli government to refrain from current interrogation practices and abolish the decision of the Israeli High Court of Justice legitimizing the use of force during interrogation; reaffirmed the applicability of the Geneva Conventions to relevant territories; called on Israel to cease immediately its policy of enforcing collective punishments such as the demolition of

houses and closure of Palestinian territory; called on Israel to desist from all forms of human rights violations in relevant territories and to respect principles of international law and international humanitarian law; called on Israel to withdraw from Palestinian territories, including Jerusalem, in accordance with relevant resolutions of the UN; and, requested the Secretary-General to provide the Commission with all UN reports issued between sessions that deal with conditions in which citizens of Palestinian and other occupied Arab territories live.

Reports of the Secretary General

The report of the Secretary-General under the agenda item on violations of human rights in the occupied Arab territories, including Palestine (E/CN.4/1997/13, paras. 2, 3, 4) provides a summary of information provided by the UN Department of Public Information (DPI) and notes that DPI has continued to provide press coverage of all meetings of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories. DPI also features and distributes United Nations information materials, documents and press releases on the activities of the Special Committee to NGO representatives and to the public at large through the United Nations information centres and services.

A second report of the Secretary-General (E/CN.4/1997/14) under the same agenda item refers to the request of the 1996 Commission on Human Rights to bring to the attention of the Israeli government and others, as well as UN organs and agencies, resolution 1996/3 on the violation of human rights in the occupied Arab territories, including Palestine. At the time the report was prepared, no response had been received from the Israeli government.

In response to a request from the 1996 session of the Commission, the Secretary-General provided a list of all UN reports issued between sessions of the Commission that deal with the conditions in which the citizens of the Palestinian and other occupied Arab territories are living under the Israeli occupation (E/CN.4/1997/15). The list includes 18 notes and reports to the General Assembly, two documents of the Economic and Social Council and one document of the UNDP. The same list was provided to the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/Sub.2/1997/4).

The report of the Secretary-General on the situation in occupied Palestine (E/CN.4/1997/23) refers to a request from the 1996 Commission to transmit to the Israeli government resolution 1996/5 on the situation in occupied Palestine. The report notes that the resolution, *inter alia*, called on Israel to comply with its obligations under the Charter of the United Nations and the principles of international law, and to withdraw from the Palestinian territory, including Jerusalem, and the other Arab territories which it had occupied since 1967. No reply had been received from Israel at the time of the preparation of the report of the Secretary-General.

Commission resolution on human rights in the occupied Syrian Golan

At its 1997 session, the Commission adopted by roll call vote a resolution (1997/2) on human rights in the occupied Syrian Golan.

In the resolution the Commission: recalled relevant UN resolutions and called on Israel to end violations of the rights of Syrian citizens in the Golan and its occupation of territory; reaffirmed the illegality of the 1981 Israeli decision to impose its laws, jurisdiction and administration on the Golan; reaffirmed the international principle of non-acquisition of territory by force; noted with concern the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs; reaffirmed the importance of the peace process and noted the principle of land for peace; expressed concern at the suspension of the peace process on the Syrian and Lebanese tracks; expressed the hope that the commitments reached in previous talks will be respected so that peace talks may be resumed as soon as possible; called on Israel to comply with relevant UN resolutions including those related to the Israeli decision to impose its laws, jurisdiction and administration on the Golan; called on Israel to desist from changing the physical character, demographic composition, institutional structure and legal status of the Golan; emphasized that displaced persons must be allowed to return to their homes and recover their properties; called on Israel to desist from imposing Israeli citizenship and Israeli identity cards on Syrian citizens in the Golan; called on Israel to desist from repressive measures and other practices against Syrian citizens in the Golan, cited in the report of the Special Committee; determined that legislative and administrative measures taken by Israel that alter the character and legal status of the Golan are null and void and constitute a violation of international law and the Geneva Conventions; and, called on UN member states not to recognize any of the legislative and administrative measures taken by Israel in the Golan.

Commission resolution on Israeli settlements in the occupied Arab territories

The Commission also adopted a resolution by roll call vote on Israeli settlements in the occupied Arab Territories (1997/3). The resolution was adopted with 47 in favour, 1 opposed and 2 abstentions.

The Commission: recalled that Israel is a party to the Geneva Conventions; welcomed positive developments arising from the peace process; expressed concern at Israeli settlement activities-including expansion of settlements, installation of settlers, confiscation of property, expulsion of local residents and construction of bypass roads; noted that these practices change the physical character and demographic composition of the occupied territories, including East Jerusalem, are illegal, violate the Geneva Convention on protection of civilians in time of war and are a major obstacle to peace; condemned all acts of terrorism and called on all parties not to allow any acts of terrorism to affect negatively the ongoing peace process; called on Israel to comply fully with previous Commission resolutions, cease immediately its policy of expanding settlements and related activities in occupied territories, including East Jerusalem, forego and prevent any installation of settlers in the occupied territories and address the question of Israeli settlements in the occupied territories during negotiations on the final status of the territories.

Commission resolution on the situation in occupied Palestine

The Commission also adopted a resolution, by roll call vote, on the situation in occupied Palestine (1997/4). The resolution was adopted with 28 in favour, 1 opposed and 21 abstentions.

The Commission: referred to the General Assembly resolutions of 1947 and 1948 and all other resolutions that confirm and define the inalienable right of the Palestinian people to self-determination and establishment of an independent state; recalled the reports submitted to the Security Council and General Assembly by the Committee on the Exercise of the Inalienable Rights of the Palestinian People; welcomed the Declaration on Principles of Interim Self-Government Arrangements signed by the PLO and Israel; called on Israel to comply with obligations under the UN Charter and principles of international law; and, called on Israel to withdraw from the Palestinian territories, including Jerusalem.

Commission resolution on the Middle East peace process

The Commission adopted by consensus a resolution on the Middle East peace process (1997/6).

The resolution: recalled the Declaration on Measures to Eliminate International Terrorism, annexed to General Assembly resolution 49/60 (9 December 1994); stressed the importance of and need for achieving a comprehensive, just and lasting peace in the Middle East; emphasized that peace is vital to the implementation of human rights in all areas; welcomed the release of female Palestinian prisoners from Israeli detention; supported the declaration adopted at the Summit of Peacemakers held in Egypt on 13 March 1996; called on all parties to work to advance civil society under rule of law; called on the Office of the High Commissioner for Human Rights to continue to make available advisory services to Palestinian authorities; expressed full support for the achievements in the peace process to date; and, encouraged continued negotiations on implementation of the next stage of the Declaration of Principles on Interim Self-Government.

Commission resolution on human rights situation in southern Lebanon and West Bekaa

At its 1997 session the Commission on Human Rights adopted by roll call vote a resolution on the human rights situation in southern Lebanon and West Bekaa (1997/55). The resolution was adopted by a vote of 51 in favour, 1 opposed, 1 abstention.

The Commission: expressed grave concern at the practices of the Israeli occupation forces in southern Lebanon and West Bekaa; regretted the failure of Israel to implement Security Council resolutions 425 (1978) and 509 (1982); censured repeated Israeli aggression in southern Lebanon and West Bekaa, including the large-scale offensive of April 1996; reaffirmed that the continued occupation and practices by Israeli forces constitute a violation of relevant Security Council resolutions and the will of the international community and the conventions in force on this matter; expressed the hope that peace in the Middle East will put an end to human rights violations being committed in occupied zone of southern Lebanon and West Bekaa; expressed concern at the

detention by Israel of Lebanese citizens in detention centres in Khiyam and Marjayoun and the deaths of some detainees resulting from ill-treatment and torture; deplored continued Israeli violations of human rights in these areas, including abduction and arbitrary detention, destruction of houses, confiscation of property, expulsion from land and bombardment of peaceful villages and civilian areas; called on Israel to put an immediate end to such practices as air raids and the use of prohibited weapons such as fragmentation bombs; called on Israel to comply with the Geneva Conventions of 1949 and, in particular, the Convention related to the protection of civilians in time of war; called on Israel to release immediately all Lebanese abducted or imprisoned and those detained in prisons and detention centres; affirmed the obligation of Israel to commit itself to allowing the International Committee of the Red Cross and other international humanitarian organizations to conduct periodic visits to detention centres in Khiyam and Marjayoun; and, requested the Secretary-General to report to the 1997 session of General Assembly and 1998 session of Commission.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on: (E/CN.4/1997/4, paras. 4, 7, 13, 17, 21; E/CN.4/1997/4/Add.1, Decisions 16, 17, 18, 24)

The main report notes that one case and two urgent appeals were sent to the government and a response was received to the two appeals. No details of the cases or the government's response were provided.

Decision 16 (1996) relates to the case of a man who was arrested in November 1994 at his house by a group of about 10 people from the General Security Services (GSS), police officers and IDF; he was not charged, but placed in administrative detention for three months. At a hearing before a district court judge, it was stated that the man was suspected of membership of a terrorist organization and the submission of evidence to support the allegation was done without the presence of the detainee or his legal counsel. The Working Group (WG) noted that the detention was approved by a judge and, in the absence of further information, the WG decided to maintain the case pending receipt of additional information.

Decision 17 (1996) concerned two people. The first was a journalist who was arrested and placed in administrative detention for a total of 21 months; he had previously been sentenced to 34 months' imprisonment for running a publishing house for the Popular Front for the Liberation of Palestine (PFLP). The information received indicated that the journalist was an opponent of the current peace process between Israel and the PLO, but had never engaged in any violent activity. The second case involved a student who was arrested by the IDF at a military checkpoint, without a warrant, and placed in administrative detention for a total of 19 months. The information received indicated that no charges were brought against him and the reasons for his arrest were not known. The WG stated that the two men were being denied their right to take proceedings before a court which could decide without delay on the lawfulness of their detention; further, their right to be tried without undue delay was being denied. On that basis the WG declared the detentions to be arbitrary.

Decision 18 (1996) related to the cases of three men who were arrested, without a warrant, and placed in administrative detention. The WG stated that the three men had been denied their right to fair trial, the right to be informed of the reasons for their arrest, the right to be brought promptly before a judge and to be entitled to trial within a reasonable time or to release, and the right to take proceedings before a court in order that the court could decide without delay on the lawfulness of their detention. The WG declared two of the cases to be arbitrary and filed the third one because the subject had been released.

Decision 24 (1996) involved a student who was arrested by Israeli soldiers and undercover agents and placed in administrative detention without charge. The WG declared the detention to be arbitrary on the same bases as the cases above. The WG also stated that the authority given by law to the Executive power, to place a person in administrative detention for a six-month period, which may be renewed indefinitely, constitutes in itself an abuse of power as it confers an arbitrary character on the detention. The possibility given to the detainee to appeal does not attenuate its arbitrary character, since the appeals are heard by a military judge sitting in camera, who examines evidence in the absence of the detainee or his lawyer.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1997/34, paras. 210–212)

No new cases of disappearance were transmitted by the Working Group (WG) to the government. Of the two cases which remain pending, one reportedly occurred in 1992 in Jerusalem, and concerns a man who allegedly did not return home from work. He is believed to be detained in a prison in Tel Aviv. The other case concerns a Palestinian who was reportedly arrested in 1971 on the day a bomb had exploded in Gaza. Although he was allegedly seen in detention, his whereabouts remain unknown. The government did not provide any new information on either of these cases.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1997/60, paras. 15, 16, 17, 18, 32, 34, 39, 51, 57, 58, 61, 67, 68; E/CN.4/1997/60/Add.1, paras. 272–286)

The report of the Special Rapporteur (SR) refers to information received indicating that: violations of human rights committed by the Israeli Defence Forces, including violations of the right to life, have not ceased; victims of these violations have mainly been of Palestinian origin; the operation "Grapes of Wrath" carried out in April 1996 involved deliberate and indiscriminate attacks against civilians; attacks by Hezbollah were carried out on populated areas in northern Israel; clashes between the Israeli Defence Forces, the Palestinian police and Palestinian demonstrators led to a high number of casualties; a large number of Palestinian prisoners have died in Israeli detention facilities, mainly during 1995, after being interrogated and tortured by other inmates—the prison authorities appeared to have been aware that this was taking place and did not intervene to prevent or stop them; in southern Lebanon up to 165 civilians were reportedly killed during clashes between the Israeli Defence Forces and the South Lebanese Army; and in late September 1996, following spontaneous popular demonstrations in the Gaza Strip and the West Bank to protest the opening of the tunnel near the Muslim holy sites

in the old city of Jerusalem, Israeli soldiers responded to stone throwing by demonstrators by firing live ammunition into the crowds of Palestinian civilians; Palestinian police were also fired on by Israeli soldiers and returned fire.

The SR expressed deep concern about the incidents in late September 1996 in the West Bank, Gaza and East Jerusalem and called on the authorities to do their utmost to curb violence in Israel and the territories under its control. The government was urged to ensure that the force used in response to demonstrations, even violent ones, conforms with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. The SR expressed dismay at the allegations of deaths in custody as a result of torture by other inmates in Israeli detention centres and called on authorities to prosecute and bring to justice all those who, through action or omission, are found responsible for the death of persons held in custody.

Racial Discrimination, Special Rapporteur on: (E/CN.4/1997/71, 120–122)

The report of the Special Rapporteur (SR) notes information received indicating that the government has pursued a policy for a number of years of discarding blood donations by Ethiopian Jews out of fear of AIDS. The report notes that the Chairman of the government-run National Aids Committee defended the policy in an interview on the basis that it was necessary to protect the public, and stated that Ethiopian immigrants have as much as 50 times the incidence of AIDS as other Israelis. A member of Israel's Parliament and former Director General of the Health Ministry described the screening policy as "racist and unfounded scientifically". The report also refers to information indicating that: needlessly large numbers of Ethiopian children in elementary school are placed in classes for the learning-disabled; teenage Ethiopians are largely schooled in vocational tracks that prepare them for society's least rewarding jobs; and, a majority of Ethiopians are housed in grim trailer parks in distant development towns and their religious leaders are not recognized by the government-sponsored rabbinate. The government responded to the SR's concerns by providing a detailed account of the situation of the Falasha in Israel. [Part of the information provided by the government on the situation of the Falasha was published in the SR's report to the General Assembly at its fifty-first session (A/51/301, paras. 34 and 35).] The report notes that the SR has not yet received the conclusions of the Commission established to consider the question of blood donations by Ethiopians, as promised by the government.

Religious intolerance, Special Rapporteur on: (E/CN.4/1997/91, paras. 9, 17, 19, 23, 26, 66)

The report refers to violations of religious freedom against all religions and religious groups other than the official or state religion in Israel and states that there is discrimination against Christians and Muslims, such as restricted access to places of worship for devout Muslims.

The Special Rapporteur's interim report to the General Assembly (A/52/477, paras. 11, 21, 25, 28, 33, 38, 40, 46) notes communications transmitted to the government related to: violations of religious freedom against all religious groups and communities except the official or state religion or the

predominant religion and the fact that a draft law banning conversion had been drawn up. On the latter point the government replied that the law was only a draft, the source of the allegations had not been identified, the allegations were vague and the SR's request for more information on the draft law was neither appropriate nor necessary.

Torture, Special Rapporteur on: (E/CN.4/1997/7, Section III; E/CN.4/1997/7/Add.1, paras. 247–274)

The report summarizes a reply from the government to information transmitted in 1995 in which it was stated: Israel's law prohibited all forms of torture or mistreatment and conformed to the basic provisions of the Convention against Torture; every allegation of mistreatment was thoroughly investigated by the Department for Investigation of the Police at the Ministry of Justice, which is under the direct supervision of the State Attorney; disciplinary or criminal measures were instigated against those responsible; any person could petition directly the Supreme Court and the petition would be heard within 48 hours of submission; the provision allowing detention for up to 15 days without notification of arrest for persons suspected of state security offences was a seldom-used procedure that could be brought into effect only at the discretion of the judge when the Minister of Defence affirmed that the security of the state required temporary secrecy; while persons in the Administered Territories could be held for up to 11 days in serious cases, arrested persons could file a petition for cancellation of the arrest order and release from detention and the military courts would hear their petitions within a few days; habeas corpus petitions could also be submitted to the Supreme Court; Israel had no policy or system of incommunicado detention, but delays in seeing family and lawyers sometimes occurred as a result of security measures that had to be taken; the new Criminal Procedure Law (May 1997) required that a detained person must be allowed to meet with a lawyer by the tenth day of detention although, in extreme cases, the President of the District Court could deny access to lawyers for up to 21 days; and, any denial of access could be appealed to both the District Court and the Supreme Court.

The report notes that 12 individual cases and seven urgent appeals on behalf of 24 people were sent to the government which, in its reply to two of the appeals, referred to the Supreme Court decision lifting the injunction related to interrogation practices and the guidelines established by the Landau Commission. The SR commented on forms of pressure during interrogation that appear consistently in information received noting that these not been denied in judicial proceedings and, therefore, it must be assumed that they are sanctioned under approved but secret interrogation practices. The forms of pressure noted were: sitting in a very low chair or standing arced against a wall; hands and/or legs tightly manacled; subjection to loud noise; sleep deprivation; hooding; being kept in cold air; and, violent shaking. The report acknowledges that each measure on its own may not cause severe pain or suffering but that, in combination, they may be expected to induce precisely such pain or suffering, especially if applied on a protracted basis; therefore, they could only be described as torture.

Mechanisms and Reports of the Sub-Commission

Contemporary forms of slavery, Working Group on:
(E/CN.4/Sub.2/1997/13, para. 45)

In the section on traffic in human organs and tissues, the report refers to the fact that the government has prohibited the transplantation of organs from living donors in order to avoid abuses.

States of emergency, Special Rapporteur on:
(E/CN.4/Sub.2/1997/19/Add.1, Section I)

The report notes that a state of emergency has been in force in Israel since May 1948 and that emergency legislation has been in force in the occupied territories, including curfews in the Gaza Strip and West Bank, since December 1992.

Traditional practices affecting women and children, Special Rapporteur on: (E/CN.4/Sub.2/1997/10/Add.1, para. 24)

The report notes that the government has acknowledged that the traditional attitude of not taking an equal interest in women's and men's health may have resulted in the poorer health of women in Israel and, further, that traditional religious structures have a significant influence on the development of social norms and attitudes with regard to gender equality and family relations.

Other Reports

Detention of international civil servants, Report of the S-G to the CHR: (E/CN.4/1997/25, paras. 18–19, 31–35, Annex)

The report of the Secretary-General summarizes information provided by the UN Truce Supervision Organization (UNTSO) stating that, in February 1996, Israeli authorities had randomly denied transit of UNTSO Palestinian local staff from their homes in the West Bank to their offices at Government House. The report notes that this practice violates article 105 of the UN Charter. UNTSO further reported that Israeli authorities would not permit the UNTSO diplomatic pouch to be delivered directly to the aircrew as is provided by the Vienna Convention and insisted that it be delivered to Israeli security 24 hours beforehand.

Information provided by the UN Relief and Works Agency for Palestine Refugees in the Near East (UNWRA) notes that, in the West Bank, a total of 13 staff members were detained by the Palestinian Authority and three by the Israeli authorities and, of these, nine remained detained by the Palestinian Authority and two by the Israeli authorities. The treatment and state of health of staff members in detention continued to be of concern to UNRWA. The report notes that staff, after their release by both the Palestinian Authority and the Israeli authorities, complained of having been subjected to various forms of physical and psychological mistreatment.

Mass exoduses, Report of the HCHR to the CHR:
(E/CN.4/1997/42, Section I.A)

The report of the High Commissioner for Human Rights refers to information received from the League of Arab States, pointing to the establishment of settlements by Israel as a cause of the mass exodus of Palestinians. The League stated that, despite the peace agreements concluded at Oslo and at the Madrid Conference, Palestinians have been forced to abandon their land, homes and property.

ECONOMIC AND SOCIAL COUNCIL

At its July 1997 session, the Economic and Social Council adopted a resolution (1997/16) on the situation of Palestinian women. The Council, *inter alia*: expressed concern about the continuing difficult situation of Palestinian women and the severe consequences of continuous Israeli illegal settlements activities as well as the harsh economic conditions and other consequences of the frequent closure and isolation of the occupied territory; stressed its support for the Middle East peace process and the need for full implementation of the agreements already reached between the parties; reaffirmed that the Israeli occupation remains a major obstacle for Palestinian women with regard to their advancement, self-reliance and integration in the development planning of their society; called on Israel to facilitate the return of all refugees and displaced Palestinian women and children to their homes and properties in the occupied Palestinian territory, in compliance with the relevant UN resolutions; urged Member States, UN financial organizations, NGOs and other relevant institutions to intensify efforts to provide financial and technical assistance to Palestinian women for the creation of projects responding to their needs, especially during the transitional period; and, requested the Commission on the Status of Women to continue to monitor and take action with regard to the implementation of the Nairobi Forward-looking Strategies for the Advancement of Women, in particular paragraph 260 concerning Palestinian women and children, and the Beijing Platform for Action.

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

The International Labour Organization (ILO) prepared a memorandum for the Sub-Commission (E/CN.4/Sub.2/1997/25) noting that since 1978, the ILO has been monitoring the situation of Palestinian workers in the occupied territories with the aim of providing appropriate technical assistance. The ILO noted that the complex and sensitive environment that affected the occupied territories over the past three decades prevented the realization of this objective. The signing of the 1993 Oslo Agreement, and subsequent agreements, was seen as creating an opportunity for the organization to put in place programmes to assist workers in the territories.

The memorandum to the 1997 report by the ILO Director-General examines conditions of work, freedom of association and labour relations as well as the economy and labour market, and summarizes ILO technical cooperation efforts. The report was based on information collected during a mission to Israel and the occupied territories that was conducted between 21 February and 5 March 1997, preceded by a short preparatory mission to Syria. Referring to recent political developments and in the context of harsh economic circumstances characterized by the continuing partial or total closure of the territories by the Israeli authorities, the report suggested that other ways could be found to deal with the actions which often motivate the closures.

The report considered the various aspects of equality of opportunity and treatment for workers of the occupied Arab territories, including education and training and employment

opportunities, specific conditions of work such as the social insurance system, the situation in the Golan Heights, and, in particular, the effect on Arab workers and their families of an increase in the establishment of Israeli settlements. On the basis of the findings of the mission, the ILO decided to give priority to, and to consolidate, its assistance to the countries and territories directly involved in the developing peace process in the region by strengthening the ability of the Palestinian Authority and the employers' and workers' organizations concerned to meet their most pressing economic and social needs. The memorandum noted that specific efforts in this area have concentrated on promoting full, productive and freely chosen employment, and consolidating national institutions and labour relations.

At its 1997 session the Sub-Commission approved a Chairman's statement on the human rights of the Palestinian people (E/CN.4/Sub.2/1997/50, para. 80) in which the Sub-Commission, *inter alia*: expressed profound concern for the suffering of the Palestinian people as a result of severe restrictions of movement; condemned all acts of terrorism and violence, the double suicide attack in Jerusalem, and the blockade imposed; referred to the impact of the blockade on the human rights of the Palestinian people; called on the Israeli government to put an end to the blockade and other measures; called on all parties to make every effort so that a positive dialogue can take place once again and peace be restored; and, expressed the hope for an early resumption of talks and the successful conclusion of a just and lasting peace in the region.

GENERAL ASSEMBLY

In March 1997 the General Assembly adopted a resolution (A/RES/51/223) entitled "Israeli settlement activities in the occupied Palestinian territory, in particular in occupied East Jerusalem". The General Assembly: expressed deep concern at the decision of the Israeli government to initiate new settlement activities in the Jebel Abu Ghneim area in East Jerusalem and other measures that encourage or facilitate new settlement activities; stressed that such settlements are illegal and a major obstacle to peace; confirmed that all legislative and administrative measures and actions taken by Israel which purport to alter the status of Jerusalem, including expropriation of land and properties thereon, are invalid and cannot change that status; reaffirmed its support for the Middle East peace process and all its achievements, including the agreement on Hebron; expressed concern about the difficulties facing the Middle East peace process, including the impact these have on the living conditions of the Palestinian people, and urged the parties to fulfil their obligations, including under the agreements already reached; called on the Israeli authorities to refrain from all actions or measures, including settlement activities, which alter the facts on the ground, pre-empt the final status negotiations, and have negative implications for the Middle East peace process; called on Israel to abide scrupulously by its legal obligations and responsibilities under the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, noting that the Convention is applicable to all the territories occupied by Israel since 1967; called on all parties to continue, in the interests of peace and security, their negotiations within the Middle East peace process on its agreed basis

and the timely implementation of the agreements reached; and, requested the Secretary-General to bring to the attention of the Israeli government the provisions of the resolution.

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JAPAN

Date of admission to UN: 18 December 1956.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Japan has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Signed: 30 May 1978; ratified: 21 June 1979.

Japan's second periodic report was due 30 June 1992; the third periodic report was due 29 June 1997.

Reservations and Declarations: Paragraph (d) of article 7; paragraphs 1 (a) through (d) and paragraph 2 of article 8; paragraphs 2 (b) and (c) of article 13.

Civil and Political Rights

Signed: 30 May 1978; ratified: 21 June 1979.

Japan's fourth periodic report (CCPR/C/115/Add.3) has been submitted but has not yet been scheduled for consideration by the Committee; the fifth periodic report is due 31 October 2001.

Racial Discrimination

Acceded: 15 December 1995.

Japan's initial report was due 14 January 1997.

Reservations and Declarations: Paragraphs (a) and (b) of article 4.

Discrimination against Women

Signed: 17 July 1980; ratified: 25 June 1985.

Japan's fourth periodic report is due 21 July 1998.

Rights of the Child

Signed: 21 September 1990; ratified: 22 April 1994.

Japan's initial report (CRC/C/41/Add.1) has been submitted and is pending for consideration at the Committee's May 1998 session; the second periodic report is due 21 May 2001.

Reservations and Declarations: Paragraph (c) of article 37; paragraph 1 of article 9; and paragraph 1 of article 10.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Racial discrimination, Special Rapporteur on: (A/52/471, paras. 19, 20)

The interim report of the Special Rapporteur (SR) to the General Assembly refers to information received indicating that many cases of discrimination have been recorded on Internet sites in Japan, basically against members of the Buraku population but also against Koreans living in Japan and against the Ainu, women, persons with disabilities and homosexuals. The report refers to a message on the Internet in which the Buraku are characterized as "genetically inferior", which states that "children born of a union with a Buraku woman inherit congenital defects", and that "Buraku people working in teaching are not capable of transmitting Japan's

traditional values". The SR expressed serious concern about these incidents and recommended that the government take firm action to eliminate such practices.

Religious intolerance, Special Rapporteur on:

(E/CN.4/1997/91, paras. 9, 22, 26, 43)

The report refers to allegations received that in Japan religious activities are controlled by the authorities. In response to this reference, Japan informed the Special Rapporteur that the purpose of the review undertaken by the government of the 1951 Religious Juridical Persons Law was to adapt the law to present conditions and not to control the religious activities of juridical persons.

The Special Rapporteur's interim report to the General Assembly (A/52/477, paras. 51, 58) notes that the government responded to previous communications related to the application of the Subversive Organization Law against the Supreme Religious Group and concerns that the law generally had a detrimental impact on religious minorities. The government stated that the law allowed control measures, such as the restriction of activities or dissolution of organizations, only when the strict conditions set out in the law were met, namely the need to defend public health against subversive terrorist activities. The government further stated that this condition had been met in the case of the "Aum Supreme Truth" group which had been responsible for terrorist acts such as the diffusion of Sarin gas.

Toxic wastes and products, Special Rapporteur on:

(E/CN.4/1997/19, paras. 41, 52)

The report refers to practices in 1993 and notes that waste traders in Japan shipped battery scrap to the Philippines in violation of the Philippine Republic Act No. 6969 which bans import of such toxic waste.

The report also refers to a Japanese joint venture in Malaysia-Asian Rare Earth (ARE) — that was temporarily closed in 1992 under a court injunction in which ARE was found liable for causing a private nuisance, and closure was ordered to provide preventive relief to residents in Bukit Merah. The injunction was suspended by the Malaysia Supreme Court, which also rejected the claims made in a 1985 suit against ARE by residents, that radon gas had escaped from the facility. The suit also claimed that ARE's operations had led to the death of two people, as well as an increased incidence of leukaemia, infant mortality, congenital defects and elevated levels of lead in children's blood.

The government response indicated that ARE's operation had conformed to both provisions in national law and international standards. Further, it indicated that the company announced, on 18 January 1994, that it would cease operations, not on the bases of environmental or health related concerns, or in the face of widespread public protest as suggested in the report, but on the basis of a business assessment related to the future of the Rare Earth Industry in Malaysia. (This information was included in a photocopy of some governments' responses to the SR's report, generally available at the 1997 Commission.)

Violence against Women (E/CN.4/1997/47, Sections III, IV, V):

In the section of the report dealing with rape and sexual violence, the Special Rapporteur (SR) notes that, despite seemingly adequate laws on sexual assault and rape in Japan, judicial interpretation has greatly weakened the force of the law. Articles 176 and 177 of the Penal Code define sexual assault and rape in terms of "using violence, making threats or both"; and, in order to determine the level of violence and/or threats, courts have focussed on the victims' level of resistance rather than on the level of fear. Additionally, a 1959 precedent from the Yamaguchi district court — which held that ordinary sexual intercourse is performed under a certain degree of force — has made rape more difficult to prove. Building on the 1959 precedent, a 1978 case of the Hiroshima High Court dismissed the charge of rape because it found no evidence of tangible force beyond "ordinary sexual intercourse". Interpretation of civil law has also allowed a husband, whose wife has been raped, to seek compensation from the rapist, codifying the traditional perception that a woman's body is her husband's property.

A 1991 survey of sexual harassment in Japan found that 70 per cent of the 4,022 respondents had been harassed. The Tokyo Metropolitan Government's Bureau of Labour and Economics reported in 1992 that approximately 400 women made formal complaints of sexual harassment in the workplace, a statistic which is estimated to represent only 10 per cent of the actual incidents of sexual harassment in the workplace that take place. And a government survey undertaken in Japan found that one in seven Japanese women in their twenties had been sexually harassed at some time.

In terms of trafficking in women and forced prostitution, the report of the SR indicates that women from developing countries are sold to a thriving marriage market, and that more than 700 marriage brokers operate in Japan. The situation of women migrant workers is characterized as including inhumane working conditions and physical abuse.

Mechanisms and Reports of the Sub-Commission

Contemporary forms of slavery, Working Group on:
(E/CN.4/Sub.2/1997/13, para. 53, 66–72)

In the section dealing with forced labour, the Working Group (WG) notes the concerns of some NGOs regarding civilians detained by Japan during the Second World War and their repeated request to the government for an official apology and the payment of compensation to the victims and their families. The report refers to the work done by the Special Rapporteur (SR) on violence against women and the issue of "comfort women". The report noted: the creation of the Asian Women's Fund; the opposition of some governments and NGOs to any compensation being financed by that Fund because 50 per cent of it was raised from private capital, thus allowing the government to evade its legal obligations by refusing to acknowledge its international responsibility, and by refusing to compensate victims individually; assertions that the government was still concealing much of the documentation on crimes committed during the Second World War; and, the reference in the report of the SR on violence against women, which had described such acts as "war crimes" and "military sexual slavery".

The report summarizes points made by a representative of the government and two representatives of the Asian Women's Fund, stating: various initiatives and measures had been taken to help the so-called comfort women; legislative initiatives had been taken by the Parliament; the Centre for Historical Documents on Asia had been established under the Asian Women's Fund; the Fund had been set up as a result of an appeal launched by Japanese civil society and was therefore a means through which all Japanese could express their remorse to all victims, and not at all a way for Japan to evade its responsibilities; and, the Fund was reported to have paid out money to 27 victims. The report notes the Philippines had confirmed that compensation had been paid to victims from that country.

The WG noted that: although the situation had not been resolved definitively, it had evolved in a way that pointed towards a solution satisfactory to all the parties concerned; it was urgent for the victims to be compensated expeditiously, as most of them were elderly women living in difficult circumstances; the WG had fulfilled its role which had been to provide the concerned parties with a forum for discussion and to encourage the adoption of a rapid and satisfactory solution; it was important for the parties concerned to continue their joint quest for a solution that was acceptable to all; with regard to the question of violence against women during the Second World War, the discussion should not be restricted to the question of comfort women, but should also include the violence and abuses systematically inflicted on women and girls during armed conflicts; and, the WG should consider measures likely to prevent such abuses.

Other Reports

International Decade of the World's Indigenous People:
(E/CN.4/1997/101, para. 9)

Japan has contributed to the Voluntary Fund for the Decade.

UN Decade for Human Rights Education, Report of the S-G to the CHR: (E/CN.4/1997/46, para. 23)

In an effort to strengthen national and local programmes and the capacity for human rights education, Japan has established a Headquarters for the Promotion of Human Rights Education, chaired by the Prime Minister. An interim National Plan of Action for human rights education was announced in December 1996 and the government will revise this plan taking into account suggestions made by non-governmental organisations (NGOs) and other interested parties. The government has stressed that it regards the activities of NGOs as essential to achieving the aims of the Decade.

The report of the Secretary-General to the General Assembly (A/52/469, para. 42) refers to information provided by the government on the ad interim national plan of action for human rights education. The plan includes the promotion of human rights education and training at all levels (school, general public, corporations, civil society movements and professionals) and specific programmes for women and special groups, such as children, the aged, people with disabilities, and people with HIV and so forth. It also includes the promotion of international cooperation and other public information activities, such as symposia and conferences. The final national plan of action for human rights

education was released in July 1997. In addition, at the local level, prefectures and cities are developing their own plans of action. The government noted that non-governmental organizations have been very actively involved in these initiatives, including in the elaboration of the Plan, the organization of symposia and training programmes and the development of publications.

**World public information campaign on human rights,
Report of the S-G to the CHR: (E/CN.4/1997/36, para. 85)**

The report of the Secretary-General notes that the UN Information Centre (UNIC) in Tokyo organized jointly with the government an international symposium and an exhibit on human rights, with UNIC providing posters, photos and information materials. A total of 10,000 people from non-governmental and governmental organizations attended. The report notes that UNIC also participated in a symposium on human rights in the Asia and Pacific region which was attended by 300 people.

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JORDAN

Date of admission to UN: 14 December 1955.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: The report prepared by the government for use by the human rights treaty bodies (HRI/CORE/1/Add.18/Rev.1) contains demographic and statistical data, information on the form of government, the judicial system and the legal framework for the protection of human rights.

Jordan's National Charter commits the state to rule of law, free and periodic elections and respect for the legal, judicial and administrative safeguards to protect human rights, human dignity and fundamental freedoms. The government's report indicates that the general legal framework for the protection of human rights includes: access for all to the courts; safeguards against state interference in personal affairs; the stipulation that ordinary courts exercise jurisdiction in all civil and criminal matters save for those which the Constitution reserves for religious or special courts; the stipulation that international conventions ratified by Jordan have the force of law and take precedence over all local legislation with the exception of the Constitution; and, the provision that the precedence of international conventions over national law does not apply in cases which pose a threat to public order.

Economic, Social and Cultural Rights

Signed: 30 June 1972; ratified: 28 May 1975.

Jordan's second periodic report was due 30 June 1991; the third periodic report was due on 30 June 1996.

Civil and Political Rights

Signed: 30 June 1972; ratified: 28 May 1975.

Jordan's fourth periodic report was due 22 January 1997.

Racial Discrimination

Acceded: 30 May 1974.

Jordan's ninth, 10th, 11th and 12th periodic reports were due 29 June in 1991, 1993, 1995 and 1997.

Jordan has not submitted a report to the Committee since 1989. During its March 1997 session the Committee reviewed the situation in Jordan in the absence of a report (CERD/C/SR.1195). At that time, the government stated that it was preparing a detailed report on implementation of the Convention, including information on the situation of non-Jordanians (e.g. Armenians and Palestinians). The government committed itself to submitting the report to the Committee during the course of the year. The UN records indicate that a report was submitted on 10 March 1997, the day the Committee met with the representative of Jordan, but it is not clear whether this is the detailed report the government promised.

The points covered in the exchange between the government and the Committee included an iteration by the government of a number of legal provisions addressing: the equal rights to all Jordanians irrespective of race or ethnicity; freedom to express a different opinion; equality between women and men irrespective of ethnic origin, religion or language; the right to form political parties and the requirement that such parties must combat violence in all forms and ethnic discrimination; the banning of publications that denigrate religion, endanger national unity or incite criminal acts; the banning of articles that infringe on the dignity or reputation of others; the protection of citizens against any form of religious discrimination and respect for Islamic tradition.

In response, the Committee stated that future reports should not be limited merely to citations of legal texts and should devote more time and attention to the actual situation in Jordan. It was suggested that the report include information on implementation of the Convention as well as statistics to support the government's claim that there was no racial discrimination in Jordan. It was further suggested that information be provided to the Committee on institutions for minority groups and on the question of whether or not there were discriminatory employment rules. The Committee urged Jordan to make a declaration under article 14, related to the complaints procedure.

The Committee's concluding observations (CERD/C/50/Misc.13/Rev.2) invited Jordan to submit a report in time for the Committee's 51st session and to include in it information on the legislative, judicial, administrative or other measures related to provisions of the Convention.

Discrimination against Women

Signed: 3 December 1980; ratified: 1 July 1992.

Jordan's initial report was due 31 July 1993; the second periodic report was due 31 July 1997.

Reservations and Declarations: Paragraph 2 of article 9; paragraph 4 of article 15; and paragraphs (1) (c), (d) and (g) of article 16.

Torture

Acceded: 13 November 1991.

Jordan's second periodic report was due 12 December 1996.

Rights of the Child

Signed: 29 August 1990; ratified: 24 May 1991.

Jordan's second periodic report is due 22 June 1998.

Reservation: Articles 14, 20 and 21.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1997/60, paras. 15 and 28; E/CN.4/1997/60/Add.1, para. 287)

The report of the Special Rapporteur (SR) summarized the case of an individual who was found guilty on a charge of murder and sentenced to death. The information provided to the SR alleged that the person charged confessed to the crime after severe torture during pre-trial detention. The government informed the SR that the death sentence had been commuted to life imprisonment.

Sale of children, child prostitution, child pornography, Special Rapporteur on the: (E/CN.4/1997/95, para. 26)

The report notes that the government is preparing a draft Children's Act, despite the fact that it does not consider the commercial exploitation of children to be a social problem in Jordan.

Torture, Special Rapporteur on: (E/CN.4/1997/7, Section III; E/CN.4/1997/7/Add.1, para. 286)

The Special Rapporteur provides a summary of the case of an individual who claimed to have been tortured during a one-month period when he was held without charge. The information alleged that injuries sustained required him to be taken to hospital where he was admitted under a false name. The complaint of torture was raised during trial on murder charges. It was alleged that the judge hearing the case did not order an investigation and, further, that no medical records were received by the court. The defendant was found guilty of the charge and sentenced to death. The government replied to the information sent by the SR and stated that the accused has not been tortured at any time during his arrest and the Court of Cassation had reviewed the case in light of the defendant's complaint. The Court upheld the conviction, noting that the defendant had confessed to the government prosecutor and not while he was in police custody. The sentence was commuted to life imprisonment.

Toxic wastes and products, Special Rapporteur on: (E/CN.4/1997/19, para. 28)

In response to a questionnaire sent by the Special Rapporteur to governments, Jordan restated its interest in protecting the environment as well as the safety and health of its citizens. The government's reply noted some of the measures it had adopted on environmental questions, including a prohibition on the dumping of foreign hazardous wastes within Jordan's borders and efforts made to manage hazardous wastes in an environmentally sound manner. Jordan called on the international community to support developing countries in the implementation of international and regional instruments related to the handling, transfer and disposal of toxic wastes.

Other Reports

Children and juveniles in detention, Report of the S-G to the CHR: (E/CN.4/1997/26, Section I)

In the report of the Secretary-General, Jordan indicated that the Ministry of Social Development, which is responsible for the administration of juvenile detention facilities, tries to

ensure compliance with provisions in international instruments concerning the rights of the child, the administration of justice and the specifications of institutions in which they are detained. Further, the government notes that the probation officer, appointed by the Ministry of Social Development, submits a report to the juvenile judge in order to acquaint him with the family and the social aspects of the juvenile's environment. The Ministry does intervene to provide foster families and social institutions for children without shelter and to monitor juvenile care centres. The Ministry is also implementing its constitutional and legal obligation to enroll children and juveniles in school so that they can complete their education.

Conscientious objection to military service, Report of the S-G to the CHR: (E/CN.4/1997/99, para. 15)

The report of the Secretary-General cites a statement by the government that in Jordan there is neither compulsory military service nor conscription. The military is staffed through voluntary enlistment.

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KAZAKHSTAN

Date of admission to UN: 2 March 1992.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Kazakhstan has not submitted a core document for use by the treaty bodies.

Rights of the Child

Signed: 16 February 1994; ratified: 12 August 1994.

Kazakhstan's initial report was due 10 September 1996.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1997/34, paras. 380-382)

The report states that two cases of disappearance in Kazakhstan were clarified, noting that the two people involved had been tried and sentenced to prison terms. The cases occurred in 1994 and involved Uzbek nationals who were said to be members of the Uzbek political party, "Erk", and who were living as refugees in Kazakhstan. The information had originally indicated that the two had been abducted from their home in Almaty by six officers working for the Ministry of the Interior of Uzbekistan. At the time it was believed that their abduction might have been connected to their activities for a newspaper produced outside Uzbekistan and distributed clandestinely inside the country.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1997/60/Add.1, paras. 288-289)

The report refers to information received indicating that a very large number of death sentences are imposed and carried out annually in Kazakhstan. The government claimed that there had been 63 executions in 1995, while NGOs believed that 101 had taken place. The report notes that relatives are informed about the execution in writing and do not have the right to receive the body or know the place of burial. The

Special Rapporteur (SR) urged the government to publish annually the categories of offence for which the death penalty is authorized, the number of persons sentenced to death, the number of executions actually carried out, the number of death sentences reversed or commuted on appeal, and the number of instances in which clemency has been granted.

Independence of judges and lawyers, Special Rapporteur on: (E/CN.4/1997/32, paras. 15, 21, 188)

The report notes that the government has invited the Special Rapporteur to visit. The dates for the visit remain to be agreed.

Torture, Special Rapporteur on: (E/CN.4/1997/7, Section III; E/CN.4/1997/7/Add.1, paras. 287-288)

The Special Rapporteur transmitted two cases to the government. The first involved the arrest of the *ataman* (elected chief) of the Semirechye Cossack Host in October 1995 while he was trying to register as a candidate for parliamentary elections. He was charged with organizing an unsanctioned meeting connected to an event earlier in the year. The information on the case indicated that he was beaten and that a member of the police tried to hang him from a heating pipe to make it appear that he had committed suicide. While on a hunger strike at Investigation-Isolation Prison Number One, the authorities doused him with cold water to try to get him to end his strike. The second case concerned a political activist working on behalf of the Cossack community who was detained at her home by officers of the State Investigative Committee. Information indicated that she had been held at various locations, including a small unventilated punishment cell, and that she had been beaten.

Mechanisms and Reports of the Sub-Commission

Freedom of movement, Working Paper: (E/CN.4/Sub.2/1997/22, para. 24)

The Working Paper refers to the states that emerged following the breakup of the Soviet Union and the laws affecting freedom of movement in Kazakhstan, including those on the legal status of foreigners and on immigration.

Other Reports

World Public Information Campaign on Human Rights, Report of the S-G to the CHR: (E/CN.4/1997/36, para. 85)

The report of the Secretary-General notes that the UN Office in Almaty gave a lecture on human rights issues at the Institute of Law and opened a two-week exhibition of UN information materials at the National Library which was visited by 1,200 people, including students and journalists from local and foreign media.

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KIRIBATI

Date of admission to UN: Kiribati is not a member of the UN.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Kiribati has not submitted a core document for use by the treaty bodies.

Rights of the Child

Acceded: 11 December 1995.

Kiribati's initial report was due 9 January 1998.

Reservations and Declarations: Articles 12, 13, 14, 15 and 16; paragraphs: (b) (c) (d) (e) and (f) of article 24; article 26; and, paragraphs (b) (c) and (d) of article 28.

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KOREA (NORTH)

(Democratic People's Republic of)

Date of admission to UN: 17 September 1991.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: North Korea has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Acceded: 14 September 1981.

North Korea's second periodic report was due 30 June 1992; the third periodic report was due 30 June 1997.

Civil and Political Rights

Acceded: 14 September 1981.

North Korea's second periodic report was due 13 October 1987; the third periodic report was due 13 October 1992.

Rights of the Child

Signed: 23 August 1990; ratified: 21 September 1990.

North Korea's initial report (CRC/C/3/Add.41) has been submitted but is not yet scheduled for consideration by the Committee; the second periodic report was due 20 October 1997.

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

At its 1997 session, the Sub-Commission adopted a resolution (1997/3) on North Korea (E/CN.4/Sub.2/1997/50, p. 23-24) in which the Sub-Commission: noted that North Korea had ratified the ICCPR; expressed concern at reports received related to grave violations of human rights, including mass internments in administrative detention centres and serious restrictions affecting the right to leave and return; expressed concern over the virtual impossibility of obtaining information or visiting the country to ascertain whether or not there are grounds for the allegations concerning the situation of human rights and to obtain information concerning the legislation in force and the manner in which it is implemented; deplored the fact that North Korea's second periodic report on implementation of the ICCPR is overdue by almost 10 years; called on the government to ensure full respect for the right to leave and return; requested that the government fulfil its obligations and delay no longer the submission of its second periodic report to the Human Rights Committee; requested that the government extend its cooperation with the procedures and services established by the UN with the aim of ensuring promotion and protection of human rights; invited the international community to devote greater attention to the situation of human rights in North Korea and assist the

population in emerging from the isolation in which it is maintained; and, invited the international community to furnish increased assistance to North Korea to overcome the present period of food shortage and the suffering it is causing. The resolution was adopted by secret ballot with 13 votes in favour, 9 opposed, 3 abstentions.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on: (E/CN.4/1997/4/Add.1, Decision 37)

The decision involved two cases which had been previously considered by the Working Group (WG) at which time it was decided to keep them open pending further information. That decision was based on the fact that the WG had two contradictory versions of the facts — the source claiming that the two individuals had been detained in 1990 at the Sungho Detention Centre, and government asserting that they were not been detained. The government provided to the WG the addresses of both individuals. On the basis of the information provided, the WG decided that the two had never been detained.

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KOREA (SOUTH)

(Republic of)

Date of admission to UN: 17 September 1991.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: South Korea has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Acceded: 10 April 1990.

South Korea's second periodic report was due 30 June 1997.

Civil and Political Rights

Acceded: 10 April 1990.

South Korea's second periodic report was due 9 April 1996.

Optional Protocol: Acceded: 10 April 1990.

Racial Discrimination

Signed: 8 August 1978; ratified: 5 December 1978.

South Korea's ninth periodic report was due 4 January 1996.

Discrimination against Women

Signed: 25 May 1983; ratified: 27 December 1984.

South Korea's third periodic report (CEDAW/C/KOR/3) has been submitted and is pending for consideration at the Committee's July 1998 session; the fourth periodic report was due 26 January 1998.

Torture

Acceded: 9 January 1995.

South Korea's second periodic report is due 2 February 2000.

Rights of the Child

Signed: 25 September 1990; ratified: 20 November 1991.

South Korea's second periodic report is due 19 December 1998.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on: (E/CN.4/1997/4, paras. 4, 5, 12; E/CN.4/1997/4/Add.1, Decision 5, 25, 49)

Decision 2 was taken on the basis of a request from the government to reconsider a previous decision in which detentions had been declared arbitrary. The government informed the Working Group (WG) that two of the persons involved had been released, and provided detailed information on the procedures followed related to the convictions of the others. The WG decided that had the information on procedures been available at the time the original decision was taken, it would not have altered the WG's reasoning. With regard to the explanations provided by the government of the activities of those charged and convicted, the WG found them to be no more than an interpretation of facts of which the Group was already aware. The information provided by the government, to the effect that two of the persons charged and convicted had been released, was not considered relevant since it would have enabled the WG to modify its decision only if they had been freed before it had adopted its decision. On that basis the WG decided not to reconsider its original decision declaring the detentions to be arbitrary.

Decision 25 related to the cases of two people. The first involved the president of the Minju Nochong Korean Federation of Trade Unions (KCTU), who was arrested in November 1995 and charged with "third party intervention" in labour disputes. This was on the basis of speeches he made at rallies in 1994 in which workers were advised about industrial action, support was expressed for workers, and government policy was criticized. Additional minor charges were also laid, including interference with traffic flow, raising funds for the KCTU without government permission, and having a connection with the violence that erupted during both rallies. The second case involved the Vice-President of the KCTU, who was arrested in February 1996. He had been in hiding since June 1994, when warrants were issued for his arrest and the arrest of the President of the KCTU.

The WG noted that the International Labour Organization (ILO) Committee on Freedom of Association had called on the government to lift the ban on "third party intervention" and that, in July 1995, the Human Rights Committee had found that a trade-unionist who was sentenced to 18 months of imprisonment for "third party intervention" in a labour dispute, had been convicted for exercising his right to freedom of expression. In its decision, the WG noted that one of the men had been released and declared the detention of the other to be arbitrary.

Decision 49 involved three cases. The first concerned a writer and a peace and human rights activist, who was arrested in September 1993 by some 15 men who did not have warrants and did not identify themselves. Following the arrest the man was held and interrogated by the Agency for National Security Planning (ANSP, the main intelligence agency in the country). During interrogation, the man was subjected to sleep deprivation and beatings in order to force him to sign "confessions" of his alleged links with "anti-State" groups. He was subsequently charged under article 4 of the National Security Law (NSL) for meeting and passing "State secrets"

to "agents" in Japan. He was tried, convicted, and sentenced to seven years' imprisonment. Information indicated that he had not been informed of the accusations against him at the time of his arrest and that, throughout his 45-day interrogation, he had never been informed of his right to remain silent.

In response to the WG, the government stated that the criminal charges were laid because the individual had met with the president of "Hantongnyon" (described by the government as an "anti-State organization"); had been in contact in Japan with a leading member of that North Korean organization and received 500,000 yen for collecting information for him. The government stressed that the money received had originated in North Korea and that the information passed during contact in Japan had contained military and state secrets. The government rejected the allegations of torture or ill-treatment during interrogation, but informed the WG that an investigation was under way by the Seoul District Public Prosecutors Office into those allegations.

The second and third case involved two people, a former political prisoner and the Vice-President of the Korean Youth Federation, who were arrested on 11 and 12 March 1995. They were accused under article 7 of the NSL of preparing a pamphlet condoning the activities of a former political prisoner who had died in February 1995 after serving a 28-year prison sentence, and who had refused to renounce his alleged communist views. The pamphlet was reported to have referred to the former prisoner as a "patriotic fighter" and a "fighter for national reunification", in violation of article 7 of the NSL which punishes the act of praising, encouraging or benefiting North Korea. In response to this information, the government stated that the main criminal charges related to the production, publication and distribution of the memoirs of a member of a North Korean armed unit; to the organization of a funeral ceremony for the commander of that same armed unit (described by the government as an unconverted radical leftist political prisoner); to praising the North Korean regime; and to the organization of four unlawful assemblies with the aim of praising North Korea's radical communist ideology. The government stressed the aspect of participation in violent unlawful demonstrations, and, through that participation, the denial of basic order of a free and democratic society. The government did not accept that participation in those types of demonstrations was an exercise of the right to freedom of expression.

The decision of the WG noted that the facts of the cases as presented did not indicate that the individuals had exercised their rights to freedom of expression and assembly by resorting to or inciting to violence, or that, in their activities, they had harmed the rights or reputations of others, national security, public order or public health or morals. In response to the government's statement that they were involved in spying activities, the WG expressed the view that the allegations were formulated in vague and general terms and do not appear clear from the facts. On that basis the WG declared the detentions to be arbitrary.

Torture, Special Rapporteur on: (E/CN.4/1997/7, Section III; E/CN.4/1997/7/Add.1, paras. 400-404)

The Special Rapporteur (SR) notes information received indicating that people detained for political reasons were

sometimes subjected to beatings, sleep deprivation, enforced physical exercises, and threats to themselves or their families. The Agency for National Security Planning (ANSP), the Military Security Command (MSC) and the police were all said to employ such methods, primarily to coerce "confessions". Information also indicated that suspects were often held initially without a warrant or judicial supervision for the purpose of interrogation, effectively resulting in short periods of incommunicado detention. The report notes that, in a number of cases in which persons were held under the National Security Law, detainees had been denied access to lawyers or families for a preliminary period.

The report also notes information indicating that during police operations in August 1996 against students from a number of universities holding a demonstration and calling for reunification of the Korean peninsula, a substantial number of persons were subjected to torture or other ill-treatment. The SR referred to the deep concern expressed by the Committee against Torture at its November 1996 session regarding reports of torture inflicted on political suspects and commended the Committee's recommendations to the government.

The cases transmitted to the government concerned the arrest, torture and ill-treatment of: a person accused of membership in the North Korean Workers' Party, a staff member of the National Association of Street Vendors, and students staging demonstrations for the reunification of the Korean peninsula.

Violence against women, Special Rapporteur on:

(E/CN.4/1997/47, Section III, E/CN.4/1997/47/Add.4, paras. 3, 6-8)

In the section dealing with rape and sexual violence against women, the report refers to a survey of 2,270 adult women in Seoul which found that approximately 22 per cent of adult women had been the victim of either attempted rape or rape.

The cases transmitted to the government by the Special Rapporteur (SR) related to a woman who had been arrested by investigators of the South Cholla Province Administration Division and held in pre-trial detention. At the time of the arrest, the woman was in an advanced stage of pregnancy and fell ill shortly after arriving in prison. A medical examination was provided but no further medical attention was considered necessary. The baby was stillborn. Information received by the SR indicated that an attending obstetrician claimed that there was good reason to believe that the poor conditions and inadequate medical care at the prison affected the unborn child's health. In its reply, the government disputed these allegations and offered assurances that the police and prosecutors had taken special care of the woman; that throughout the period of pre-trial, she had been accommodated in a special room designed for pregnant prisoners. The government asserted that five medical check-ups had been carried out during this period and that no peculiar or threatening symptoms had been detected. The government also stated that the woman had neither complained about her treatment nor requested special treatment from the prison authorities and that no evidence had been found linking the child's death to the mother's detention or any possible mistreatment in prison.

Mechanisms and Reports of the Sub-Commission

States of emergency, Special Rapporteur on: (E/CN.4/Sub.2/1997/19, para. 67, E/CN.4/Sub.2/1997/19/Add.1)

The report notes that South Korea has been put back on the list of countries in which a measure of exceptional character is in force. The decision to include South Korea in the report on states of emergency was based on information provided by the Special Rapporteur (SR) on freedom of opinion and expression following his visit to South Korea in 1997. The report of the SR on his visit stated that the wording and implementation of South Korea's National Security Law is incompatible with article 19 of the ICCPR.

Traditional practices affecting the health of women and children, Special Rapporteur on: (E/CN.4/Sub.2/1997/10, para. 24)

The report refers to a study published in January 1997, indicating that son preference contributes to a significant number of abortions of female fetuses in South Korea.

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KUWAIT

Date of admission to UN: 14 May 1963.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Kuwait has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Acceded: 21 May 1996.

Kuwait's initial report is due 30 June 1998.

Reservations and Declarations: Paragraph 2 of article 2; article 3; article 9; and paragraph 1 (d) of article 8.

Civil and Political Rights

Acceded: 21 May 1996.

Kuwait's initial report was due 21 August 1997.

Reservations and Declarations: Article 23 and paragraph (b) of article 25.

Racial Discrimination

Acceded: 15 October 1968.

Kuwait's 13th and 14th periodic reports were submitted as one document (CERD/C/299/Add.16) but have not yet been scheduled for consideration by the Committee; the 15th periodic report was due 4 January 1998.

Reservations and Declarations: Article 22.

Discrimination against Women

Acceded: 2 September 1994.

Kuwait's initial report was due 2 October 1995.

Reservations and Declarations: Paragraph (a) of article 7; paragraph 2 of article 9; paragraph (f) of article 16; and paragraph 1 of article 29.

Torture

Acceded: 8 March 1996.

Kuwait's initial report (CAT/C/37/Add.1) has been submitted but is not yet scheduled for consideration by the Committee; the second periodic report is due 6 March 2001.

Reservations and Declarations: Article 20; and paragraph 1 of article 30.

Rights of the Child

Signed: 7 June 1990; ratified: 21 October 1994

Kuwait's initial report (CRC/C/8/Add.35) has been submitted and is pending consideration at the Committee's September 1998 session; the second periodic report is due 19 November 1998.

Reservations and Declarations: General reservation and articles 7 and 21.

TREATIES AND REPORTS TO TREATY BODIES**Mechanisms of the Commission on Human Rights**

Arbitrary detention, Working Group on: (E/CN.4/1997/4, paras. 4, 5)

The report notes that one case was sent to the government and a reply was received. No details of either the case or the government's response were provided.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1997/34, paras. 8, 213-215)

No new cases of disappearance were transmitted by the Working Group (WG) to the government of Kuwait. The one outstanding case, which was submitted in 1993, concerns a so-called "bedouin" of Palestinian origin with a Jordanian passport. Information indicated that after the retreat of the Iraqi forces from Kuwait in 1991, the individual was arrested and reportedly continues to be detained by the Kuwaiti Secret Police. The government provided the WG with details of the investigation undertaken to date on the case, and informed the WG that the individual's whereabouts remain unknown.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1997/60, para. 77; E/CN.4/1997/60/Add.1, paras. 299-300)

The report refers to information received expressing concern that the government had failed to conduct adequate investigations into violations of the right to life which took place during the period of martial law immediately after the Iraqi occupation in February 1991; this information notes that there has been only one case in which the person responsible for such an execution was brought to justice. Further, the report states that, in April 1996, the Parliament reportedly passed a law extending the mandatory imposition of capital punishment to include people using children to trade in narcotics, those repeatedly convicted of trafficking, and officials assigned to fight the narcotics trade who themselves trade in drugs.

Independence of judges and lawyers, Special Rapporteur on the: (E/CN.4/1997/32, paras. 119-121)

The report notes that the Kuwait Constitution guarantees the independence of justice and prohibits interference with the course of justice, and that civilian judges are granted life tenure. The report refers to a needs assessment mission conducted under the technical cooperation programme of the Office of the High Commissioner for Human Rights and notes the recommendations that: the government should review current laws and procedures related to fair trial, regulations and standing orders related to the administration of justice, penalties, the police and prisons and courts, to ensure their conformity with international human rights standards; the law should be reviewed to ensure that nobody may be held

guilty of a criminal offence on account of any act or omission which did not constitute a criminal offence at the time it was committed; an independent judiciary should be guaranteed and protected in a strong Constitution, which would also limit emergency powers; the government should undertake a review of emergency legislation to ensure that the emergency may only be declared in conformity with the law, and that the right to a fair trial is to be maintained after the declaration of martial law or other exceptional measures; nothing done pursuant to the state of emergency should diminish the jurisdiction of the courts to review the legality of the state of emergency or their jurisdiction over legal actions to protect any rights not affected by the declaration of the state of emergency; there should be a judicial review of expulsion orders; and, the government should provide human rights training to all personnel working within the administration of justice and elaborate a national training regime for lawyers and judges regarding human rights and democracy.

Racial discrimination, Special Rapporteur on:

The Special Rapporteur on racism and racial discrimination visited Kuwait from 17 to 27 November 1996. Initially, he was to focus on allegations of racial discrimination and acts arising from xenophobia against migrant workers, particularly housekeepers of Indian, Sri Lankan, Bangladeshi and Philippine origin. The original scope of the visit was ultimately expanded to include consideration of the situation of the *Bidun* (nomads), who are variously considered as undocumented persons, stateless persons and illegal residents. The report of the visit (E/CN.4/1997/71/Add.2) establishes the context in which racism and racial discrimination in Kuwait must be considered by noting that: Kuwaitis are a minority in their own country; the social system leads to the exploitation of unskilled and, in particular domestic workers, most of them women, and to the marginalization of the *Bidun*; xenophobic tendencies are beginning to appear and are strengthened by attitudes of the rich towards the poor; Kuwait still needs foreign workers, both skilled and unskilled, but the country feels crushed under the weight of foreigners; there is a segment of society which considers that the nation's cultural identity must be preserved and is therefore pressuring the government to provide it with a "separate and protected life"; since social services such as education and health are free, some Kuwaitis feel that the well-being of foreigners is being placed before their own; the government is resisting xenophobic tendencies, which manifest themselves as fear and rejection of foreigners and a wish to live separately from them; the government has refused to build hospitals for foreigners separate from those for nationals, though there is separate housing for foreign workers; no racist or xenophobic statements by the government have been noted thus far; and, the issue of the *Bidun* remains unresolved.

The report identifies serious problems with regard to the situation of foreign and, particularly, unskilled workers, including that: their status is not governed by any single body of legislation; their fate is wholly in the hands of their employers and the administration; they enjoy no protection under the law; many employers mistreat their servants, who often flee and take refuge in the embassies of their countries; some workers have been accused, rightly or wrongly, of stealing from their employers, have been captured while in

flight, taken to the holding centre in Dasma, and then expelled without any legal protection; and, conditions in the Dasma holding centre and the Talha prison, where male and female workers involved in litigation with their employers are held while awaiting expulsion, are extremely poor, including overcrowding, inadequate hygiene and promiscuity.

In terms of factors which create the atmosphere and tolerate the practices that lead to the violation of the rights of foreign workers, the report refers to: an absence of national legislation to protect domestic workers; random recruitment methods; the general view that a foreign worker becomes the property of the "Cafil" or sponsor; lack of knowledge about Kuwait by foreign workers and therefore difficulties in adapting to the Kuwaiti social and cultural environment; ill-treatment of foreign workers, including beatings, sexual abuse, unregulated hours of work, inhuman living conditions and/or confinement to the employing company or individual's residence; and, the absolute power of sponsors to force a workers either to go back to work or to leave them in prison, the latter resulting in the person being designated a *Bidun*-an undocumented or illegal resident.

The report notes that tendency towards resentment of foreign workers and pressure on the government to adopt a "Kuwait first" policy are exacerbated by the fact that a significant number of Kuwaitis are unemployed, despite the requirement in the constitution that the government find work for all Kuwaitis. The report also notes that the balance to what may be a rise in intolerance toward foreign workers can be found in, for example, the work of the Kuwaiti Human Rights Association and a progressive party of the elite, which has writers and journalists as members, monitors respect for human rights and, through publications and in the press, criticizes and castigates the government and exposes ill treatment of foreign and, particularly, domestic workers.

In the assessment of the situation of the *Bidun* the report characterizes it as a problem which appears simple but has been complicated by Kuwait's political history and its conflicting and incoherent legislation. The various legislative initiatives briefly outlined relate to questions of nationality and attempts to define entitlement to nationality on a number of bases, including when the person(s) settled in Kuwait, nationality through marriage, and conferred nationality at birth based on the Kuwaiti nationality of one parent. The report states that the questions raised by the government's confused approach are not merely technical and notes that the *Bidun* make up about one-third of the Kuwaiti army, down from 80 per cent prior to the invasion by Iraq. The report further notes that *Bidun* suspected of treason and ousted from the army had forfeited all their social rights, including the right to education and to free medical care, and were unable to find jobs.

In the section of the report dealing with conclusions and recommendations, a number of points are made, including that: Kuwait is the only country in the Gulf region with an elected parliament; the Constitution is one of the most advanced in the region; Kuwait has ratified the Convention on the Elimination of All Forms of Racial Discrimination; and, the government is committed to the advancement of women, for example by appointing women to the posts of Secretary of

State for Higher Education and Kuwaiti ambassador to South Africa.

The recommendations to the government included the following:

- ▶ give priority to finding a definitive, humane and equitable solution to the problem of the *Bidun*;
- ▶ adopt and enforce legislation and a uniform labour code in conformity with international standards;
- ▶ create a national agency for employment and recruiting of foreign skilled and unskilled workers to replace private agencies working in this area;
- ▶ cooperate with sending countries to offer instruction in conversational Arabic to facilitate social communication for foreign workers and avoid conflicts arising from linguistic and cultural problems and incomprehension;
- ▶ take measures to ensure regular payment of wages;
- ▶ improve conditions of detention and provide persons who are detained for expulsion with legal protection and assistance; and,
- ▶ continue efforts to promote and strengthen democracy.

Religious intolerance, Special Rapporteur on:
(E/CN.4/1997/91, paras. 9, 17, 21, 26, 33)

The report notes violations of religious freedom against Christianity and the provision in law that a Muslim converting to another religion is liable to prosecution. The government's reply to communications from the Special Rapporteur was characterized as general in nature, referring for the most part to positive law and stating that judicial cases are examined in accordance with the laws of the country.

The Special Rapporteur's interim report to the General Assembly (A/52/477, paras. 25, 28, 30, 33, 34, 38) notes that communications were sent to the government related to: violations of religious freedom against all religions and religious groups and communities except the official or state religion or predominant religion; the prohibition on the conversion of a Muslim to another religion and the provision that such conversion is punishable by death; the prohibition on the publication of non-Muslim religious material; the provision that non-Muslims must restrict the practice of their religions to their own homes; and, the refusal of authorities of permission to build, enlarge or renovate non-Muslim places of worship.

Violence against women, Special Rapporteur on:
(E/CN.4/1997/47, Section V)

In the section dealing with women migrant workers, the report refers to the large base of documentation on the often violent and inhumane conditions for women migrant workers in Kuwait. The Special Rapporteur noted estimates that 2,000 foreign domestic workers per year seek shelter in embassies in Kuwait; for example, in April 1995, more than 200 domestic workers received shelter in the embassy of the Philippines and 150 were sheltered in Sri Lanka's Embassy that same month.

The report states that racism fuels international trade in domestic workers and that information indicates there is a "hierarchy of nationalities" that determines the type of

employment and the salary that migrant workers receive. The report cites the case of a woman from the Philippines, a qualified engineer who used a recruitment agency, and paid a fee of about US\$ 450 for arranging a professional posting. When she arrived at the recruitment agency in Kuwait City, she was told that only domestic work was available for a Filipina; lacking the resources to return home, she had to sign a contract to work as a domestic. The report states that, during the more than two years that the woman worked for members of the Kuwaiti royal family, she had to work day and night and had no time off.

The report notes that in 1982, solo foreign labour migration by Bangladeshi women was banned by the government as a result of concerns about the "low moral standards" of domestic workers; however, at Kuwait's request, the ban was lifted in 1991.

Other Reports

International Decade of the World's Indigenous People, Report of the HCHR: (E/CN.4/1997/101, para. 9)

The report of the High Commissioner for Human Rights notes that Kuwait has contributed to the Voluntary Fund for the Decade.

Migrant workers, Report of the S-G to the CHR:
(E/CN.4/1997/65, para.)

The report of the Secretary-General on the status of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families notes that Kuwait has acceded to the Convention.

Restitution, compensation, rehabilitation, Report of the S-G to the CHR: (E/CN.4/1997/29/Add.1, Kuwait paras. 1-5)

The report of the Secretary-General includes comments provided by the government, noting constitutional provisions on issues related to private property and compensation for damages, compensation to victims of war damage and anyone injured as a result of the discharge of their military duties, and a prohibition on forced labour except in a national emergency and for fair remuneration. The government also provided information on legal provisions related to civil defence and the guarantee of the right of owners of landed property to compensation if there is a decrease in the value of that property as a result of requisitioning by order of the Council of Ministers, as well as compensation for requisitioned movable property and detriment caused by civil defence operations on their property. With regard to public mobilization, the government noted that compensation is guaranteed in the event of public mobilization proclaimed by decree, due to tension in international relations, a threat of war or the outbreak of war. Information on provisions in the Civil Code was also provided, noting the guarantee of compensation for illegal acts that cause damage to other persons, including compensation from the state if the person responsible for payment of compensation cannot be identified. Provisions in the Penal Code are cited defining acts that constitute serious violations of human rights and fundamental "freedoms for which compensation may be provided and include: abduction, detention and trafficking in slaves; illicit sexual relations and rape; adultery; incitement to debauchery and prostitution; and, disrespect for religion.

Terrorism, Report of the S-G to the CHR: (E/CN.4/1997/39, Section I)

The note by the Secretary-General summarizes proposals made by the government to deal with terrorism, namely that: all acts of terrorism of any type or form should be totally condemned; the territorial integrity, security and sovereignty of states and non-interference in their internal affairs should be regarded as sacrosanct principles; states should honour their obligations under international law by taking the requisite measures to prevent any of these principles being used as a pretext to protect terrorists or to allow their national territory to be used for the establishment of camps for the training of terrorist groups; the competent security authorities of all countries of the world should cooperate with a view to the arrest and extradition of terrorists; states should accede to all the relevant international conventions; terrorism should be included as a basic subject in the curricula of Ministries of Education, colleges and universities in all states with a view to stimulating public awareness of the dangers inherent in the spread of this phenomenon; and, training courses should be held at the local and international levels to help to combat terrorism before and after its appearance.

The note by the Secretary-General also summarizes measures taken by the government to combat terrorism and protect human rights, including: accession to a number of conventions related to terrorism in the context of air travel (unlawful seizure of aircraft, the safety of civil aviation) as well the International Convention against the Taking of Hostages and the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons of 1973; support for, and endorsement of, all the resolutions adopted by the General Assembly relating to terrorism; inclusion in the international agreements concluded by Kuwait of special articles concerning the safety of aircraft; sponsorship of the resolution adopted at the Fifth Islamic Summit Conference held in Kuwait in January 1987 on measures to combat all types and forms of terrorism; and, promulgation of Act No. 6 of 1994 concerning crimes against the safety of aircraft and aviation.

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KYRGYZSTAN

Date of admission to UN: 2 March 1992.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Kyrgyzstan has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Acceded: 7 October 1994.

Kyrgyzstan's initial report was due 30 June 1996.

Civil and Political Rights

Acceded: 7 October 1994.

Kyrgyzstan's initial report was due 6 January 1996.

Optional Protocol: Acceded: 7 October 1994.

Racial Discrimination: Acceded: 5 September 1997.

Discrimination against Women

Acceded: 10 February 1997.

Kyrgyzstan's initial report was due 11 March 1998.

Torture:

Acceded: 5 September 1997.

Kyrgyzstan's initial report is due 4 October 1998.

Rights of the Child

Acceded: 7 October 1994.

Kyrgyzstan's initial report was due 5 November 1996.

COMMISSION ON HUMAN RIGHTS

At the 1997 session, the situation in Kyrgyzstan was considered by the Commission under the 1503 procedure. The Commission decided to continue consideration under 1503 at its 1998 session.

THEMATIC REPORTS***Mechanisms and Reports of the Sub-Commission***

States of emergency: (E/CN.4/Sub.2/1997/19/Add.1, Section I)

The report notes that in June 1990 a state of emergency was decreed and a curfew imposed in Osh town and in Osh region. The measures were partially lifted in September 1991 but some are still in force. The report also notes that in January 1993 a special regime of entry and exit was introduced in Osh region.

Freedom of movement, Working Paper: (E/CN.4/Sub.2/1997/22, para. 24)

The working paper refers to states that were established following the breakup of the Soviet Union and notes that the laws on the legal status of foreign nationals and residence laws for foreigners in Kyrgyzstan have an impact on freedom of movement as do provisions on the entry and residence of foreign nationals and stateless persons.

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LAOS**(Lao People's Democratic Republic)**

Date of admission to UN: 14 December 1955.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Laos has not submitted a core document for use by the treaty bodies.

Racial Discrimination

Acceded: 22 February 1974.

Laos's sixth through 12th periodic reports have not been submitted (covering the period 1985-1997); the 12th periodic report was due 24 March 1997.

Discrimination against Women

Signed: 17 July 1980; ratified: 14 August 1981.

Laos's initial and second through fourth periodic reports have not been submitted; the fourth periodic report was due 13 September 1994.

Rights of the Child

Acceded: 8 May 1991.

Laos's second periodic report is due 7 June 1998.

Laos's initial periodic report (CRC/C/8/Add.32) was considered by the Committee at its September/October 1997 session. The report prepared by the government includes information on, *inter alia*: general measures for implementation of the Convention; the status of the child; future trends affecting children; rights and freedoms; family and alternative care; basic health and welfare; and special protection measures. The report includes a number of annexes, related to, for example: development objectives to the year 2000; employment of women; the decree establishing the National Commission on Mothers and Children; the educational strategy guideline until the year 2000; the care policy related to children under the age of five; and the decree related to immunization activities between 1993 and 1996.

The Committee's concluding observations and comments (CRC/C/15/Add.78) welcomed: the adoption of the "Education For All" action plan; the government's efforts in the area of immunization, as well as combatting iodine deficiency, and the project on mainstream education for disabled children; the establishment of the National Commission for Mothers and Children and its mandate covering all aspects of the Convention; recent efforts to address the problem of Unexploded Ordnance (UXO) through, *inter alia*, the establishment in 1995 of the UXO Trust Fund and the Laos National UXO Programme; and, the government's initiative to seek advice and technical assistance to ensure the full integration of the provisions of the Convention in its legislation, to establish a system of administration of juvenile justice, and to train professionals on the rights of the child.

The principal subjects of concern identified by the Committee were, *inter alia*: that the national legislation does not fully conform to the Convention; the insufficient attention paid by the authorities to the identification of monitoring mechanisms for all areas covered by the Convention and in relation to all groups of children; the lack of adequate and systematic training for professional groups working with and for children; the lack of a legislative framework for the creation of national independent non-governmental organizations; the insufficiencies in measures related to access to education and health services, and protection against exploitation; that the views of the child are not sufficiently taken into account, especially within the family, the school, the care and justice systems; the lack of harmonization between the legal age for the end of compulsory education (which is 10) and the minimum legal age for employment (which is 15); the insufficiency of the measures adopted to discourage early marriage; that there are children who are not registered at birth; the lack of awareness and information on ill-treatment and abuse of children, including sexual abuse, and the lack of appropriate measures and mechanisms to prevent and combat such abuse; the lack of special structures for child victims of abuses and their limited access to justice; the persistence of corporal punishment within the family and its acceptance by the society; the lack of measures, including legal ones, to ensure that children maintain contact with both parents in case of divorce or separation, as well as at the absence of a mechanism to ensure the recovery of maintenance for the

child; that the provisions of the Family Law regarding adoption do not conform fully to the Convention, or with the principle of the best interests of the child; the high maternal mortality rate, the high mortality and morbidity rates among children, the lack of access to prenatal and maternity care, and the generally limited access to public health care and to medicines, in particular in rural areas; the very high level of malnutrition; and, the high incidence of traffic accidents involving children; and the inadequacy of the efforts to raise awareness about HIV/AIDS in the communities and at school, in particular in the rural areas.

The Committee also expressed concern over: the fact that the legislation does not specifically mention that primary education is free; the low level of school enrolment and the high drop-out and repetition rates; the disparities between urban and rural areas and between ethnic groups in terms of enrolment and quality of education provided; the shortage of physical infrastructure, school materials and teachers, and the low qualifications of teachers, in particular in rural areas; the lack of vocational training opportunities, in particular in rural and remote areas; the shortage of physical and psychological rehabilitation programmes and services for unexploded ordnance victims; the toxic chemical contamination of soil and water, particularly in the six southern provinces; the economic exploitation of children, including in the informal sector, particularly as domestic servants, in agriculture and in the family context; the increasing phenomenon of child prostitution and trafficking and the insufficiency of measures to prevent and combat this phenomenon, and the lack of rehabilitation measures; the inadequacy of the measures taken to address the situation of children affected by drugs and/or other substance abuse; the lack of a legal framework for the administration of juvenile justice; and the absence of specialized judges and the lack of social workers and qualified legal defenders.

The Committee recommended that the government:

- ▶ undertake adequate legislative reform to ensure full conformity of legislation with all the provisions of the Convention;
- ▶ envisage acceding to other international human rights instruments, including the two International Covenants on Human Rights;
- ▶ develop a social workers' system;
- ▶ establish a multi-disciplinary monitoring system to assess progress achieved and difficulties encountered in the realization of the rights recognized by the Convention at the central and local levels, and in particular to monitor regularly the impact of economic change on children;
- ▶ explore the possibility of establishing an independent mechanism for complaints, such as an ombudsperson;
- ▶ increase, through the print and electronic media, public awareness of the participatory rights of children, and incorporate the Convention in the school curriculum;
- ▶ develop appropriate oral or visual material to further spread knowledge of the Convention among minorities;
- ▶ develop adequate and systematic training for professional groups working with and for children;

- ▶ adopt a legislative framework to encourage the establishment of national non-governmental organizations;
- ▶ implement fully the principle of non-discrimination and take a more active approach to eliminate discrimination against certain groups, in particular girls, children belonging to minorities and children born out of wedlock;
- ▶ adopt all appropriate measures, including awareness-raising among parents and communities, on the negative effects of early marriage on children;
- ▶ strengthen its efforts to raise awareness among community leaders and parents to ensure that all children are registered at birth;
- ▶ take all appropriate measures, including revision of legislation, to prevent and combat ill-treatment within the family and sexual abuse of children; initiate a comprehensive study on abuse, ill-treatment and domestic violence to improve the understanding of the nature and the scope of the problem, and set up social programmes to prevent all types of child abuses as well as to rehabilitate the child victims;
- ▶ strengthen law enforcement with respect to abuse and violence against children and develop adequate procedures and mechanisms to deal with complaints of child abuse, such as multi-disciplinary teams to handle cases, special rules of evidence, and special investigators or community focal points;
- ▶ take all appropriate measures, including legal ones, to ensure that children maintain contact with both parents in case of divorce or separation, as well as to ensure the recovery of maintenance for the child;
- ▶ ratify the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption;
- ▶ continue to strengthen efforts to make primary health care accessible to all children, in particular at the district level; make a concerted effort to combat malnutrition; promote adolescent health by strengthening reproductive health education and services to prevent and combat HIV/AIDS; and take all appropriate measures to prevent traffic accidents, such as teaching traffic rules at school;
- ▶ implement measures to improve school enrolment and pupil retention, especially of girls, children belonging to minorities and children living in rural areas;
- ▶ with long-term external financial assistance, build national capacity with regard to Unexploded Ordnance (UXO) to establish a sustainable clearing process in each area, provide continual community awareness programmes through schools, pagodas and local organizations, and develop rehabilitation programmes;
- ▶ undertake a study of the effects on children of toxic chemical contamination of soils and water as a result of the armed conflict and consult studies on this issue conducted in neighbouring countries;
- ▶ undertake efforts to prevent and combat economic exploitation of children or the performing of any work that is likely to be hazardous or to interfere with their education or be harmful to their health or physical, mental, spiritual, moral or social development;
- ▶ harmonize the age of the end of compulsory education with the minimum age for work by raising the former to 15, and consider ratifying ILO Convention No. 138 concerning the minimum age for employment;
- ▶ with regard to the increase in child prostitution and trafficking, take measures on an urgent basis, such as a comprehensive programme of prevention, including an awareness-raising and education campaign, in particular in the rural areas, rehabilitation of the victims and establishment of vocational training for young people;
- ▶ strengthen efforts to control child pornography;
- ▶ take all appropriate measures to prevent and combat drug and substance abuse among children and support rehabilitation programmes dealing with child victims of such abuse;
- ▶ pursue legal reform in the field of administration of juvenile justice, with particular attention to prevention of juvenile delinquency, protection of the rights of children deprived of their liberty, respect for fundamental rights and legal safeguards in all aspects of the juvenile justice system and full independence and impartiality of the judiciary dealing with juveniles; and,
- ▶ explore alternatives to institutional care as well as traditional mechanisms of conciliation.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1997/34, paras. 216–218)

No new cases of disappearance were transmitted by the Working Group (WG) to the government. The one outstanding case, which reportedly occurred in 1993, concerns the leader of the repatriation groups returning to Laos, who reportedly left his residence with an official of the Department of the Interior to go to that Department to discuss a future home for the returning groups. Since then, his whereabouts have remained unknown. The government informed the WG that a thorough investigation into the case has been conducted but the victim's whereabouts remain unknown.

Religious intolerance, Special Rapporteur on: (E/CN.4/1997/91, paras. 9, 17, 19, 21, 23, 24, 26, 34, 41)

The report notes that information has been received indicating that: authorities are applying a discriminatory policy against Christians; there have been campaigns aimed at forcing believers to renounce their faith; some places of worship have been closed by the authorities; and, there have been reports of cases of ill-treatment, arrests and detention of both clergy and believers. The report summarizes information provided by the government on legislation related to tolerance and non-discrimination with regard to religion or belief. The government denied reports of an official campaign against Christians. However, it also emphasized its view that some Christians and non-governmental organizations had used religion for political ends and were trying to convert people to Christianity in exchange for material assistance and promises of exemption from military service or state taxes. The government stated that anyone responsible for such disturbances of

public order and social stability, irrespective of their religion, are liable to prosecution.

Sale of children, child prostitution, child pornography, Special Rapporteur on the: (E/CN.4/1997/95, para. 39)

The report notes information indicating that Laos is among the countries in the Mekong region where child trafficking is rife.

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LEBANON

Date of admission to UN: 24 October 1945.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Lebanon has submitted a core document (HRI/CORE/1/Add.27/Rev.1) for use by the treaty bodies. At the time the report was prepared by the government it was noted that as a result of the 1975–1990 war there were no reliable statistics upon which to provide accurate demographic data.

All treaties ratified by Lebanon acquire mandatory force of law and no further procedure is required for their incorporation into internal legislation. In its preamble, the Constitution states that Lebanon subscribes to the International Bill of Human Rights.

Economic, Social and Cultural Rights

Acceded: 3 November 1972.

Lebanon's second periodic report is due 30 June 1995.

Civil and Political Rights

Acceded: 3 November 1972.

Lebanon's third and fourth reports were due 21 March 1988 and 1993 respectively; the fifth periodic report is due 21 March 1998.

Lebanon's second periodic report (CCPR/C/42/Add.14) was considered by the Committee at its March/April 1997 session. The government's report contains information on constitutional provisions related to self-determination, freedom of opinion and belief, equality of rights, freedom of conscience and religion, and freedom of association, as well as the individual use of national languages and access to the courts. The report also includes information on remedies for human rights violations, the status of women, provisions in the Penal Code related to deprivation of liberty and due process and the independence of the judiciary. The government stated that a temporary ban on demonstrations and gatherings was imposed to avoid a return to anarchy and armed conflict in advance of the September 1996 parliamentary elections.

The Committee's concluding observations (CCPR/C/79/Add.78) cited a number of factors affecting implementation of the Covenant, including the armed conflict, which destroyed much of Lebanon's infrastructure and caused severe economic disruption that continues to restrict resources allocated to human rights, and the fact that non-Lebanese military forces control parts of the territory and prevent application of national laws and provisions of the Covenant in areas not under the government's control.

The Committee welcomed: recent adoption of legislation to bring the legal system into line with obligations under international human right instruments; adoption of legislation to ensure the equality of rights and obligations between women and men; the government's readiness to reform and renovate the prison system; the establishment of the Commission on Rules of Procedure and Human Rights to examine legislative proposals from the aspect of their human rights implications and compatibility with human rights standards; and the establishment of a Constitutional Court.

The subjects of concern identified by the Committee were: lack of conformity in all parts of the legal system with the provisions of the Covenant; the fact that decisions passed by the Justice Council are not subject to appeal; the excessively broad circumstances under which a state of emergency may be proclaimed and enforced; the failure to meet obligations under paragraph 3, article 4 by not notifying the Secretary-General of the proclamation of a state of emergency; the amnesty granted to civilian and military personnel for human rights violations committed during the civil war; the role and respective competencies of the Lebanese internal security forces and the military with respect to arrest, detention and interrogation; the lack of information on the role and extent of the exercise of the power of arrest, detention and interrogation as well as the possible transfer to Syria of Lebanese citizens by the Syrian security services that continue to operate in Lebanon with the government's consent; the broad scope of jurisdiction of military courts and its application to civilians; the lack of supervision of the military courts' procedures and verdicts by ordinary courts; inadequacies in the procedures governing the appointment of judges and members of the Conseil Supérieur de la Magistrature; the failure in many instances to provide citizens with effective remedies and appeal procedures; well substantiated allegations of torture and ill-treatment committed by the police, the Lebanese and non-Lebanese security forces operating in the country; the occurrence of arbitrary arrest and detention, searches without warrants, abusive treatment of individuals deprived of liberty and violations of the right to fair trial; the continuing need for reform and modernization of the prison system; and, the lack of clear segregation in the prisons of minors from adults and those convicted from those awaiting trial.

The Committee also expressed concern over: both the legal and de facto discrimination against women despite legislative amendments to eliminate such discrimination; provisions in the Criminal Code that impose harsher sentences for conviction on adultery on women than on men; restrictions on women's right to leave the country and making the exercise of the right dependent on the consent of husbands; provisions that do not allow Lebanese citizens to be married other than in accordance with the laws and procedures of one of the recognized religious communities; and, the lack of equality of rights for women under the laws and procedures in the recognized religious communities regulating marriage.

Other areas of concern addressed by the Committee were: extension of the number of crimes carrying the death penalty; the practice of employers confiscating the passports of foreign workers; the stipulation that every Lebanese citizen must belong to one of the religious denominations officially

recognized by the government and that this is a requirement to be eligible to run for public office; provisions in the Media Law of November 1994 and Decree No. 7997 of February 1996 restricting licensing of television and radio stations to three and 11 stations respectively with the effect of restricting media pluralism and freedom of expression; the differentiation between radio and television stations stipulating which may broadcast news and political programmes and which may not; the total ban on public demonstrations, justified on grounds of public safety and national security; de facto restrictions on freedom of association through a process of prior licensing and control; and denial to civil servants of the right to form associations and to bargain collectively.

The Committee recommended that the government:

- ▶ undertake a comprehensive review of the legal framework for the protection of human rights to ensure compliance with the Covenant;
- ▶ consider establishing a national ombudsman or independent national human rights commission with the authority to investigate human rights violations and make recommendations on remedial action to the government;
- ▶ suspend Decree-Law 102 setting out the circumstances under which a state of emergency may be proclaimed and enforced or replace it with legislation consistent with the provisions of article 4 of the Covenant;
- ▶ ensure that all future proclamations of states of emergency are strictly limited in time and notified in the manner prescribed in the Covenant;
- ▶ review the jurisdiction of the military courts and transfer the competence in all trials concerning civilians and in all cases concerning human rights violations by members of the military to ordinary courts;
- ▶ review as a matter of urgency the procedures governing the appointment of members of the judiciary with the aim of ensuring their full independence;
- ▶ investigate the credible allegations of instances of torture and ill-treatment raised by the Committee;
- ▶ review and amend as necessary laws governing the status of women, women's rights and obligations in marriage, and civil obligations to ensure legal and de facto equality for women in all aspects of society;
- ▶ ensure access and effective remedies for all forms of discrimination;
- ▶ introduce civil laws on marriage and divorce and make them available to everyone;
- ▶ review its policy related to capital punishment with the aim of limiting and ultimately abolishing it, and include in the next report a detailed list of all crimes for which the death sentence may be imposed, as well as a list of all cases in which the death sentence was pronounced and/or executed;
- ▶ take effective measures to protect the rights of foreign workers by preventing the confiscation of their passports and provide an accessible and effective means for recovery of confiscated passports;
- ▶ review and amend the Media Law and its implementing decree to bring it into line with article 19 of the Covenant and establish an independent broadcasting licensing

authority with the power to grant licences on the basis of reasonable and objective criteria;

- ▶ lift as soon as possible the ban on public demonstrations;
- ▶ review and lift the ban on the establishment of associations by civil servants;
- ▶ consider ratifying or acceding to the Optional Protocol to the Covenant; and,
- ▶ include in the next report information on whether domestic courts have given effect to the Covenant's guarantees in their decisions and how potential conflicts between domestic statutes and the Covenant have been resolved.

Racial Discrimination

Acceded: 12 November 1971.

Lebanon's sixth through 13th periodic reports were submitted as one document (CERD/C/298/Add.2) which is not yet scheduled for consideration by the Committee; the 14th periodic report is due 12 December 1998.

Reservations and Declarations: Article 22.

Discrimination against Women

Acceded: 16 April 1997.

Lebanon's initial report was due 21 May 1997.

Reservations and Declarations: Paragraph 2 of article 9; paragraphs 1 (c), (d), (f) and (g) of article 16; paragraph 2 of article 29.

Rights of the Child

Signed: 26 January 1990; ratified: 14 May 1991.

Lebanon's second periodic report is due 23 June 1998.

COMMISSION ON HUMAN RIGHTS

At its 1997 session, the Commission on Human Rights considered the situation in Lebanon under the 1503 procedure. The documents prepared for this process and the summary records of discussion are confidential. The Commission decided to discontinue consideration of Lebanon under 1503.

Report of the S-G on the human rights situation in Southern Lebanon and West Bekaa

The report of the Secretary-General on the human rights situation in southern Lebanon and West Bekaa (E/CN.4/1997/49) notes that, as requested by the Commission on Human Rights, the resolution adopted at the 1996 session (1996/68) was brought to the attention of the Israeli government along with an invitation to the government to provide information concerning the extent of its implementation of the resolution. No reply had been received at the time of the preparation of the Secretary-General's report.

At its 1997 session the Commission on Human Rights adopted by roll call vote a resolution on the human rights situation in southern Lebanon and West Bekaa (1997/55). The resolution was adopted by a vote of 51 in favour, 1 opposed, 1 abstention. In the resolution, the Commission: expressed grave concern at the practices of the Israeli occupation forces in southern Lebanon and West Bekaa; regretted the failure of Israel to implement Security Council resolutions 425 (1978) and 509 (1982); censured repeated Israeli aggression in southern Lebanon and West Bekaa, including the large-scale offensive of April 1996; reaffirmed that the

continued occupation and practices by Israeli forces constitute a violation of relevant Security Council resolutions and the will of the international community and the conventions in force on this matter; expressed the hope that peace in the Middle East will put an end to human rights violations being committed in the occupied zone of southern Lebanon and West Bekaa; expressed concern at the detention by Israel of Lebanese citizens in detention centres in Khiyam and Marjayoun and the deaths of some detainees resulting from ill-treatment and torture; deplored continued Israeli violations of human rights in these areas, including abduction and arbitrary detention, destruction of houses, confiscation of property, expulsion from land and bombardment of peaceful villages and civilian areas; called on Israel to put an immediate end to such practices as air raids and the use of prohibited weapons such as fragmentation bombs; called on Israel to comply with the Geneva Conventions of 1949 and, in particular, the Convention related to the protection of civilians in time of war; called on Israel to release immediately all Lebanese abducted or imprisoned and those detained in prisons and detention centres; affirmed the obligation of Israel to commit itself to allowing the International Committee of the Red Cross and other international humanitarian organizations to conduct periodic visits to detention centres in Khiyam and Marjayoun; and, requested the Secretary-General to report to 1997 session of General Assembly and 1998 session of Commission.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on: (E/CN.4/1997/4, paras. 4, 5, 17)

The report notes that two cases and one urgent appeal were transmitted to the government. The government responded to the two cases but no details on them, the urgent appeal or the government's response are provided.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1997/34, paras. 219-225)

The Working Group (WG) transmitted seven newly reported cases of disappearance to the government. The majority of the 281 cases remaining to be clarified occurred in 1982 and 1983 in the context of the civil war. Those responsible for the disappearances are said to have belonged to the Phalangist militia, the Lebanese army, or its security forces; in some cases, the Israeli army was also reportedly involved in the arrests, together with one of the other forces. The report notes that most of the detentions occurred in Beirut and its suburbs, and were made by armed men in civilian clothes operating from vehicles; in a number of cases, the missing person was reportedly arrested and taken away from the Sabra and Chatila camps in September 1982. Information also indicated that in some cases which occurred in 1984, 1985 and 1987, the arrested persons were foreign nationals who were abducted in Beirut and, for some of these, religious groups such as the "Islamic Holy War" later claimed responsibility. Information on other cases indicated that the missing persons were arrested by members of the Syrian army or security

services at check-points, before being transferred to and detained in Syria.

The Lebanese government responded to one case and informed the WG that the person concerned had been charged with terrorist operations, attempt to commit murder and conspiring with the enemy, and that in November 1996 his case was before the Military Tribunal. The Syrian government replied to two cases, noting that one person had been released and the other had been detained on charges of espionage, tried and sentenced to life imprisonment.

Religious intolerance, Special Rapporteur on: (E/CN.4/1997/91, para. 9)

The report simply refers to the fact that the Special Rapporteur transmitted concerns to the government.

Toxic wastes and products, Special Rapporteur on: (E/CN.4/1997/19, para. 53)

The report refers to a complaint received by the Special Rapporteur, related to the dumping of toxic wastes in Lebanon, that led to the hospitalization of a man whose family was charged US\$30,000 for medical treatment.

Mechanisms and Reports of the Sub-Commission

States of emergency, Special Rapporteur on: (E/CN.4/Sub.2/1997/19/Add.1, Section I)

The report notes that there is a de facto state of emergency in Lebanon.

Other Reports

Detention of international civil servants, Report of the S-G to the CHR: (E/CN.4/1997/25, paras. 10-17, Annex)

The report of the Secretary-General summarizes information provided by the UN Interim Force in Lebanon (UNIFIL) referring to the signing of a status-of-forces agreement with the government in December 1995. The agreement granted UNIFIL and its officials *de jure* recognition of privileges and immunities and provided the legal framework for the relationship between the government and the mission. The report notes the case of a local staff member who was sentenced by a local court to a fine and two months' imprisonment for a traffic accident which occurred while he was driving a UN vehicle and on duty, as well as the case of another local staff member who was taken into custody by the local security force at Beirut airport and imprisoned under "administrative detention" without charge, trial or conviction. No reason for his arrest and detention was given and he was eventually released. The UNIFIL information also referred to the fact that UN positions and vehicles came under direct fire during the military confrontation in South Lebanon, in April 1996, between Israeli forces and the Hezbollah.

The report notes that four UN staff have been missing in Lebanon as a result of having been detained between 1983 and 1986 by militias or unknown elements.

Mass exoduses, Report of the HCHR to the CHR: (E/CN.4/1997/42, Section II.A)

The report of the High Commissioner for Human Rights summarized information received from the government referring to efforts made to facilitate the return of the displaced. It

emphasized that the objectives of the Ministry for the Displaced were reintegration through rehabilitation of areas of return, rehabilitation of infrastructure, housing and public services, as well as of the productive and economic sectors and the achievement of reconciliation.

Minimum humanitarian standards, Report of the S-G to the CHR: (E/CN.4/1997/77, Section I, Lebanon)

The report of the Secretary-General notes the government's agreement with principles set out in the resolution adopted by the Commission on Human Rights at its 1996 session (1996/26), including humanity and the dictates of public conscience, the need to address emergency situations in a manner consistent with international law and the UN Charter and the need to ensure that national legislation in this area conforms with rule of law and does not involve discrimination on any grounds. The government notes that the Emergency Act in Lebanon is consistent with the principles of the International Bill of Human Rights and does not discriminate between citizens.

SECURITY COUNCIL

The reports of the Secretary-General on the UN Interim Force in Lebanon (UNIFIL) (S/1997/42; S/1997/550, July 1997) describe the situation in the occupied area and state that hostilities continued between the Israel Defence Forces (IDF) and its local Lebanese auxiliary, the de facto forces (DFP), on the one hand, and armed elements who have proclaimed their resistance against the Israeli occupation on the other. The reports note, *inter alia*: firing into populated areas was maintained by the antagonists at a relatively low level, although there were a number of serious incidents, some of which resulted in the deaths or injury of civilians; UNIFIL continued its efforts to limit the conflict, prevent its area of deployment from being used for hostile activities, and defuse situations that could lead to escalation; a measure of protection was provided to the villages and to farmers working in the fields; assistance was provided to the civilian population in the form of medical care, harvest patrols, clothes, blankets, food, engineering works and the distribution of educational material and equipment to poorer schools; water projects, equipment or services for schools and orphanages and supplies to social services and needy people were provided from resources made available by troop-contributing countries; and, UNIFIL continued the disposal of unexploded ordnance in its area of operation. Reference is made to the case of a 65-year-old Palestinian who had been accommodated at UNIFIL headquarters since April 1995, after he was deported by the Israeli authorities and denied entry by the Lebanese authorities. Following an appeal by the Secretary-General the Palestinian was finally allowed to leave for Jordan via Israel.

Resolutions adopted by the Security Council (S/RES/1095, January 1997; S/RES/1122, July 1997), *inter alia*: reiterated the Council's strong support for the territorial integrity, sovereignty and political independence of Lebanon within its internationally recognized boundaries; called on all parties concerned to cooperate fully with UNIFIL for the full implementation of its mandate; condemned all acts of violence committed in particular against the Force, and urged the parties to put an end to them; and, extended the UNIFIL mandate to the end of January 1998.

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MALAYSIA

Date of admission to UN: 17 September 1957.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Malaysia has not submitted a core document for use by the treaty bodies.

Discrimination against Women

Acceded: 5 July 1995.

Malaysia's initial report was due 4 August 1996.

Reservations and Declarations: Paragraph (f) of article 2; paragraph (a) of article 5; paragraph (b) of article 7; and articles 9, 11 and 16.

Rights of the Child

Acceded: 17 February 1995.

Malaysia's initial report was due 19 March 1997.

Reservations and Declarations: Articles 1, 2, 13, 14, 15, 22, 28, and 37; paragraphs 3 and 4 of article 40; articles 44 and 45.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on: (E/CN.4/1997/4, paras. 4, 7)

The report notes that nine cases were transmitted to the government and that a reply had not been received. No details of the cases were provided.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on : (E/CN.4/1997/60, paras. 15, 16, 17, 18, 19, 28, 81, 83, 91; E/CN.4/1997/60/Add.1, paras. 304-307)

The report of the Special Rapporteur (SR) refers to information indicating a prevalence of abuses in camps for detained migrants, including a series of deaths allegedly caused by malnutrition, beri-beri and other treatable illnesses. As well, the report notes that an urgent appeal was sent to the government on behalf of one man reportedly facing imminent execution after the Federal Court in Kuala Lumpur had rejected his appeal. The information received on the case indicated that the man was sentenced to death for drug trafficking, specifically, 1.3 kilograms of cannabis. The report notes that the provisions in Malaysia's Dangerous Drug Act makes possession of at least 15 grams of heroin, 1,000 grams of opium or 200 grams of cannabis mandatorily punishable by the death penalty and that, according to information received, a person caught possessing such a quantity of drugs is presumed guilty and must prove innocence.

In response to the urgent appeal, the government stated that the allegation of reverse onus of proof on guilt and innocence was inaccurate, noting that the presumption deals with the principle that a person is deemed to be trafficking in dangerous drugs unless the contrary is proved, or the presumption was rebutted. The government also informed the SR that the aim of the law was to allow the prosecution to rely on that presumption by shifting the burden of proving that the quantity of drugs found in the possession of the accused was legal, but that the overall burden of proof lay with the prosecution and that the overall standard was "beyond reasonable doubt".

The SR noted that as a fundamental element of the right to a fair trial, the presumption of innocence, *inter alia*, means that the burden of proof in a criminal trial lies on the prosecution and that the accused has the benefit of the doubt. Consequently, the SR stated the view that section 37 (da) of the Dangerous Drugs Act, which partially shifts the burden of proof to the accused, does not provide sufficient guarantees for the presumption of innocence and may lead to violations of the right to life, in particular since the crime of drug trafficking carries a mandatory death sentence. The SR urged the government to amend its Dangerous Drugs Act so as to bring it into line with international standards.

Independence of judges and lawyers, Special Rapporteur on: (E/CN.4/1997/32, paras. 17, 18, 21, 122–134)

The report notes that the Special Rapporteur (SR) has previously expressed concern over allegations of impropriety in the Malaysian judiciary with regard to a few decisions of the courts and referred to events that had aroused considerable public anxiety as to the integrity, independence and impartiality of the judiciary. The SR also mentioned the fact that he had issued a press statement indicating his intention to investigate the complaints. The report reviews developments which arose as a result of an article published in the November 1995 issue of *International Commercial Litigation*, which referred to the SR's concerns, including the fact that the SR had been named in a defamation suit, in violation of the UN treaty on the immunities and privileges of UN personnel and representatives.

In addition to commentary on progress related to the lawsuit, the report notes that the SR transmitted to the government concerns related to proposed amendments to the Legal Profession Act 1976 to provide *inter alia*: for non-private practitioners, including lawyers in full-time service in the government who are not advocates or solicitors admitted to practice, to become members of the Malaysian Bar; that the Attorney General be statutorily appointed the President of the Malaysian Bar or, at least, exercise a controlling influence over the affairs of the Malaysian Bar; and, that the Attorney General would appoint members to the Bar Council. The report cites a speech by the Attorney-General in which it is asserted: the Bar Council is created by statute; it speaks as if it is a private law association, an NGO or an opposition political party; it does not understand, nor seek to understand the various sensitive issues facing the government; and, if the leaders of the Bar Council can bring themselves to talk with genuine respect for judges and officers of the Crown, instead of taking positions by public statements and open criticisms of the judiciary and the government, then and only then can there be a truly useful forum in which to discuss the various problems the profession faces. The report notes that the Malaysian Bar, in response to the speech, adopted a resolution in which it reaffirmed that the independence of the Malaysian Bar is vital to the democratic society, the rule of law and the independence of the judiciary, and essential to the growth of Malaysia as a leading commercial and economic entity in the region. The resolution also expressed strong opposition to any measures to amend the Legal Profession Act 1976 that would have the effect of diluting or impairing the independence of the Malaysian Bar and/or the Bar Council.

Religious intolerance, Special Rapporteur on: (E/CN.4/1997/91, para. 9, 17, 19, 24, 26, 41)

The report notes violations of religious freedom against Al Arqam as well as prohibitions on Jehovah's Witnesses and the Unification Church, and violations of the right to life, physical integrity and health of clergy and believers.

The Special Rapporteur's interim report to the General Assembly (A/52/477, paras. 46, 50) notes the reply of the government to information previously transmitted, stating that all persons who had belonged to the Al Arqam movement, which was banned, had been released and had asked the government to help them to counteract the aberrant teachings spread by that movement.

Toxic wastes and products, Special Rapporteur on: (E/CN.4/1997/19, paras. 52, 62)

The report refers to information dating from 1992 and a Japanese joint venture called Asian Rare Earth (ARE) which had to close for environmental reasons and for posing health threats to villagers in Malaysia. The report notes that lawsuits had been filed against the company in 1985 requesting compensation for the pain and suffering ARE caused the village; that, in 1992, ARE received permission to resume operation but was not reopened by Mitsubishi pending a final decision of the court. The report notes that it was unclear when the decision on the lawsuit would be made.

The report cites information related to the operations of UK-based Imperial Chemical Industries (ICI) that makes and sells paraquat, a herbicide used on plantations in Malaysia, and operated a formulation plant in Malaysia. The information received indicated use of the herbicide had resulted in health problems for a number of young women working as pesticide sprayers on plantations.

Violence against women: (E/CN.4/1997/47, Sections III, IV, V)

In the section dealing with rape and sexual violence, the report notes that "one-stop" rape crisis centres have been set up in some hospitals, complete with special examination suites. The report states that: doctors serving these suites are well trained in dealing with evidence collection related to rape; police are called upon to record the incident; a volunteer from a woman's organization is asked to be present to assist the woman victim; and, this approach has been useful in streamlining the procedure and investigation in preparation for a rape trial. In the section of the report dealing with trafficking in women and forced prostitution, the report refers the case of a young woman who was recruited for prostitution in Taiwan by a high-ranking Malaysian police officer. In commentary on violence against women migrant workers, the report refers in general terms to inhumane working conditions, indentured servitude and widespread physical abuse, and notes that the situation of migrant domestic workers in Malaysia is often characterized by such abuse. The report also notes that Malaysia does not allow migrant workers to change their employers, leading to a form of "state-sanctioned, indenture-like exploitation", in which the worker is compelled to stay in the sponsored position until either she leaves the country or legal permanent resident status is granted. Reference is made to the fact that Malaysia banned the employment of maids by single parents despite the fact that

no apparent correlation between sexual violence and single parenting has been established and the policy fails to take into account for the needs of single working mothers.

Mechanisms and Reports of the Sub-Commission

States of emergency, Special Rapporteur on:
(E/CN.4/Sub.2/1997/19/Add.1, Section II)

The report refers to the fact that four states of emergency proclaimed since independence were never revoked as well as the fact that emergency legislation currently in force expressly provides for preventive detention.

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MALDIVES

Date of admission to UN: 21 September 1965.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Maldives has not submitted a core document for use by the treaty bodies.

Racial Discrimination

Acceded: 24 April 1984.

Maldives' fifth through seventh periodic reports were due 24 May 1993, 1995 and 1997 respectively.

Discrimination against Women

Acceded: 1 July 1993.

Maldives' initial report was due 1 July 1994.

Reservations and Declarations: General reservation.

Rights of the Child

Signed: 21 August 1990; ratified: 1 February 1991.

Maldives has submitted its initial report (CRC/C/8/Add.3) which is pending for consideration at the Committee's January 1998 session; the second periodic report was due 12 March 1998.

Reservations and Declarations: Paragraph 1 of article 14 and article 21.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on: (E/CN.4/1997/4/Add.1, Decision 36)

Decision 36 (1995) concerned two individuals, the founder and deputy editor and the co-founder and publishing manager of a magazine. The first was arrested in November 1994 after attending a meeting of journalists in Nepal; his colleague was arrested on the same day. Both were detained, along with several others opposed to the government, reportedly in a governmental effort to silence the opposition prior to parliamentary elections scheduled for December. Subsequently, the two journalists appear to have been placed under house arrest, a measure lifted in August 1995. The report notes that both men had been arrested previously, in 1990; at that time, they were convicted and sentenced to prison on charges of planning to carry out an attack during a regional conference held in Maldives. The two journalists were released in 1993 after being held in prison for three years, allegedly in inhuman conditions. The facts of the cases as transmitted by the WG were not challenged by the

government. The WG decided that the detentions, including the house arrests, were arbitrary in that the journalists merely exercised their right to freedom of opinion and expression as guaranteed in article 19 of the UDHR and article 19 of the ICCPR.

Religious intolerance, Special Rapporteur on:
(E/CN.4/1997/91, para. 9; A/52/477, para. 46)

The reports refer to discrimination against all religions and religious groups that do not reflect the official or state religion and note that the Special Rapporteur (SR) has transmitted information to the government, which has not responded.

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MARSHALL ISLANDS

Date of admission to UN: 17 September 1991.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: The Marshall Islands has not submitted a core document for use by the treaty bodies.

Rights of the Child

Signed: 14 April 1993; ratified: 4 October 1993.

The initial report for Marshall Islands was due 2 November 1995.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

International peace and security, Report of the S-G:
(E/CN.4/Sub.2/1997/27, paras. 45-47)

The report of the Secretary-General cites information provided by the International Indian Treaty Council (IITC), an NGO. This information refers to contamination of indigenous peoples and communities as a result of nuclear tests, the storage and dumping of nuclear waste, and experiments and testing on humans involving radioactive materials. IITC stated that the peoples of the Marshall Islands are experiencing many of the consequences of nuclear testing, including the loss of traditional islands.

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MICRONESIA

(Federated States of)

Date of admission to UN: 17 September 1991.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Micronesia has submitted a core document (HRI/CORE/1/Add. 72) for use by the treaty bodies. The report prepared by the government contains mainly demographic and statistical data and some information on the political system related to self-government and the relationship with the United States in defence matters. The report notes that the Constitution guarantees fundamental rights and establishes the separation of judicial, executive and legislative powers.

Rights of the Child

Acceded: 5 May 1993.

Micronesia's initial report (CRC/C/28/Add.5) has been submitted and was pending for consideration at the Committee's January 1998 session; the second periodic report is due 3 June 2000.

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MONGOLIA

Date of admission to UN: 27 October 1961.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Mongolia has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Signed: 5 June 1968; ratified: 18 November 1974.

Mongolia's third periodic report was due 30 June 1994.

Reservations and Declarations: Paragraph 1 of article 26.

Civil and Political Rights

Signed: 5 June 1968; ratified: 18 November 1974.

Mongolia's fourth periodic report was due 4 April 1995.

Reservations and Declarations: Paragraph 1 of article 48.

Optional Protocol: Acceded: 16 April 1991.

Racial Discrimination

Signed: 3 May 1966; ratified: 6 August 1969.

Mongolia's 11th through 14th periodic reports were due 5 September 1990, 1992, 1994 and 1996 respectively.

Reservations and Declarations: Paragraph 1 of article 17.

At its March 1997 session the Committee reviewed implementation of the Convention in the absence of a report from the government. The Committee's concluding observations (CERD/C/50/Misc.6) expressed regret that no report has been submitted since 1988 and the government had not responded to the invitation meet with the Committee at the March 1977 session. The Committee decided to send a communication to the government setting out its reporting obligations and urging that the dialogue with the Committee should be resumed as soon as possible. The Committee suggested that the government might want to request technical assistance under the programme offered by the Office of the High Commissioner for Human Rights in drafting and submitting an updated report to the Committee.

Discrimination against Women

Signed: 17 July 1980; ratified: 20 July 1981.

Mongolia's third and fourth periodic reports were due 3 September 1990 and 1994 respectively.

Rights of the Child

Signed: 26 January 1990; ratified: 5 July 1990.

Mongolia's second periodic report was due 1 September 1997.

THEMATIC REPORTS***Mechanisms of the Commission on Human Rights***

Religious intolerance, Special Rapporteur on: (A/52/477, paras. 25, 33, 37)

The Special Rapporteur's interim report to the General Assembly notes that communications were sent to the government and that there does not exist an alternative to military service for conscientious objectors.

Other Reports

Regional arrangements, Report of the S-G to the CHR: (E/CN.4/1997/44, para. 23)

The report of the Secretary-General notes that Mongolia has received assistance through activities carried out within the framework of the technical cooperation programme for the Asian and Pacific region.

FIELD OPERATIONS

The UN Human Rights Field Office in Mongolia was established in 1995 and is located in Ulaan Baatar. The Officer-in-charge is Mrs. Ts Hulan. The technical cooperation programme focuses on three areas: administration of justice and institution building, information and education, and the strengthening of civil society, including through non-governmental organizations. The project will be carried out through training courses and seminars, provision of advisory services and technical assistance, educational activities, and support to human rights groups and civil society in Mongolia. (E-mail: unchrmon@magicnet.mn)

In March 1997, a workshop on the development of a national programme on human rights education was conducted in Ulaan Baatar, with 50 participants and observers representing 18 provincial education centres, the national university, schools, six major NGO's and government officials. The field office also held regular meetings with representatives of civil society and petitioners, and it received 12 consultation requests and petitions on alleged violation of human rights.

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NAURU

Date of admission to UN: Nauru is not a member of the UN.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Nauru has not submitted a core document for use by the treaty bodies.

Rights of the Child

Acceded: 27 July 1994.

Nauru's initial report was due 25 July 1994.

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NEPAL

Date of admission to UN: 14 December 1955.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Nepal has submitted a core document (HRI/CORE/1/Add.42) for use by the treaty bodies. The report prepared by the government contains demographic and statistical data and information on the general political structure, including the steps taken to establish a parliamentary

democracy, and the general legal framework for the protection of human rights.

The Constitution sets out the framework for the protection of human rights, including remedies. The protection and promotion of human rights is one of the Directive Principles of the state and binds the state to the promotion of rights related to rule of law, the maintenance of order in society, education, health, housing and employment, cultural diversity, greater participation by women through special provisions related to education, health and employment, children's rights and legal aid for indigent persons. There are 75 district courts, 11 appellate courts and one Supreme Court in Nepal and, in cases where there is a divergence between national law and provisions of international treaties to which Nepal is a state party, the provisions of the treaty are applied.

Economic, Social and Cultural Rights

Acceded: 14 May 1991.

Nepal's initial report was due 30 June 1993.

Civil and Political Rights

Acceded: 14 May 1991.

Nepal's second periodic report was due 13 August 1997.

Optional Protocol: Acceded: 14 May 1991.

Racial Discrimination

Acceded: 30 January 1971.

Nepal's 14th periodic report was due 1 March 1998.

Reservations and Declarations: Paragraphs (a), (b) and (c) of article 4; article 6; and article 22.

At its March 1997 session, the Committee reviewed implementation procedures in the absence of a report from the government. The Committee's concluding observations (CERD/C/50/Misc.14/Rev.1) note that no report had been submitted by the government since 1986. The Committee welcomed, however, the presence of a government delegation and the oral information provided on legal developments related to implementation of the Convention and the information that Nepal would soon resume its reporting obligations under the Convention.

In May 1997, Nepal's ninth through 13th periodic reports were submitted as one document (CERD/C/298/Add.1) which has not yet been scheduled for consideration by the Committee.

Discrimination against Women

Signed: 5 February 1991; ratified: 22 April 1991.

Nepal's initial and second periodic reports were due 22 May 1992 and 1996 respectively.

Torture

Acceded: 14 May 1991.

Nepal's second periodic report was due 12 June 1996.

Rights of the Child

Signed: 26 January 1990; Ratified: 14 September 1990.

Nepal's second periodic report was due 13 October 1997.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on: (E/CN.4/1997/4, paras. 17, 21, 22, 36-42)

The report notes that one urgent appeal was sent on behalf of 14 persons and the government's response, that the individuals had been released.

The Working Group (WG) on arbitrary detention visited Nepal from 22 to 29 April 1996. The main purpose had originally been to visit the Bhutanese refugee camps in the eastern part of the country. The government had agreed to this on condition that it not be involved in the preparation for or conduct of the mission. The government then suggested that the visit incorporate elements within the traditional scope of the mandate. As a result, the report of the visit (E/CN.4/1997/4/Add.2) largely contains information on a number of areas related to detention, including laws, conditions in prisons and jails, due process and the overall functioning of the police and judiciary.

The WG observed that, at both the constitutional and the legislative level, Nepal has gradually established a system governed by the rule of law in which: the former absolute monarchy has become a constitutional monarchy; the multi-party system and press pluralism are constitutionally protected; the right of association is recognized and non-governmental human rights organizations enjoy a greater freedom to act and to report than in most neighbouring countries; while subject to the provisions of the national security law and the Public Offence Act, the rules of criminal procedure conform in the main to those set out in international human rights instruments; and, in 1990 the primacy of treaties over domestic laws was established. The Working Group noted, however, that there remains a need to make the principles established in law truly effective to ensure that the rule of due process does not become the exception. Among the difficulties identified as related to the issue of arrest and detention, the report notes that:

- ▶ the statutory 24-hour period of custody without charge and the 25-day maximum prescribed for pre-trial detention are not sufficiently observed;
- ▶ free legal assistance, as provided for in the Constitution, remains infrequent because persons arrested are not aware of this provision and there is a lack of funds;
- ▶ the presence of counsel during custody is possible but not compulsory;
- ▶ ill-treatment in police detention centres still occurs, partly because greater weight continues to be attached to confessions in the scale of evidence;
- ▶ the Public Offences Act, which theoretically deals only with ordinary offences, is applied to offences that rightly should be considered under the national security law, particularly in the western province of Rolpa where a guerilla base has been established;
- ▶ difficulties in securing the protection or release of a person — habeas corpus — were common when the Public Offences Act was applied;
- ▶ significant reform of military courts is required, given that they are still only composed of military personnel, have the power to try civilians who have committed offences against military personnel and to try offences committed by military personnel against civilians, allow only for military police to conduct relevant investigations, and conduct proceedings *in camera* when sitting as courts martial;

- ▶ investigations of alleged crimes continue to be hampered by a lack of forensic expertise, especially in the provinces, even though proof of guilt may depend on such evidence;
- ▶ overcrowding in prisons remains common, partly as a result of excessive periods of pre-trial detention;
- ▶ persons sentenced and unable to pay the prescribed fine remain in detention with no provision in law for a judge to impose a suspended sentence;
- ▶ standardization of records in places in detention is needed; and
- ▶ there appear to be Constitutional limitations on the protection of the human rights of aliens.

The recommendations in the report are aimed at assisting the government to continue measures needed for a successful transition from an absolute monarchy to one based on a constitutional monarchy with a system of representative government and rule of law. The recommendations include that the government:

- ▶ provide training to judges to ensure that the 25-day maximum for pre-trial detention is observed;
- ▶ introduce suspended sentences for minor offences;
- ▶ introduce the legal remedy of appeal to a court or independent authority;
- ▶ introduce provision for release on bail;
- ▶ take measures to make the right to free legal aid effective;
- ▶ take measures to make the right to counsel effective;
- ▶ reform military courts to address concerns outlined above;
- ▶ adopt provisions of the Convention against Torture in domestic legislation, particularly with a view to ensuring that those who commit acts of torture can be prosecuted and suffer penalty if found guilty;
- ▶ amend the Public Offences Act to clarify jurisdictional questions related to the current provision of 90-day pre-trial detention; and
- ▶ with respect to the bill establishing an independent national human rights commission, incorporate the principles on the status of such institutions adopted by the General Assembly on 20 December 1993 in resolution 48/134.

In a concluding comment, the Working Group urged the government to give priority to the recommendations dealing with human rights training, standardization of records, suspended sentences for minor offences, introduction of the right of appeal, sensitization of judges to the circumstances of the person concerned when imposing a fine, implementation of an effective system of free legal aid, incorporating the provisions in the Convention against Torture into national laws, reforming the Public Offences Act, and incorporating the UN principles on national institutions into domestic legislation.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1997/34, paras. 253–255)

No new cases of disappearances were transmitted by the Working Group (WG) to the government. The report notes

that four of the five outstanding cases occurred in 1985 and concern four men who disappeared from police custody. Their detentions took place within the context of the state's response to a series of nation-wide political protests in late 1984 and bomb explosions in Kathmandu and other cities in June 1985. The one other case of reported disappearance pending with the WG is said to have occurred in 1993 and concerns a student who allegedly disappeared in Kathmandu. The report notes that no new information was received from the government on any of these cases.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1997/60, paras. 18, 32, 35, 51; E/CN.4/1997/60/Add.1, paras. 356–358)

The report notes that allegations of violations of the right to life concerning 18 individuals were transmitted to the government. The cases involved deaths in custody; death in custody following torture, and deaths caused by police in various circumstances. No reply was received from the government and the Special Rapporteur (SR) expressed concern at the number of allegations received regarding violations of the right to life committed by police officers. The SR called on the government to prevent the future occurrence of such violations, to investigate the allegations, to bring those responsible to justice, and to provide compensation to the victims' families.

Religious intolerance, Special Rapporteur on: (E/CN.4/1997/91, paras. 9, 17, 26)

The report refers to violations of religious freedom against Christianity and the fact that a ban on proselytizing includes provision in law for prison sentences.

The Special Rapporteur's interim report to the General Assembly (A/52/477, paras. 25, 28, 31, 34, 37, 51, 59) notes that communications were transmitted to the government related to violations of religious freedom against Christians and converts to Christianity and attacks on and destruction of places of worship. In response to information previously transmitted related to adoption of a law forbidding proselytism, the government stated that there was full freedom of religion and provided the SR with a copy of article 19 of the Constitution which states, in part, that "no person shall be entitled to convert another person from one religion to another".

Sale of children, child prostitution, child pornography, Special Rapporteur on the: (E/CN.4/1997/95, paras. 34, 39, 71)

The report refers to non-governmental efforts to do away with the *Deuki* system, a tradition in west Nepal where girls are forced into the flesh trade after being offered to a temple. The report notes that a girl becomes a *Deuki* when she is taken from a poor family to be offered to the gods; after she has become a *Deuki*, she cannot marry and often engages in prostitution for economic support. The report also notes that Nepal is among the countries in South Asia where child trafficking is rife, and that groups working against the trafficking of children into prostitution report that nearly 200,000 Nepali girls have been forced into slavery in brothels across the border in India. On this latter point, the report notes that: girls are sold for around 15,000 rupees; corruption is reported to be

present at practically all levels; parents, brothers and husbands are involved in trafficking to improve their own standard of living; the demand for virgin girls is increasing and the age of girls being trafficked to India is decreasing; the average age of a Nepalese girl entering an Indian brothel is said to be between 10 and 14 years; and, some five to seven thousand girls are being trafficked between Nepal and India annually.

Torture, Special Rapporteur on: (E/CN.4/1997/7, Section III; E/CN.4/1997/7/Add.1, paras. 345–347)

The report refers to information received, and communicated to the government, indicating that individuals arrested during police operations against Maoist political activists in the Rapti region of mid-western Nepal had been subjected to torture or other ill-treatment by police. The methods of torture reported include repeated beatings, beatings to the soles of the feet, the placing of nettles (Shishnu) on the body and the use of rollers on the thighs. The information also indicated that the constitutional provision limiting the duration of detention to 24 hours before remand was frequently ignored and that many of those detained beyond the 24-hour period were held incommunicado without relatives being informed of their detention. The Special Rapporteur transmitted 22 individual cases to the government. In addition to the cases of Maoist political activists, these cases involved 44 people, including children, who were arrested in February 1996 following the disappearance of a police constable. The information received on these cases alleged that the individuals had been arrested, and some severely beaten, because they were assumed to be sympathizers of the opposition party United People's Front (UPF).

Violence against women, Special Rapporteur on: (E/CN.4/1997/47, Sections III, IV; E/CN.4/1997/47/Add.4, paras. 3, 5)

In the section dealing with rape and sexual violence, the Special Rapporteur (SR) notes that, in Nepalese legislation, the crime of rape can only be committed against maids, widows or married women above 16 years. In the section addressing trafficking in women and forced prostitution, the report refers to the *Deuki* system (where girls are offered to the temple and then forced into prostitution), noting that in 1992 some 17,000 girls were endowed as *Deukis*. The report also refers to information indicating that some impoverished households in Nepal sell their daughters, often unknowingly, for money which is used to force the girl to work in debt bondage, and that of the 100,000 to 160,000 Nepalese women and girls reportedly working in India's brothels, at least 35 per cent were brought into India under the pretext of marriage or good jobs. The report cites information provided by a Nepalese non-governmental organization asserting that the only way to see a case of trafficking prosecuted is to bribe the local police. The report also notes that local government officials in Nepal undermined a village awareness programme when they accused women who were teaching villagers about migration and trafficking of lying, arguing that trafficking did not exist.

With regard to trafficked women who are deported or return home, the report states that they receive only limited

support from the government and are in danger of revictimization by their communities. The report cites the case of one Nepalese woman who was handed over by Indian police and kept in custody by Nepalese police while her family was summoned. The woman's family rejected her and, in all, she spent two years in custody.

The Special Rapporteur transmitted one case to the government related to a woman who was sentenced to one year in jail after being convicted of having had an abortion. The SR expressed concern about information claiming that more than half of the maternal deaths in the five major Kathmandu hospitals result from abortion-related complications and noted that abortion in Nepal is illegal and the penalties for women who obtain abortions and for those who perform abortions range from three months' to three years' imprisonment. The SR also expressed concern that, if a bill pending before Parliament is adopted, abortion would be made legal but married women would be required to have the consent of their husbands and unmarried women that of their parents in order to obtain an abortion, thereby restricting the rights of pregnant women to make their own reproductive choices.

Mechanisms and Reports of the Sub-Commission

Contemporary forms of slavery, Working Group on: (E/CN.4/Sub.2/1997/13, para. 49)

In the section dealing with bonded labour and child labour, the report refers to information indicating that indigenous peoples in Nepal are victims of slavery-like practices, ranging from the sexual exploitation of women and children to bonded labour and bondage.

States of emergency, Special Rapporteur on: (E/CN.4/Sub.2/1997/19/Add.1, Section I)

The report notes that a state of emergency is in effect in the Rolpa region in western Nepal.

Other Reports

Conscientious objection to military service, Report of the S-G to the CHR: (E/CN.4/1997/99, paras. 2, 15)

The report of the Secretary-General refers to information provided by the government stating that in Nepal there is neither compulsory military service nor conscription.

Detention of international civil servants, Report of the S-G to the CHR: (E/CN.4/1997/25, para. 3)

The report of the Secretary-General notes that a Nepali national was killed in an explosion while on posting in Iraq in December 1995.

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NIUE

Date of admission to UN: Niue is not a member of the UN.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Niue has not submitted a core document for use by the treaty bodies.

Rights of the Child

Acceded: 20 December 1995.

Niue's initial report was due 18 January 1998.

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OMAN

Date of admission to UN: 7 October 1971.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Oman has not submitted a core document for use by the treaty bodies.

Rights of the Child

Acceded: 9 December 1996.

Oman's initial report is due 1 April 1999.

Reservations and Declarations: Paragraph 4 of article 9; articles 7, 14, 21 and 30.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Religious intolerance, Special Rapporteur on: (A/52/477, paras. 21, 25, 28, 30, 33, 38, 41)

The Special Rapporteur's interim report to the General Assembly notes that communications were sent to the government related to violations of religious freedom against all religious groups and communities except for the official, state or predominant religion, namely non-Muslims; this has included the prohibition of proselytizing by non-Muslims aimed at Muslims and the prohibition on the publication of non-Muslim material. The government responded, indicating that domestic legislation guaranteed freedom of religion and religious observance.

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PAKISTAN

Date of admission to UN: 30 September 1947.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Pakistan has not submitted a core document for use by the treaty bodies.

Racial Discrimination

Signed: 19 September 1966; ratified: 21 September 1966.

Pakistan's 15th periodic report was due 4 January 1998.

The Committee considered Pakistan's 10th through 14th periodic reports, submitted as one document (CERD/C/299/Add.6), at its March 1997. The consolidated report prepared by the government contained information on: constitutional provisions and laws related to discrimination, demographic data, the press and institutional arrangements and other measures related to the protection of the rights of persons belonging to minorities. In the report, the government stated "The problem of racism and racial discrimination does not exist in Pakistan and the Government has taken effective measures to prevent incitement to or acts of discrimination based on theories of superiority of race, colour or ethnic origin (CERD/C/199/Add.6, para. 54)."

The Committee's concluding observations and comments (CERD/C/304/Add.25) referred to factors affecting implementation of the Convention, namely, the multiethnic and

multicultural society in Pakistan, the extreme poverty of certain groups, the presence of 1.2 million Afghan refugees, and the climate of violence in certain parts of the country.

The Committee viewed the completion of the democratic process, with the regular holding of elections, as a positive step towards better protection of human rights in general and full compliance with the Convention. Pakistan's definition of minorities based on the religious affiliation of the persons concerned and not on ethnic, racial or linguistic grounds was noted and the Committee commented that while religious minorities as such do not fall under the scope of the Convention religious differences may coincide with ethnic differences. On that basis, the Committee welcomed the constitutional provisions on non-discrimination and the institutions and measures that have been established to promote and protect minority rights, such as the Minorities Affairs Division, the National Commission for Minorities, the Federal Advisory Council for Minorities Affairs, the Districts Minority Committees and the National Committee on the Kalash People, as well as the monthly holding of meetings with minority members of the National Assembly.

The establishment of a Ministry of Human Rights was viewed positively, as was the role played by Pakistan's national Commission on Human Rights, in identifying and criticizing human rights violations, including those committed by the police and armed forces. Other developments received positively by the Committee included: the repeal of the separate electoral system which allowed members of minorities to vote only for certain reserved seats in elections; the fact that members of minorities are now entitled to participate directly in the general election process, in addition to electing their own representatives; for the first time since Pakistan's independence, the direct participation in national elections of the inhabitants of the Tribal Areas; measures taken and campaigns to promote human rights education and to raise people's awareness of their rights and obligations; and the planned incorporation of human rights education in the school curricula.

The Committee expressed concern that the state policy of recognizing only religious minorities excludes ethnic, linguistic or racial groups living in the country from any specific protection under the Convention that would derive from their official recognition as minorities. Regret was expressed that Pakistan's laws do not fully comply with article 4 (b) of the Convention in terms of declaring illegal organizations and activities which promote and incite racial discrimination. The Committee indicated a number of areas where the information provided in Pakistan's report was inadequate. These areas included: lack of specific information on the laws and regulations concerning the Federally Administered Tribal Areas and the North-West Frontier Province, as well as on the economic and social situation in those areas; lack of information on the implementation of article 4 of the Convention and non-compliance in Pakistani laws regarding the obligation to declare illegal organizations and activities that promote and incite racial discrimination; insufficient information on the practical effect of provisions related to equality before the law and security of person; insufficient disaggregated information on the participation in public life, as well as economic and social indicators, especially in connection with access to employment, housing, education and health, of the various

ethnic, racial or linguistic groups living in the country, including non-citizens; lack of clarity on the status of the various languages spoken in the country in terms of their use in the courts; and absence of information on the legislative measures related to protection against and remedies for victims of racial discrimination. The Committee stated that "the absence of instances of judicial cases concerning acts of racial discrimination cannot be accepted as a proof of the absence of such discrimination."

The Committee recommended that the government:

- ▶ broaden the basis on which discrimination is prohibited to include race, colour, descent, national or ethnic origin;
- ▶ provide in its next report more information on the functions and powers of the Ministry of Human Rights and the Commission on Human Rights;
- ▶ provide in its next report specific information on the Federally Administered Tribal Areas and the North-West Frontier Province;
- ▶ explore the possibility of granting ethnic and linguistic groups the same status as that of religious minorities to ensure their full protection under national laws and institutions relating to minorities as well as relevant international human rights instruments;
- ▶ include in its next report information on the ethnic and racial origin of the population, measures taken to bring national law into line with provisions in the Covenant related to the prohibition of racist organizations and activities, measures taken with regard to the rights to equality before the law, security of person, right to participation including through elections and economic, social and cultural rights;
- ▶ provide in its next report information on which of the main languages spoken in Pakistan may be used in the courts and in relations with the administration, legislative and other measures on protection and remedies, including on the availability of the right to seek reparation or satisfaction for any damage suffered as a result of racial discrimination and examples of cases where reparation was sought from the courts and the courts' decisions in those cases; and,
- ▶ continue to pay attention to the establishment of training programmes aimed at familiarizing law enforcement officials, judges, magistrates, teachers and social workers with the standards of the Convention.

Discrimination against Women

Acceded: 12 March 1996.

Pakistan's initial report was due 11 April 1997.

Reservations and Declarations: General declaration; paragraph 1 of article 29.

Rights of the Child

Signed: 20 September 1990; ratified: 12 November 1990.

Pakistan's second periodic report was due 11 December 1997.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on: (E/CN.4/1997/4/Add.1, Decision 10/1996)

The Working Group (WG) on Arbitrary Detention considered the case of six individuals who were among some 130 members of the Ahmadi religious community in Pakistan who had been detained and accused of blasphemy under Section 295 C of the Pakistan Penal Code. The WG noted that, in 1974, the Ahmadi religion was declared non-Muslim because Ahmadis proclaim their faith in a prophet after Muhammad. The followers of the Ahmadi religion have suffered physical attacks and discrimination without being protected by the authorities. The WG also noted that Pakistan's Supreme Court reportedly declared the Ahmadi faith to be blasphemous, in keeping with Ordinance XX (under which Ahmadis are prohibited from practising or calling their faith Islam).

The government did not respond to the WG's request for information on the six people whose cases had been transmitted. In the absence of a response and/or clarification from the government, the WG decided that the six individuals had been deprived of their freedom merely for exercising their legitimate right to freedom of religion and conscience, guaranteed by article 18 of the Universal Declaration of Human Rights. On that basis, the WG declared the detentions to be arbitrary and in contravention of article 18 of the UDHR.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1997/34, paras. 260-267)

The Working Group (WG) transmitted seven newly reported cases of disappearance to the government, four of which reportedly occurred in 1996. The majority of the 60 cases of disappearance reported to the WG over the years concern members or sympathizers of the political party Muhajir Qaomi Movement (MQM), who were allegedly arrested in Karachi by the police or security forces during May and June 1995. Most of the other reported cases allegedly occurred in 1986 and between 1989 and 1991, and concerned persons of Afghan nationality with refugee status in Pakistan, most of whom were said to be affiliated with the Harakate Inqilabi Islami party of Afghanistan.

The report notes that according to information received, law enforcement personnel such as the Inter-Service Intelligence and the police arrest opponents of the government without respecting the legal requirements for arrest and detention. Some of the people considered as disappeared are allegedly held in unacknowledged detention. It was also reported that the paramilitary Rangers, with the acquiescence of the security forces, have demanded up to 200,000 rupees from the families before disclosing information on the fate of disappeared relatives and that police officials threaten and harass family members who file complaints or writs of habeas corpus with the judiciary. The report further observes that the perpetrators of disappearances act and operate with impunity and that no charges are being brought against them. There are 56 cases of disappearance in Pakistan which remain to be clarified.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1997/60, paras. 15, 16, 17, 18, 32, 33, 35, 56, 66, 72, 89; E/CN.4/1997/60/Add.1, paras. 368-375)

The report of the Special Rapporteur (SR) notes that a multitude of reports indicating the widespread occurrence of violations of the right to life in Pakistan continued to be received throughout 1996, with a significant number of them

referring to cases of violations of the right to life, including deaths in custody in Sindh and its capital, Karachi. The report acknowledges that the information received from various sources does suggest that armed opposition groups are responsible for part of the violence perpetrated against civilians. However, the report also states that law enforcement personnel are often directly responsible for human rights violations. The SR stated that reports repeatedly indicated that the bodies of persons allegedly killed in an "armed encounter" displayed various signs of torture.

The individual cases transmitted to the government involved: individuals without any political affiliation, shot and killed by a group of paramilitary Rangers reportedly acting under the supervision of the army in the context of a cordon-off and search operation; an eyewitness to the murder of two workers of the Mohajir Quami Movement (MQM), killed in North Karachi by members of the police; MQM members and others shot and killed during a police operation in Korangi and Karachi by members of the police; deaths in custody by shooting, torture, denial of medical treatment or summary execution; deaths caused by armed factions allegedly supported by the government, including shooting after kidnapping; and, deaths caused by unknown assailants following anonymous death threats.

The report notes that the government has not responded to any of the cases transmitted in 1995 and 1996 and states that "The government's strategies to combat human rights violations committed by the police, law enforcement officials, security forces and paramilitary Rangers, as well as human rights abuses by armed opposition groups, have failed to provide protection to political activists, journalists and ordinary civilians."

Independence of judges and lawyers: (E/CN.4/1997/32, paras. 8, 15, 17, 18, 19, 20, 143-147)

The Special Rapporteur (SR) has requested an invitation from the government to visit Pakistan. The cases transmitted to the government involved threats and harassment against a lawyer defending a woman in a habeas corpus petition filed by the young woman's father. It also involved the murder of a former justice of the Sindh High Court and member of the Pakistan Bar Council, and his son, following death threats and demands that the individual withdraw a case that he had filed with the Sindh High Court in Karachi. In terms of the latter case, the report notes that the information received stated that the threats had been reported to the authorities and that no steps were taken to investigate the allegations or to provide the judge with protection.

The report also refers to a previously reported challenge before the Supreme Court related to the constitutionality of the appointment of ad hoc judges to the Supreme Court. The SR noted that the Supreme Court, after hearing lengthy arguments, issued its decision in March 1996 and reaffirmed the independence of the judiciary by asserting the power of appointment of the judiciary, rather than of the executive, which was the position previously.

Religious intolerance, Special Rapporteur on: (E/CN.4/1997/91, paras. 9, 17, 24, 25, 43, 45, 60, 66)

The report notes information received related to religious intolerance or discrimination in Pakistan towards people of

Islamic faith as well as threats and murder of members of the clergy and believers. The report also notes that the Special Rapporteur visited Pakistan in 1995 and has requested an invitation from the government to undertake a follow-up visit.

The Special Rapporteur's interim report to the General Assembly (A/52/477, paras. 8, 12, 13, 21, 25, 28, 34, 36, 37, 46) notes communications transmitted to the government related to: violations of religious freedom against Christians and Ahmadis, including suppression of demonstrations and the murder of clergy and believers.

Sale of children, child prostitution, child pornography, Special Rapporteur on: (E/CN.4/1997/95, para. 39)

The report notes that Pakistan is among the countries in South Asia where trafficking in children is rife.

The Special Rapporteur's interim report to the General Assembly (A/52/482, para. 22) notes that there is extensive trafficking in women and girls from Pakistan to the Middle East and Western and Eastern Europe.

Torture, Special Rapporteur on: (E/CN.4/1997/7, Section II; E/CN.4/1997/7/Add.1, paras. 352-373)

The main report of the Special Rapporteur (SR) notes that 20 cases and two urgent appeals were transmitted to the government and that a response to one of the urgent appeals, involving the situation of 7 people, had been received.

The first addendum to the main report refers to cases transmitted to the government. One case involved a 13-year-old girl who was employed as a housemaid and reportedly raped by her employer's son; after her parents approached the employer regarding the incident, the employer allegedly filed a false case of theft against the girl who was then arrested. After a habeas corpus petition was filed she was discovered in the home of a police sub-inspector who had allegedly raped her repeatedly in custody. Other cases involved the abduction and rape of a 15-year-old Hindu girl by soldiers; kickings and beatings following detention; demands for money from a detainee; detention and ill-treatment against a worker for the Mohajir Quami Movement (MQM); death in custody of a former MQM counsellor; rape by police officials of a 17-year-old pregnant woman, at home, during a police raid; death in custody following incommunicado detention; abduction of a journalist by plain-clothes members of the Rangers, followed by detention in police custody and severe beatings; death from gunshot wounds in an alleged "encounter" with police; death following arrest without charge; arrest of and use of electric shocks, slashes with sharp instruments, burnings with cigarettes and hot rods, and the removal of nails and hair against an MQM worker; detention and torture of an executive member and members of the Jammu Kashmir National Student Federation (NSF); and, detention and torture of a member of the National Executive Council of the National Awami Party. The report notes that in some cases the victims were later summarily executed and also refers to an urgent appeal sent jointly with the Special Rapporteur on extrajudicial and summary execution. The appeal was made on behalf of seven persons who were arrested without warrant in February 1996 and held incommunicado. A joint communications was also sent, with the Special Rapporteurs on extrajudicial and summary execution and the independence of judges and lawyers, related to the murder of a former Justice

of the Sindh High Court and a member of the Pakistan Bar Council, and his son, following anonymous death threats on which the authorities did not act.

The SR on the question of torture visited Pakistan from 23 February to 3 March 1996, including visits to Islamabad, Lahore and Karachi. The report of the mission (E/CN.4/1997/7/Add.2) includes commentary on: unlawful detention; forms of torture and ill-treatment such as the use of fetters; corporal punishment; other aspects of imprisonment; the situation in Karachi; and the question of impunity.

In setting the context, the report notes that: Pakistan is an Islamic republic whose laws are expected to be, or to be brought into conformity with, the injunctions of Islam; responsibility for internal security rests primarily with the Ministry of the Interior, which exercises overall responsibility for most of the various police and intelligence forces; paramilitary forces, such as the Rangers acting in support of the civil forces in Karachi, are the responsibility of the Ministry of Defence, as are certain intelligence bodies, in particular, Military Intelligence; and, direct responsibility for the police and some investigative bodies, as well as paramilitary forces acting in support of the civil power, is vested in the provincial governments. Mention is made of a decision in 1995 to establish a Ministry of Human Rights which has various investigatory functions, but no apparent authority to compel redress of abuses. Given its limited time of operation, the report suggests that the Ministry's effectiveness, whether actual or potential, cannot yet be assessed.

The report acknowledges that for much of its history, Pakistan has been plagued by violent conflict between different religious, ethnic and political groups and that conditions have been exacerbated by the large flow of weapons into Pakistan through the refugee camps along the Pakistani-Afghan border. The SR acknowledges that many of the factions within the country are heavily armed and pose a genuine threat to internal security and that violent crime is also a serious problem throughout the country, particularly in major urban centres such as Karachi and Lahore.

The need for a visit to Pakistan was based on the fact that the SR had received numerous reports strongly suggesting that torture against persons in the custody of the police, the paramilitary and the armed forces is endemic, widespread and systematic. The information considered alleged that torture was inflicted to obtain information, to punish, humiliate or intimidate, to take revenge or to extract money from detainees or their families. The methods of torture reported include: rape; beatings with sticks, hose pipes, leather belts and rifle butts; kicking with heavy boots; being hung upside down; electric shocks applied to the genitalia and knees; *cheera* (forced stretching apart of the victim's legs, sometimes in combination with kicks to the genitalia); sleep deprivation; prolonged blindfolding; and boring of holes with an electric drill into parts of the victim's body. The SR had also received reports that the police often use excessive and disproportionate force during crowd control operations and, while conducting house-to-house searches in Karachi, the army allegedly rounded up, detained, blindfolded, and beat individuals.

The SR had also received reports indicating that the substantial majority of women held in police custody are

subjected to some form of sexual abuse, including rape; and, further, that registering a rape complaint was difficult because the Islamic Zina Ordinance of 1979 makes it difficult for a woman to meet the evidentiary requirements to establish her case. Failure to establish such a case reportedly exposes the complainant to a potential charge of illicit sexual intercourse, an offence punishable under the Ordinance with 80 lashes or, if the woman is married, with death by stoning. The report notes further that when the alleged perpetrator of rape is a member of the police, army or other governmental official, the police often refuse to register a complaint, or pressure or bribe the victim into dropping the charges.

On the question of unlawful detention, the report cites a number of articles in Pakistan's Constitution which prohibit such detentions and prescribe the conditions for detention. The report observes that, in practice, the authorities do not strictly observe the prescribed limits on detention. The police often hold detainees without charge until they are challenged by a court or detain individuals arbitrarily without charge, or on false charges, in order to extort payment for their release. The likelihood of torture is increased further through other practices such as incommunicado detention and detention in premises not designated for the purpose. In the latter case, the report notes that in such undeclared places of detention, law enforcement personnel are able to commit human rights violations with impunity since legal safeguards against ill-treatment cannot be enforced and detection is unlikely.

In terms of the constitutional and legal provisions related to torture and ill-treatment, the report notes that: the Constitution of Pakistan explicitly prohibits torture under article 14 (2), which provides that "No person shall be subjected to torture for the purpose of extracting evidence"; under the Qisas and Diyat Ordinances, the causing of hurt by any person to extort "any confession or any information which may lead to the detection of any offence or misconduct" is defined as a distinct punishable offence; article 337 k of the Pakistan Penal Code prescribed imprisonment for up to ten years for anyone found guilty of inflicting torture or ill-treatment; and, the Law of Evidence also provides certain legal safeguards against torture. The report observes that despite these legal safeguards, torture, including rape, in the custody of the police, paramilitary forces and the army, as well as in jails, has been widely reported and, in some cases, has resulted in death in custody.

With regard to women in custody, the report refers to a 1994 amendment to the Criminal Procedure Code which prohibits a magistrate from authorizing the detention in police custody of a woman except in cases involving murder or dacoity. The amendment also requires the investigating police officer to interrogate the accused in the prison in the presence of an officer of the jail and a female police officer. The report notes that despite these safeguards, numerous allegations have been sent to the Special Rapporteur, concerning women being held in police custody and raped.

On the question of impunity, the report notes that while the government has taken some positive steps to improve the situation of human rights within the country there appears to be a lack of real political will to address the issue of impunity. The Special Rapporteur notes that no information has been

received to demonstrate any serious effort on the part of the government to reform the police or judicial systems or to prosecute those responsible for abuse. In addition to the lack of political will, a number of conditions contribute to the perpetuation of impunity and include the fact that provincial powers of appointment, promotion and deployment of police and prison personnel are not subject to institutional systems designed to promote competence, integrity, efficiency and adherence to the rule of law. Further, the report notes that corruption is rife and many of the underpaid and ill-trained personnel are generally thought to make ends meet by extorting money from those over whom they have power. The report notes that it is commonly asserted that the jobs of such personnel, ranging from police recruits to station house officers, from prison guards to jail superintendents, can be bought, with the return on investment coming from the opportunities provided by unlawful enrichment and goes on to state that "There appears to be a conviction on the part of police and government officials that administrative disciplinary measures such as dismissal, demotion and transfer are sufficient punishment for police and security officials who have abused their authority. Although the government has stated its commitment to prosecute any officer found responsible for crimes such as torture, to the Special Rapporteur's knowledge none have been convicted (E/CN.4/1997/7/Add.2, para. 86)."

In setting the context for conclusions and recommendations the report recalls that in Pakistan: society is riven by intercommunal and intersect strife; the language and style of competitive politics goes beyond adversarial debate and is characterized by hostile, confrontational and self-in-terested manoeuvring; most of the political elite come from a very small, very rich class often described as feudal; there is a large majority of very poor people, with a relatively small middle class in between; and, law enforcement agencies have traditionally been used more to serve the narrow interests of those in office than to defend the rule of law. The Special Rapporteur stated that it could not be concluded that the stated preference of some in government for respect for human dignity was given the political priority necessary for its realization. The responsibility for the lack of political will was seen not only to rest with the current government and its party but also governmental officials in general. The recommendations in the report, therefore, were not only addressed to the executive but to all parties in the legislature and other institutions of Pakistani society.

The report recommends that:

- ▶ violent political rhetoric be abandoned;
- ▶ Pakistan accede to or ratify the Convention against Torture and the International Covenant on Civil and Political Rights and its Optional Protocol;
- ▶ corporal punishment be abolished, particularly as a form of prison discipline;
- ▶ the use of fetters as a form of punishment in jails be abolished and use be restricted to those conditions allowed by the Standard Minimum Rules for the Treatment of Prisoners, namely: as a precaution against escape during transfer; on medical grounds by direction of a medical officer; to prevent self-injury or injury to others; to prevent damage to property; and, only for the time strictly necessary;
- ▶ medical personnel not cooperate in the carrying out of corporal punishment until such time as this punishment is abolished;
- ▶ illegal detention and detention in undeclared centres be recognized as criminal offences under law;
- ▶ transfer of a detainee from one agency to another without judicial order be prohibited;
- ▶ police services be removed from the circle of political patronage and guaranteed sufficient autonomy to uphold the rule of law;
- ▶ recruitment, promotion and deployment of police and prison personnel be based on a system of merit and remuneration and that training be substantially improved;
- ▶ independent complaints bodies be established to inspect any place of detention; and,
- ▶ special police stations for female suspects be established in areas where they do not already exist and that all female suspects be held in such special stations.

Violence against women, Special Rapporteur on: (E/CN.4/1997/47, Section IV)

In the section dealing with trafficking in women and forced prostitution the report refers to marriage as a method of recruitment for trafficking and comments that in order to traffic women to Pakistan, Bengali traffickers or their networking partners are required to marry their victims so as to protect themselves from being prosecuted under Islamic Hudood laws. Despite this, 2,500 Bangladeshi women and children are currently being detained in Pakistan under these laws, charged with illegal entry and for having "illegitimate sex". The report also comments on state participation and complicity in trafficking in women and cites the fact that border officials in Pakistan keep the girls who are pretty and sexually abuse them until the next lots of girls arrive at which time their previous victims are released.

In the section addressing religious extremism the report notes that previously in Pakistan, the offence of Zina was interpreted by the state in such a way as to culminate in violence against women. Also, under the Hudood ordinance, rape was an offence nearly impossible to prove, and if not proved, the same woman would be tried for the offence of adultery or fornication.

Mechanisms and Reports of the Sub-Commission

Contemporary forms of slavery, Working Group on: (E/CN.4/Sub.2/1997/13, para. 49, 50)

The report makes a brief reference to the fact that information had been provided by non-governmental organizations on bonded labour and child labour in Pakistan. Summary notes are then included on a statement by the government related to legislative and other measures Pakistan has adopted and implemented to combat bonded and child labour.

Other Reports

Cooperation with representatives of UN human rights bodies, Report of the S-G: (E/CN.4/1997/50, paras. 11)

The report of the Secretary-General refers to the case of an individual who was reportedly threatened by Pakistani authorities after he filed a complaint with the police, as well

as a habeas corpus petition, on behalf of his relatives who were believed to have been arrested and detained incommunicado. The information received by the Special Rapporteur (SR) on extrajudicial, summary or arbitrary execution indicated that the man had been warned by a police officer that bringing the situation to the attention of human rights organizations could have serious consequences for him.

The report summarizes information from the SR on torture in which there is a reference to the case of a former judge of the Sindh High Court who had met the SR during his visit to Pakistan. The judge was questioned by security officials concerning the nature of his discussions with the SR.

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

At its 1997 session the Sub-Commission considered a resolution on the situation in Pakistan (E/CN.4/Sub.2/1997/L.22). The text, *inter alia*: recognized the legacy of colonialism in Pakistan; recalled that freedom from torture is a non-derogable right; noted various commentaries in the reports of CHR Special Rapporteur on torture, indicating, among other things, that torture of persons in the custody of the police and the paramilitary and the armed forces is endemic, widespread and systematic in Pakistan, and that the majority of women held in police custody are subjected to some form of sexual abuse, including rape; noted that such conditions are perpetuated by the virtual impunity from criminal sanction of the perpetrators; referred to the concern expressed by other CHR thematic mechanisms over the failure in Pakistan to hold detainees only in officially recognized places of detention, deaths in custody, arbitrary detention, imposition of the death penalty for apostasy, and the failure to prohibit in the Constitution discrimination based on race, colour, language, or national or ethnic origin; noted reports that the government had failed to prevent 1,500 schoolchildren from joining the Taliban forces in Afghanistan; welcomed government statements related to the independence of the judiciary, the creation of the Ministry of Human Rights and the invitation to the Special Rapporteur on torture to visit Pakistan; welcomed the Pakistan Law Commission's decision to review laws related to, for example, prison reforms, blasphemy, laws related to children, including child labour, and the Hudood Ordinances; welcomed the fact that a number of senior police officers are facing charges of abuse of authority and involvement in criminal violence and the appointment of a judicial commission of inquiry into extrajudicial killings in Karachi and other urban areas of Sindh; welcomed the government's announced intention to eliminate bonded labour and achieve universal primary education within five years; welcomed the renewed talks between Pakistan and India related to Jammu and Kashmir; urged the government to prosecute all those who have perpetrated human rights violations and ratify the ICCPR, its Optional Protocol, and the Convention against Torture; urged the government to take measures promptly to ensure equality before the law for women and an end to discrimination against them in judicial proceedings and in all other respects; urged the government to consider amending the Penal Code and Ordinance XX in such a manner that members of the Ahmadi community may fully

exercise their right to practise their religion, and remove the possibility of exploitation of the law by other citizens to intimidate members of religious minorities; urged the government to recognize as minorities communities or groups of persons based on race, colour, language or national or ethnic origins; called on the government to ensure that capital punishment will not be imposed for apostasy, and take effective action to ensure that its territory is not used as a base and that persons under its jurisdiction, particularly children, are not recruited to engage in terrorism and violence in other states.

By secret ballot the Sub-Commission decided to take no action on the resolution, with 20 votes in favour of no action, 3 opposed and 2 abstentions.

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PALAU

Date of admission to UN: 15 December 1994.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Palau has not submitted a core document for use by the treaty bodies.

Rights of the Child

Acceded: 4 August 1995.

Palau's initial report was due 2 September 1997.

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PALESTINIAN AUTHORITY

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on: (E/CN.4/1997/4, paras. 17, 21)

The report notes that three urgent appeals were sent to the Palestinian Authority, which replied that three persons concerned had been released. No details of the cases were provided.

Extrajudicial, summary or arbitrary executions, Special Rapporteur: (E/CN.4/1997/60/Add.1, paras. 573-574)

The report refers to information received indicating that since the proclamation of Palestinian self-rule in May 1994, 10 death sentences have been passed by the Palestinian Authority, two of which have been commuted. Reportedly none has ever been carried out. Information received also indicated that trials before the State Security Court, reportedly set up in 1995, do not offer the right to appeal to a higher court, and the right to a proper defence is limited. Death sentences have to be ratified by the President before they can be carried out. The Special Rapporteur notes that one case was sent to the Palestinian Authority, in October 1995, related to a death in custody in the Gaza Strip.

Torture, Special Rapporteur on: (E/CN.4/1997/7/Add.1, paras. 581-586)

The report refers to urgent appeals sent to the Palestinian Authority related to: reports of the incommunicado detention and beatings during interrogation of at least 700 suspected

supporters of Hamas or Islamic Jihad following several suicide bombings in Israel; arrests by members of the security forces (mukhabarat) followed by beatings and prolonged sleep deprivation; arrests followed by beatings by police; arrests of persons participating in a demonstration, followed by torture and ill-treatment at the hands of members of the naval police, including beatings, suspension from the ceiling, and burns with electric implements and cigarettes; and, incommunicado detention in the custody of the Palestinian Preventive Security.

FIELD OPERATIONS

The UN Human Rights Field Office in Gaza was established in November 1996; address 475/55 Halabi Street, Rimal Gaza, P.O. Box 51359-95912, Jerusalem; Officer-in-Charge: Amin Mekki Medani, Chief, Technical Advisor; fax: 00972-7-827 321; telephone: 00972-7-827 021; e-mail: fmarotta@papp.undp.org.

The terms of reference for the Field Office focus on support for the rule of law, with assistance to and cooperation with the Palestinian Authority in such key areas as law reform, improvements in the administration of justice, development of a national plan of action for human rights, training and advisory services to police, prison officials, lawyers, judges and prosecutors as well as technical and financial assistance to the Ministry of Justice and local human rights NGOs and the Palestinian Independent Commission for citizens' rights.

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PAPUA NEW GUINEA

Date of admission to UN: 10 October 1975.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Papua New Guinea has not submitted a core document for use by the treaty bodies.

Racial Discrimination

Acceded: 27 January 1982.

Papua New Guinea's second through eighth reports have not been submitted (covering the period 1987-1997); the eighth periodic report was due 26 February 1997.

Reservations and Declarations: Article 4.

At its August 1997 session, the Committee considered the situation in Papua New Guinea in the absence of a report from the government. The Committee's concluding observations (CERD/C/51/Misc.45) note that, despite requests, the government has not submitted an up-to-date report or any of the information requested on the issue of Bougainville. The Committee condemned the killing of the premier of the Bougainville Transitional Government in October 1996, noting that the murder resulted in a serious set-back to efforts to find a solution to the Bougainville problem. The Committee requested the government to submit the reports that are due as well as information on the situation in Bougainville, and suggested that the government avail itself of the technical assistance programme offered by the Office of the High Commissioner for Human Rights in drawing up and submitting its report.

Discrimination against Women

Acceded: 12 January 1995.

Papua New Guinea's initial report was due 11 February 1996.

Rights of the Child

Signed: 30 September 1990; ratified: 2 March 1993.

Papua New Guinea's initial report was due 31 March 1995.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1997/60, paras. 16, 18, 38, 51, 57, 58; E/CN.4/1997/60/Add.1, paras. 376-380)

The Special Rapporteur (SR) transmitted to the government allegations of violations of the right to life of a number of unarmed civilians who were reportedly killed in January 1996 by members of the Papua New Guinea Defence Force and the "resistance forces" in the village of Simbo, Buin, Bougainville. The information received indicated that the victims included eight minors, among them an eight-month-old baby. The SR also reminded the government of the cases sent during 1995 and 1996 to which no reply had been received and requested the government to react to the recommendations made in the report of the mission to Bougainville (October 1995). The SR expressed concern over the government's March 1996 decision to lift the ceasefire on Bougainville because of an upsurge of killings of civilians and members of the government security forces by the Bougainville Revolutionary Army (BRA) and the negative implications of the assassination of the Premier of the Bougainville Transitional Government (October 1996) on the peace process and the human rights situation in Bougainville. The SR called on all parties to the conflict to respect the right to life of all non-combatants at all times.

Toxic wastes and products, Special Rapporteur on: (E/CN.4/1997/19, para. 42, 44)

The report refers to information dating from 1963 concerning copper mining exploration licenses granted by Australia, and the decision of landowners in 1987 to establish the Paguna Landowners Association which was later formalized as the Bougainville Revolutionary Army (BRA). The report briefly summarizes events, including the conflict in Bougainville since that time. The report also notes information related to a gold mine operated by Placer Nuigini, a subsidiary of Placer Dome Inc. of Canada, which dumps 40,000 tonnes of tailings per day into a river and has no tailings retention facilities. Information has indicated that people in the area have expressed concern about these levels of contamination and asked the government to improve pollution monitoring and regulation below the mine. The report states that reportedly the government responded to this request by extending the exemption the joint venture enjoys in dumping tails. Referring to the operations of a mining company based in the US, the report cites information stating that the mine has been responsible for dumping 120,000 tonnes of toxic waste per day into local rivers, thus contaminating local fish and vegetation and causing severe health problems for the people that live near the river. The report further notes that, in the area of the mine's operations, highland people have been

displaced from their land in a series of forced removals begun after 1973 without compensation. Since 1994, the killing or disappearance of 22 civilians have been reported and 15 guerrilla acts seem to have taken place in and around the mine. Information indicated that in 1996 a lawsuit was filed in a US district court in New Orleans charging the company with responsibility for a range of human rights and environmental abuses that have had a strong impact on the tribal communities whose natural habitats have been affected.

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PHILIPPINES

Date of admission to UN: 24 October 1945.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: The Philippines has submitted a core document (HRI/CORE/1/Add.37) for use by the treaty bodies. The report prepared by the government contains demographic data and information on the economy, social services, the general political structure and the legal framework for the protection of human rights.

The legal framework for the protection of human rights is established by the Constitution, the Civil Code, the Revised Penal Code, the Child and Youth Welfare Code and the Labor Code. As well, the Commission on Human Rights has established protective legal measures. The *Tanodbayan* (Ombudsman) has as its main function to prevent the abuse of power by government officials and employees.

Economic, Social and Cultural Rights

Signed: 19 December 1966; ratified: 7 June 1974.

The Philippines' second periodic report was due 30 June 1995.

Civil and Political Rights

Signed: 19 December 1966; ratified: 23 October 1986.

The Philippines second periodic report was due 22 January 1993.

Optional Protocol: Signed: 19 December 1966; ratified: 22 August 1989.

Racial Discrimination

Signed: 7 March 1966; ratified: 5 December 1967.

The Philippines 15th periodic report was due 4 January 1998.

The Philippines 11th through 14th periodic reports were submitted as one document (CERD/C/299/Add.12) which was considered by the Committee at its August 1997 session. The report prepared by the government states that discrimination based on race, colour or ethnic origin is non-existent in the Philippines (para. 7). The report provides information on the general political structure and demographic data, constitutional provisions related to the promotion and protection of human rights and the national Commission on Human Rights. Commentary is included on the Offices for Northern Cultural Communities and Southern Cultural Communities. Referring to indigenous cultural communities in the north and south, the report includes information on a number subjects, including but not limited to: efforts in the areas of poverty alleviation, opportunities for livelihood, education, vocational and employment skills; basic services and infrastructures; peace,

harmony and stability. The report sets out some of the provisions of the Social Reform Agenda and refers to agrarian reform and ancestral lands. In terms of the situation of Muslim Filipinos, the report includes information on the Office of Muslim Affairs, the Autonomous Region in Muslim Mindanao and the programmes associated with the Special Zone of Peace and Development.

The Committee's concluding observations and comments (CERD/C/304/Add.34) acknowledges obstacles to the full implementation of the Convention, including endemic poverty which exacerbates social inequalities and disparities in development, and affects vulnerable groups such as the indigenous cultural communities and Muslim Filipinos.

The Committee welcomed: proclamation of the National Decade for Filipino Indigenous People (1995–2005); the Philippines Human Rights Plan, that contains sectoral plans of action related to indigenous cultural and Muslim communities; adoption of the Social Reform Agenda, aimed at fighting poverty and attaining social justice; the Rules and Regulations of Children of Indigenous Cultural Communities which are intended to provide basic health, nutrition and other social services; adoption of measures to prevent discrimination against workers from minority groups; and, establishment of scholarships for children and youth from indigenous cultural communities.

The Committee received positively: steps taken towards a peaceful settlement to the conflict between the government and the Muslim Filipino community, including the 1990 cease-fire and the signing of a peace agreement between the government and the Moro National Liberation Front in 1996; the establishment of a Special Zone of Peace and Development, the Council for Peace and Development and a Consultative assembly; provision through an administrative order for members of the Moro National Liberation Front to join the National Police; the launch of comprehensive agrarian reform to improve tenure of indigenous communities to ancestral lands; adoption of measures to ensure inclusion of human rights courses at all levels of education; creation of "writeshops" on peace education which included participation by members of indigenous communities; creation of training programmes on human rights for school supervisors who will then train teachers on ways to introduce human rights education into schools. The Committee noted as well bills pending before Congress on issues such as restoration of the rights of indigenous communities to ancestral domains and lands, equal employment opportunities for members of the indigenous and Muslim communities, and the improvement of the economic and social situation of cultural communities. The Committee welcomed the establishment of the national Commission on Human Rights and the office of the *Tanod-bayan* (Ombudsman).

The principal subjects of concern identified by the Committee were: the statement by the government that racial discrimination, as defined by article 1 of the Convention, has never existed in the Philippines; the fact that important parts of the population are living in conditions which do not guarantee the exercise of human rights under equal terms; lack of specific legislation prohibiting racial discrimination; failure to clarify Presidential Decree 1430-A of 1978 (declaring violations of the Convention unlawful and providing penalties)

as to whether the decree fully conforms to article 4 on racist organizations and incitement to racial violence; lack of specific disaggregated data on the economic and social situation of and existing disparities between various indigenous communities and ethnic tribes; lack of information on provisions related to article 5 (civil and political rights) and enjoyment of those rights by the indigenous and Muslim communities; failure to investigate fully the many reported cases of disappearance, including members of indigenous peoples and Muslim Filipinos, and to bring those responsible to justice; reports of forced evictions and displacements of indigenous peoples in development zones; reports that specific groups of indigenous peoples have been denied by force the right to return to some of their ancestral lands; and, lack of legislative provisions regarding just and adequate reparation or satisfaction for any damage suffered as a result of acts of racial discrimination.

The Committee noted that the absence of reported violations of Presidential Decree 1350-A and complaints against acts of racial discrimination to the courts raises doubts as the extent of the publicity given to and the effectiveness of available remedies for victims of racial discrimination. The Committee also noted that the information provided by the government based on the 1990 census does not sufficiently clarify questions related to the situation of indigenous cultural communities and ethnic tribes.

The Committee recommended that the government:

- ▶ give priority to enacting the bills pending before Congress related to the indigenous and Muslim Filipino communities;
- ▶ amend domestic legislation so that it prohibits racial discrimination as defined in article 1 of the Convention;
- ▶ in its next report, deal with measures promoting the interests and welfare of the indigenous and Muslim Filipino communities as part of the implementation of provisions in the Convention rather than as a separate chapter;
- ▶ include in its next report information on the powers, functions and activities of the Commission on Human Rights and Ombudsman, particularly related to the number and substance of complaints received;
- ▶ include in the next report information on the ethnic composition of the population, the standard of living of each group and other educational and social indicators, with particular attention given to indigenous ethnic communities and tribes;
- ▶ review Presidential Decree 1350-A to ensure that it meets the mandatory provisions of article 4 of the Convention (racism and incitement to racial violence);
- ▶ take action at the legislative, administrative and judicial levels to protect the right of everyone, without discrimination, to the civil and political rights set out in article 5 and especially the rights to equality before the law, security of persons and freedom of movement and residence;
- ▶ ensure protection against any acts of racial discrimination by, *inter alia*, strengthening the court system and the independence of the judiciary;
- ▶ guarantee fully in law and practice the right to seek just and adequate reparation for victims of acts of racial discrimination; and,

- ▶ take further action to ensure that the provisions of the Convention are more widely disseminated among members of minority groups, the judiciary, the police and government officials and that special emphasis be placed on dissemination of information on remedies available.

Discrimination against Women

Signed: 15 July 1980; ratified: 5 August 1981.

The Philippines fifth periodic report is due 3 September 1994.

The Philippines' third and fourth periodic reports were submitted as one document (CEDAW/C/1997/PHI/3 and 4) which was considered by the Committee at its January 1997 session. The report, prepared by the government, is detailed and covers the period from December 1992 to November 1996. The focus of the report is on legislative, policy and programme initiatives to advance women's human rights, including but not limited to: legislative developments on, for example, sexual harassment, overseas workers and credit assistance; the Philippine Plan for Gender-responsive Development; policy priorities arising from areas addressed in the Beijing Platform for Action, including poverty and economic inequality, the media, education, health, violence against women and women in situations of armed conflict, women in decision-making positions and national machinery for the advancement of women; gender and development budgeting; and, the Philippine Human Rights Plan (1996–2000).

The Committee's concluding observations and comments (CEDAW/C/1997/L.1/Add.8) noted the major economic policies undertaken by the government, including economic and trade agreements at the regional and global levels which will have a profound impact on women, stating that the direction towards economic liberalization and privatization may have serious implications for the economic position of women, and, in particular, on the economic position of women in the free trade zones and in rural areas. The Committee expressed concern that the trend towards feminization of migration and its attendant problems, including violence against women migrant workers, may be exacerbated.

The Committee welcomed a number of developments in the Philippines, including: the adoption of the Philippine Plan for Gender-responsive Development, 1995–2025; the priority policy imperatives set by the national machinery for women to implement the Beijing Platform for Action and to mainstream gender and development throughout government; the decision to allocate at least five percent of all governmental budgets to women-specific programmes and projects; measures addressing issues such as credit assistance to women, legislation prohibiting sexual harassment, a raise in the minimum wage for domestic workers and an increase in maternity and paternity benefits for employed persons; and, the initial consultation to measure women's unremunerated work within a satellite account to the national economic system. The Committee noted the exceptionally high level of literacy (93 percent) among Filipino women.

The principal subjects of concern identified by the Committee were: the inadequacy of monitoring mechanisms and indicators to measure the effect of government policies and programmes, especially at the local level, and the impact of laws and administrative directives and regulations; the

economic reforms which had resulted in a positive growth in the gross national product (GNP), on the one hand but in an increasing gap in the rates of employment of women and men and the economic marginalization of women on the other; the discriminatory application of laws which are enforced against women prostitutes and not the men involved as traffickers, pimps and clients; forced medical examinations of women prostitutes without similar attention to the male clients; deficiencies in the legal system with regard to violence against women, in that incest and domestic violence are not specifically penalized by law and are surrounded by silence; the decentralization of population planning and development programmes to local government units which may deny women access to these services; and, the continuing very low representation of women in politics, top levels of government, and the judiciary.

The Committee recommended that the government:

- ▶ adopt a top-priority policy of creating safe and protected jobs for women as a viable economic alternative to the current unemployment of women and their participation as subcontractors and in the informal sector, as workers in free trade zones or in prostitution, or as migrant overseas contract workers;
- ▶ ensure that its economic policy does not lead to marginalization and exploitation so that women are encouraged to seek overseas employment to the detriment of society;
- ▶ strengthen agencies that provide information and support services to women before departure for overseas work, as well as in the receiving countries in cases of need;
- ▶ focus appropriate measures for dealing with prostitution on penalizing traffickers and creating alternative job opportunities for the women;
- ▶ enact appropriate legislation to combat violence against women and to compile the relevant data;
- ▶ make available and accessible to all women in all regions reproductive and sexual health services, including family planning and contraception;
- ▶ adopt temporary special measures to increase the participation of women in top-level decision-making positions in the public sector; and,
- ▶ develop gender-disaggregated data in all areas and monitoring mechanisms and indicators to measure the effect of government policies and programmes.

Torture

Acceded: 18 June 1986.

The Philippines' second periodic report was due 25 June 1992; the third periodic report was due 25 June 1996.

Rights of the Child

Signed: 26 January 1990; ratified: 21 August 1990.

The Philippines' second periodic report was due 19 September 1997.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1997/34, paras. 282–293, 392, 393)

The Working Group transmitted two newly reported cases of disappearance to the government, one of which reportedly occurred in 1996 and was sent under the urgent action procedure. The cases concern a health worker who disappeared two days after attending a meeting of local non-governmental organizations in Mindanao, and a farmer who was allegedly arrested while travelling in an area where the Filipino army is said to have been conducting military operations against suspected New People's Army (NPA) rebels.

The majority of the 496 cases remaining to be clarified occurred in the late 1970s and early 1980s, virtually throughout the country, and took place within the context of the government's anti-insurgency campaign. The report notes that, between 1975 and 1980, the persons who disappeared were farmers, students, social workers, members of church groups, lawyers, journalists and economists, among others. The arrests were carried out by armed men belonging to an identified military organization or to a police unit such as the Philippine Constabulary, the Central Intelligence Unit, the military police and other organizations. In the following years, the reported cases of disappearance concerned young men living in rural and urban areas, described as members of legally constituted student, labour, religious, political or human rights organizations, which the military authorities claimed were fronts for the outlawed Communist Party of the Philippines (CPP) and its armed wing, the NPA. Among the groups most commonly targeted were said to be KADENA (Youth for Democracy and Nationalism) and the National Federation of Sugar Workers.

The report states that, despite peace talks initiated by the government with several opposition movements, disappearances continued in the 1990s, mainly in the context of action by the security forces against the NPA, the Moro National Liberation Front, the Mindanao Islamic Liberation Front, the Citizen Armed Forces Geographical Units and the Civilian Volunteer Organizations. The Working Group referred to information received indicating concern over the lack of progress in determining the fate of those who have disappeared and in bringing the perpetrators to justice. The report notes that failure to prosecute those responsible is said to undermine public confidence in the legal system and weaken judicial deterrents against further disappearances.

The report refers to other information indicating that the responsibilities of the various investigative and prosecuting agencies are unclear, resulting in the failure of these agencies to take full responsibility for cases. The preference is to pass them over to another agency for resolution. The report notes that witnesses and complainants involved in human rights cases are said to be subjected to intimidation and, as a consequence, are afraid to come forward for fear of reprisals. The report cites further reports asserting that, while the number of disappearances has declined, they continue to occur and the government continues to fail to address conditions which still allow disappearances to take place periodically. Non-governmental organizations have called upon the government to undertake a thorough investigation into all cases of disappearance in order to determine the fate and whereabouts of the persons concerned, to bring the perpetrators to justice, compensate the families and abolish the Task Force on

Disappearance since it has not produced any of the expected results. The NGOs informed the Working Group of efforts to have the provisions of the Declaration on the Protection of All Persons from Enforced Disappearance incorporated in Filipino law and carry on with the exhumation of the bodies of persons believed to have disappeared. The report notes that these exhumations have led to the successful identification of several disappeared persons. The report also notes that NGOs are seriously considering filing cases before the courts and are in the process of investigating the establishment of witness protection programmes and sharing experience in forensic medicine.

The government did not provide any new information related to the Working Group's 496 outstanding cases.

The report of the Secretary-General (E/CN.4/1997/103) on measures taken by governments on the questions of detention and disappearance includes information provided by the government, stating: under Republic Act No. 7659 kidnapping and serious illegal detention were listed among the heinous crimes to which the penalty of death was to be applied when the victims were killed or raped or died as a consequence of their detention; under resolution No. A83-046 of the Philippine Commission on Human Rights, the Commission was authorized to grant financial assistance to qualified victims of human rights violations, in the form of temporary relief, not compensation; coordination was being strengthened between the Department of Justice and the Philippine Commission on Human Rights on the documentation and identification of cases of disappearance under preliminary investigation, including cases of harassment, ill-treatment and the intimidation of witnesses or relatives of disappeared persons; coordination was also being strengthened between the Department of Justice and law-enforcement agencies in the prosecution of perpetrators of enforced disappearances; representatives of the Department of Justice were contributing to congressional hearings on the drafting of bills for the prevention and elimination of enforced disappearance; the National Police Commission had established the Office for Missing Persons to handle public assistance activities regarding enforced disappearances; and, efforts had begun to promote human rights at the village level through the implementation of the national human rights advocacy programme and the creation of human rights action centres in the villages.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1997/60, paras. 16, 18, 19, 32, 36, 37, 51, 57, 66; E/CN.4/1997/60/Add.1, paras. 393-398)

The report refers to information received indicating that violations of civil and political rights continue to occur in the Philippines, including extrajudicial, summary or arbitrary executions, sometimes taking the form of massacres. In this context, the Special Rapporteur (SR) transmitted allegations of violations of the right to life concerning 22 people: a family reportedly killed in February 1996 by members of the Civilian Volunteers Organization, a group of citizens operating as a paramilitary group which is sanctioned by the government and has the task of checking rebel activities in the area; alleged members of a criminal gang killed in May 1995 by members of the Anti-Bank Robbery Intelligence Task Group when, following their arrest, members of the Task Group opened fire on the van in which they were tied up or

handcuffed; another alleged member of a gang who was arrested in May 1995 by members of the Presidential Anti-Crime Commission and was last seen in the custody of the law enforcement officials who arrested her; another alleged member of a gang who was reportedly killed by members of the Presidential Anti-Crime Commission while in their custody; a 16-year-old street child, who was reportedly killed in July 1993 by three members of the Philippines National Police while in their custody; and a human rights lawyer and journalist, allegedly shot dead in February 1996 by an unidentified assailant, possibly in order to silence his criticism of government policy.

The government variously responded to these cases, stating: the person under arrest had suddenly jumped from a moving police patrol car when it was slowing down and died as a result of injuries sustained; the allegation against the paramilitary Citizen's Armed Forces Geographical Units (CAFGU) were incorrect; the case alleging involvement by members of the armed security forces was under investigation but that the main suspect had not yet been charged because he was still at large; the death of the lawyer and journalist was not likely linked to his work as a human rights defender, but instead was of private nature and linked to his defence of a case as a lawyer; the main elements in the allegations related to the murder of the family were accurate and the case was *sub judice* as was another case and those related to the killing of gang members.

Independence of judges and lawyers, Special Rapporteur on: (E/CN.4/1997/32, para. 156)

The report refers to the killing of a lawyer in February 1996, reportedly for his criticism of government policy.

Sale of children, child prostitution, child pornography, Special Rapporteur on the: (E/CN.5/1997/95, paras. 28, 41)

The report notes the establishment of the Special Committee for the Protection of Children Against Sexual Abuse and Exploitation. The Committee reports to the President on action taken to address issues related to child abuse and exploitation. The report also notes the launch, in October 1996, of the Network Against Sexual Abuse of Children, set up to combat child prostitution.

Torture, Special Rapporteur on: (E/CN.4/1997/7, Section III; E/CN.4/1997/7/Add.1, paras. 388-391)

The report notes that the government replied to seven cases that had been transmitted by the Special Rapporteur in 1995. The cases related to reports of beatings by soldiers, torture in safe houses by the National Police Corollera Regional Command and metropolitan police in Manila. The government response indicated that the persons involved had chosen not to file a formal complaint and/or medical examinations had turned up no evidence of torture or ill-treatment.

Toxic wastes and products, Special Rapporteur on: (E/CN.4/1997/19, paras. 30, 41, 44, 56)

The report notes the adoption of a law in the Philippines which regulates the import, processing, distribution, use and disposal of toxic substances through a notification process for new chemicals and the issuance of Chemical Control Orders for chemicals that pose unreasonable risks to human health

and the environment. The import of hazardous wastes for disposal is also prohibited in the Philippines, as is the import of recyclable materials containing hazardous substances unless complying with the requirements set out by the Department of Environment and Natural Resources which works closely with other relevant government agencies such as the Bureau of Customs. The report notes that no occurrences of illegal movement and dumping of toxic and dangerous products and wastes in the Philippines were reported by the government.

The information submitted to the Special Rapporteur (SR) related to the import of battery scrap in 1993 which was said to have been in violation of the Republic Act No. 6969. The report notes that the vast majority of the waste went to a lead smelter near Manila, Lead Smelter Inc. (now Philippines Recyclers Inc.), a local subsidiary of the United States firm Ramcar Batteries Inc.; and that battery wastes also find their way to small battery recyclers. The information on which these observations are based indicates that workers in these plants usually show high levels of lead in their blood, complain about health problems and seem to be subjected to lead exposure. Some cases were reported of people hospitalized because of lead exposure who had to pay for their own medical expenses. The report mentions that, in the last three years, Saudi Arabia has emerged as one of the major exporters of scrap batteries to the Philippines.

The report also refers to a mine waste spill in 1996 which created a major environmental disaster in the Philippine province of Marinduque, noting that Marcopper Mining Corporation, one of Asia's biggest mining firms, is 40 per cent owned by Placer Dome Inc. (Canada). The report indicates that Marcopper Mining promised to compensate for damages caused and immediately rehabilitate the Boac River which had been contaminated; and, further, that the Department of the Environmental and Natural Resources and the affected communities filed civil and criminal charges against Marcopper for the damage caused.

Violence against women, Special Rapporteur on:
(E/CN.4/1997/47, Sections III.C, IV.A, V)

In the section dealing with sexual harassment the report notes that legislation has been enacted in the Philippines which criminalizes sexual harassment in the workplace, schools and training centres. The report also states, however, that the Department of Labour and Employment fails to enforce the labour code standards, even in cases of blatant discrimination in job advertisements, hiring practices and unequal pay. In the section dealing with trafficking in women and forced prostitution, the report refers to the fact that women from a number of countries, including the Philippines, are sold to thriving marriage markets in Western Europe, North America, Australia and Japan. The report cites the fact that violations of women's human rights associated with trafficking occur in both countries of origin and countries of destination and, further, that the international cross-border character of trafficking implicates two or more states, making the protection of the rights of trafficked women a difficult task. The report notes that countries of origin often have a vested economic interest in international migration and little incentive to curb activities that may increase the generation of external revenue. The report states that it is estimated that the

Philippines earns US\$2 billion from remittances by overseas contract workers.

On the issue of violence against women migrant workers, the Special Rapporteur (SR) refers to a 1996 report by the International Labour Organization indicating that approximately 1.5 million Asian women are working abroad either legally or illegally, and that women account for approximately 60 per cent of all legal migrants, excluding seafarers, from the Philippines. The Special Rapporteur also notes that the Philippines is among the primary sending countries to the Persian Gulf region and recalls that the often violent and inhumane conditions in countries such as Saudi Arabia and Kuwait have been widely documented and, in April 1995, led to more than 200 domestic workers receiving shelter in the Embassy of the Philippines in Kuwait. The report notes that racism also fuels international trade in domestic workers and that reportedly a "hierarchy of nationalities" exists determining the type of employment and the salary migrant workers receive.

In terms of policies implemented by sending states in an effort to protect the rights of migrant workers, reference is made to the 1988 decision of the Philippines to ban the "maid trade" because of the poor working conditions and the often violent situations in which domestic migrant workers were forced to live. The reports notes that the trade was re-established after the government negotiated improved conditions, including minimum salary and terms of employment, with receiving states. The Overseas Filipinos Act of 1995 limits the sending of migrant workers only to those countries where the rights of migrant workers are protected and declares ineligible unskilled workers since they are believed to be most vulnerable to abuse. The report notes that in response to the Filipino policy requiring employers to pay a minimum salary of US\$200 per month to Filipina housemaids, Bahrain has opened recruiting agencies in Ethiopia and Eritrea.

Mechanisms and Reports of the Sub-Commission

Contemporary forms of slavery, Working Group on:
(E/CN.4/Sub.2/1997/13, para. 32, 49)

In the section dealing with bonded labour and child labour, the report refers to information received indicating the Philippines was among the countries in which the indigenous populations are victims of slavery-like practices, ranging from the sexual exploitation of women and children to bonded labour and bondage.

Traditional practices affecting the health of women and children, Special Rapporteur on: (E/CN.4/Sub.2/1997/10/Add.1, paras. 1-11)

The report summarizes information provided by the government noting that many Filipino traditional health practices are influenced by factors such as superstitious beliefs, religious beliefs, ignorance in the rural areas of the advantages of hygiene, sanitation and good environment, and poverty. Most of them relate to birthing practices and include: the covering of the navel of the newborn baby with sand for the purpose of quick healing and the burying of the placenta and umbilical cord of a newborn baby together with a pencil and paper in the belief that the act will make the baby intelligent; the use of indigenous objects such as the "buho" or bamboo in cutting

the umbilical cord of a newborn baby instead of unnatural objects, like scissors; and, the hanging of the dried umbilical cord "pusod" of a newborn baby beneath the doorway or window in the belief that this will keep the infant safe from accident or harm.

The government acknowledged the need to modify the lifestyle of indigenous cultural communities while at the same time preserving their culture. The Office of the Northern Cultural Communities, the Office of the Southern Cultural Communities and the Office of Muslim Affairs have been established in order to promote and protect their rights to health. The report notes that these offices have agreed that some traditional practices are harmless and consistent with the promotion of the indigenous people's health. The health programmes initiated by the offices do not have as an objective the elimination of traditional practices having a harmless effect on the health of women and children and have led to a significant improvement in the way in which women's and children's health are viewed as compared with the traditional and limited focus on maternal health alone, since the programmes meet the needs of women at all stages of their life cycle and do not simply focus on maternal health.

The government also referred to its Plan of Action for Children (PPAC) 2000 and Beyond which aims to: reduce the number of infants, children and mothers who die each year; reduce malnutrition among children; and, provide safe water and toilet facilities to all. PPAC areas of concern are, among others: family care and alternative parental arrangements; basic health and nutrition; welfare and social security; and safe environment.

The report notes that the Department of Health (DOH) is responsible for providing assistance to children necessary for their survival and normal development, in addition to other benefits provided for under existing laws. The promotion and maintenance of the child's health through strengthened safe motherhood, breastfeeding, and improved weaning, universal immunization, control of diarrhoeal diseases and respiratory infections, and other existing public health programmes are areas handled. Other measures have been taken through additional offices and departments to coordinate programmes and projects relating to women's health with the aim of institutionalizing an integrated approach to women's health service delivery.

Other Reports

Detention of international civil servants, Report of the S-G to the CHR: (E/CN.4/1997/25, paras. 3 & 79)

The report of the Secretary-General notes that a Philippines national with the UN mission in Iraq was killed in an explosion in December 1995 while on posting.

Environment, Report of the S-G to the CHR: (E/CN.4/1997/18, Section I, D)

The report of the Secretary-General included information provided by the government setting out various constitutional provisions related to the environment such as the right to a balanced and healthful ecology and the rights of indigenous cultural communities to their ancestral lands, and their economic, social and cultural well-being. The government stated that, within the international context, there is a need to

identify or provide mechanisms to monitor and assess the implementation of human rights and environmental concerns.

HIV/AIDS, Report of the S-G to the CHR: (E/CN.4/1997/37, paras. 6)

The report of the Secretary-General on the Second International Consultation on HIV/AIDS and Human Rights (Geneva, September 1996) refers to a background paper prepared for the consultation by the Alternative Law Research and Development Center (ALTERLAW) in the Philippines. The group was asked to prepare the paper identifying the most important human rights principles and concerns in the context of HIV/AIDS, as well as concrete measures that states could take to protect HIV-related human rights.

Indigenous and tribal peoples, Memorandum by the ILO: (E/CN.4/Sub.2/1997/25, paras. 27-29)

The information provided included reference to: a national workshop in May 1996 which was held to review, jointly with selected indigenous organizations and relevant government agencies, existing legislation and policies so as to identify areas for reform, and to devise mechanisms and strategies to enhance the participation of indigenous representatives in national decision-making; a series of focus group discussions to review the impact of past and present environmental impact assessment (EIA) approaches and practices on the lives and the environment of indigenous communities and contribute to the formulation of a draft policy outlining an EIA which is friendly to indigenous communities and takes into account their characteristics, specific needs and rights; and, the collection of data, through participatory action-oriented research methodologies, on the most common practices of a number of indigenous peoples in the Philippines in a broad range of domains, including fishing, farming, traditional handicraft production, and land and natural resource management, to assist in the preparation of ancestral domain management plans.

International Decade of the World's Indigenous People, Report of the HCHR to the CHR: (E/CN.4/1997/101, para. 29)

The report of the High Commissioner for Human Rights includes a summary of information from the International Labour Organization (ILO) on its interregional programme to support self-reliance on the part of indigenous and tribal communities through cooperatives and other self-help organizations. The report notes that the programme has been operating since 1993 and has 17 pilot projects in three countries, including the Philippines.

Migrant workers, Report of the S-G to the CHR: (E/CN.4/1997/65, para. 4)

The report of the Secretary-General on the status of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families notes that the Philippines has ratified the Convention.

Minimum humanitarian standards, Report of the S-G to the CHR: (E/CN.4/1997/77, Sections I & III)

The report of the Secretary-General refers to information provided by the government, noting two bills related to national emergencies, the first on disaster preparedness and prevention and the second on the placement of one-half of the

personnel and transport resources of the Armed Forces at the disposal of government relief agencies for rescue missions during emergencies and natural disasters.

Minorities, Report of the S-G to the CHR: (E/CN.4/1997/82, paras. 3, 6, 9, 14)

The report of the Secretary-General notes information provided by the government stating: the free exercise and enjoyment of religious profession and worship are allowed without discrimination and there is national recognition and observance of Muslim holidays; regional languages are the auxiliary official languages in the regions and serve as auxiliary media of instruction; offices and agencies such as the Office of the Northern Cultural Communities, the Office of the Southern Cultural Communities and the Office of Muslim Affairs have been created to implement the provisions of the Philippine Constitution which promote and protect the rights of persons belonging to minorities; and, the government has proposed a bill entitled Protection and Promotion of the Rights of Indigenous Cultural Communities which will address the needs, and protect and promote the rights of indigenous people.

Regional arrangements, Report of the S-G to the CHR: (E/CN.4/1997/44, paras. 21, 22)

The report of the Secretary-General notes that a representative of the Philippines received a UN human rights fellowship and the government requested a needs assessment mission on juvenile justice which was fielded to the Philippines in July 1996.

Restitution, compensation, rehabilitation, Report of the S-G to the CHR: (E/CN.4/1997/29, paras. 4)

The report of the Secretary-General summarizes information received from the government on legislation related to the question of restitution, compensation and rehabilitation. The information notes laws: aiming to minimize violations of the minimum-wage and other labour standards, increase the amount of fines and the number of years of imprisonment and impose civil obligation in an amount double the unpaid benefits due the employees by way of restitution, on any person, company or employer who fails or refuses to pay the prescribed increases or adjustments in the wage rates; appropriating 10 billion pesos (approximate US\$290 million) to help the victims of the eruption of Mt. Pinatubo and its after-effects; increasing the 1993 appropriation for vital infrastructure projects from 1.5 billion to 3.5 billion pesos; providing financial resources for military veterans in areas of schooling, disability, old-age pension; and, granting incentives to village health workers in the form of hazard and subsistence allowance, training programmes, compensation for injury, insurance, medical benefits and free legal services. The government also provided information on pending bills dealing with justice for victims of human rights violations arising from proclamations of martial law and the rights of detained persons.

Right to development, Report of the S-G to the CHR: (E/CN.4/1997/21, para. 8)

The report of the Secretary-General provides a summary of information from the United Nations Population Fund (UNFPA) noting that a study on male sexuality in and out of the family is being conducted in the Philippines and is

focussed on the attitudes and views of adolescent boys and men on their sexual and reproductive behaviour, decision-making about contraception and their role in the family.

UN Decade for Human Rights Education, Report of the HCHR to the CHR: (E/CN.4/1997/46, paras. 23)

The report of the High Commissioner for Human Rights summarizes information provided by the government referring to the fact that the Philippine Commission on Human Rights has prepared a national Plan of Action for human rights education. The report notes that the Plan includes clear objectives, target audiences (organized and unorganized elements of society), strategies (trainers' training, organization of networks, integration of human rights in all educational curricula, utilization of village-level officials to reach out to the community level, promotional campaigns including artistic and cultural activities, development of monitoring and evaluation systems, etc.) and programmes, including the creation of a human rights training, documentation and research centre (the Human Rights Academy). The Philippine Commission has entered into a number of formal agreements with other national partners for human rights education to define in detail specific areas of responsibility. These partners include: the Department of Interior and Local Government, the Liga NG MGA Barangay (an organization of barangay captains or village chiefs), the Department of Justice, the Department of National Defence, the Department of Education, Culture and Sports, the Commission on Higher Education, and Amnesty International/Philippine Section.

The report of the Secretary-General to the General Assembly (A/52/469, para. 42) refers to a national gathering in the Philippines of regional delegates, human rights practitioners and advocates from the private, non-governmental and governmental sectors which was held in February 1997 and recommended: an executive order be passed, creating a national inter-agency committee to implement the national plan; establishment of an ad hoc inter-agency task force for each region; development of a memorandum of agreement with all concerned agencies; and, creation of the National Association of Human Rights Educators, formed by all participants to the consultation and given specific responsibilities in the implementation of the Plan.

World Public Information Campaign on Human Rights, Report of the S-G to the CHR: (E/CN.4/1997/36, para. 98)

The report of the Secretary-General refers to activities for the Decade of the World's Indigenous People and notes that in the Philippines the observance of the International Day of the World's Indigenous People was jointly organized by UNIC Manila, the NGO Earthsavers Movement and ILO. The programme included an exhibit and performances by indigenous people.

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QATAR

Date of admission to UN: 21 September 1971.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Qatar has not submitted a core document for use by the treaty bodies.

Racial Discrimination

Acceded: 22 July 1976.

Qatar's ninth, 10th and 11th periodic reports were due 21 August 1993, 1995 and 1997 respectively.

Rights of the Child

Signed: 8 December 1992; ratified: 3 April 1995.

Qatar's initial report was due 2 May 1995.

Reservations and Declarations: General reservation.

THEMATIC REPORTS***Mechanisms of the Commission on Human Rights***

Religious intolerance, Special Rapporteur: (A/52/477, paras. 25, 28, 30, 33, 38)

The Special Rapporteur's interim report to the General Assembly notes communications sent to the government related to violations of religious freedom against Christians and the strict prohibition on the conversion of a Muslim to another religion.

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SAMOA

Date of admission to UN: 15 December 1976.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Samoa has not submitted a core document for use by the treaty bodies.

Discrimination against Women

Acceded: 25 September 1992.

Samoa's initial report was due 25 October 1993.

Rights of the Child

Signed: 30 September 1990; ratified: 29 November 1994.

Samoa's initial report was due 28 December 1996.

Reservations and Declarations: Paragraph (1) (a) of article 28.

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SAUDI ARABIA

Date of admission to UN: 24 October 1945.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Saudi Arabia has not submitted a core document for use by the treaty bodies.

Racial Discrimination:

Acceded: 23 September 1997.

Saudi Arabia's initial report is due 22 October 1998.

Reservations and Declarations: Article 22.

Torture:

Acceded: 23 September 1997.

Saudi Arabia's initial report is due 22 October 1998.

Reservations and Declarations: Paragraph 1 of article 3; article 30.

Rights of the Child

Acceded: 26 January 1996.

Saudi Arabia's initial report was due 24 February 1998.

Reservations and Declarations: General reservation.

COMMISSION ON HUMAN RIGHTS

At its 1997 session the Commission considered the situation in Saudi Arabia under the confidential 1503 procedure and decided to continue consideration for the 1998 session.

THEMATIC REPORTS***Mechanisms of the Commission on Human Rights***

Arbitrary detention, Working Group on: (E/CN.4/1997/4/Add.1, Decision 48)

Decision 48 (1995) related to the cases of 10 named individuals. Eight of the ten were among hundreds of suspected Sunni opponents of the government reportedly arrested in September 1994 by the General Intelligence ("al-Mabahith al-'Ama") and other security forces. The eight included a religious scholar, the former Head of Shari'a Department at 'Um al-Qura University; a lawyer; a lecturer at al-Imam University; a journalist at 'Akadh newspaper; and a student. The information received indicated that all those arrested were held in incommunicado detention in al-Hair prison, General Intelligence headquarters in al-'Ulaisha, and in police stations in al-Qaseem and Riyadh. The arrests were reportedly carried out following the transfer to London of an opposition group, the Committee for the Defence of Legitimate Rights (CDLR), which was banned in May 1993.

In its response to the WG, the government did not deny that the persons concerned were charged with establishing the "Committee for the Defence of Legitimate Rights" (CDLR). However, it pointed out that under national legislation, the establishment of such a committee required official permission beforehand; therefore, the establishment of the CDLR constituted a violation of national law. The government also recalled that Saudi Arabia had not ratified the International Covenant on Civil and Political Rights, nor its Optional Protocol. According to the government, three of the ten people named were not being detained and the others had been charged.

The WG noted that, under article 20 of the Universal Declaration of Human Rights and article 22 of the ICCPR, the right to freedom of association may be subjected to restrictions only on two conditions: that such restrictions are prescribed by law, and that they are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals, or the protection of the rights and freedoms of others. On that basis the WG stated that the restriction placed on the right to freedom of association, which consists of the obligation to obtain an authorization beforehand, does not meet these two conditions and cannot therefore be considered as admissible. The WG also noted that none of the persons concerned had exercised their rights to freedom of opinion and expression and to freedom of association by resorting to or by inciting to violence.

The WG declared all of the detentions to have been or be arbitrary in contravention of articles 19 and 20 of the Universal Declaration and articles 19, 21 and 22 of the ICCPR.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1997/34, para. 308)

No new cases of disappearance were transmitted by the Working Group (WG) to the government. The one

outstanding case was transmitted in 1992 and concerns a Saudi Arabian businessman who was allegedly arrested by Jordanian security forces in Amman in 1991 and later handed over to the Saudi Arabian authorities. The government's response indicated that the businessman had been tried and detained in a prison in Riyadh, but had since been released and was free to travel outside the country.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1997/60, paras. 18, 19, 83, 89; E/CN.4/1997/60/Add.1, 427–429)

The Special Rapporteur (SR) notes that an urgent appeal was sent to the government on behalf of seven Somalis who were reported to have been sentenced to death after a trial which did not conform with the internationally guaranteed safeguards for those facing the death penalty. The government informed the SR that, in the final judgement, two of the defendants had been sentenced to death, three had received prison sentences, one case had been referred to a court of summary jurisdiction, and the seventh person named was not known. The government also stated that the legal system in Saudi Arabia guaranteed a fair trial since the courts were ranked at various levels: courts of limited jurisdiction, followed by courts of general jurisdiction, the Council of the Court of Cassation, and the Higher Council of the Judiciary. Important cases were heard by general courts consisting of three judges; convicted persons had the right to appeal to the Court of Cassation, where the case was heard by five judges; and they could subsequently appeal to the Higher Council where the case was also heard by five judges. The government stated that the independence of the judiciary was required and provided for by the Islamic Shariah. The SR requested clarification from the government with regard to the defendants' access to lawyers and the evidence considered in the case.

Religious intolerance, Special Rapporteur on: (E/CN.4/1997/91, paras. 9, 17, 19, 22, 24, 26, 43)

The report refers to: violations of religious freedom against Islam; discriminatory policies and/or laws and regulations concerning religion and belief against Christians and Shiites; restrictions on even private manifestations of religion or belief and ill-treatment, arrests and detentions of clergy and believers. The government replied to the cases transmitted by the Special Rapporteur (SR), stating that the sole aim of the allegations was to harm the Kingdom of Saudi Arabia.

The SR's interim report to the General Assembly (A/52/477, paras. 46, 47–48) notes the government's response to information previously transmitted, stating that: it was not opposed to non-Muslims practising their religion in their homes; Christians have the same status as all other residents, Muslim or otherwise; Christians are on an equal footing with Muslims as to the rights and duties arising from social order; with regard to the Shiites, discrimination was not practised and the state punished any departure by isolated individuals from the policy of non-discrimination; there was no prohibition on the wearing of the turban during prayers; and, there was no discrimination against Sunni Muslims in educational matters.

Sale of children, child prostitution, child pornography, Special Rapporteur: (E/CN.4/1997/95, para. 73)

The report notes instances in which minors in India were forcibly married to octogenarians with physical disabilities and then legally taken out of the country. The report states that, once in Saudi Arabia, their passports are confiscated and they are completely at the mercy of their "masters".

Torture, Special Rapporteur on: (E/CN.4/1997/7, Sections I, paras. 5–11, and III; E/CN.4/1997/7/Add.1, paras. 434–438)

The report notes that, in 1995, the Special Rapporteur (SR) sent three urgent appeals concerning 13 people who had been sentenced to the punishment of flogging and that, in 1996, he had sent five urgent appeals on behalf of 10 people, two of whom had been sentenced to prison terms and flogging. Concerns were also expressed about unlimited incommunicado detention.

In its response to the SR, the government denied that unlimited incommunicado detention was used but did not provide any further information on that issue. The government's main focus was on the issue of flogging, about which it expressed regret that the legal judgements handed down by a Shari'a court were described as falling into a category of torture and cruel, inhuman or degrading treatment. An addendum to the report summarizes the points made by the Saudi government on this issue: that flogging is a penalty prescribed by the Islamic Shari'a; the Shari'a is the true source of security, right and justice; the supremacy of Shari'a is too great and sublime to be questioned by anyone since it is God's law; when a Shari'a court passes a sentence, it is the government's role to implement it without intervening — either to have it increased or reduced — since everyone is convinced that the sentence is a just one because it was handed down through a fair trial process in accordance with the Islamic legal system; the Convention against Torture stipulates that torture does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions—flogging is therefore excluded from the definition of torture; and, flogging is a penalty prescribed by the Shari'a in order to safeguard security and stability and establish standards and morals.

The SR's response to the assertions of the government included that: corporal punishment is inconsistent with the prohibition of torture and other cruel, inhuman or degrading treatment or punishment enshrined, *inter alia*, in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; 'lawful sanctions' must necessarily refer to those sanctions that constitute practices widely accepted as legitimate by the international community; the administration of such punishments as stoning to death, flogging and amputation — acts which would be unquestionably unlawful in the context of custodial interrogation — cannot be deemed lawful simply because the punishment has been authorized in a procedurally legitimate manner, i.e., through the sanction of legislation, administrative rules or judicial order; there exists a great divergence of views among Islamic scholars and clerics concerning the obligations of states to implement corporal punishment; the overwhelming majority of member states of the Organization of the Islamic Conference do not have corporal punishment in their domestic laws; those states applying religious law are bound to do so in such a way as to avoid the

application of pain-inducing acts of corporal punishment in practice; it is axiomatic that a state may not invoke the provisions of its national law to justify non-compliance with international law; on at least two occasions the Human Rights Committee has affirmed that the prohibition on torture and cruel, inhuman or degrading treatment or punishment extends to corporal punishment; and, decisions of the General Assembly in 1950 and 1952 recommended that immediate measures be taken to abolish corporal punishment in the Trust Territories.

Toxic wastes and products, Special Rapporteur on:
(E/CN.4/1997/19, para. 56)

The report refers to information stating that Saudi Arabia has emerged as one of the major exporters of scrap batteries to the Philippines. Figures from 1994 to April 1996 indicated exports totalling 9,440 tons.

Violence against women, Special Rapporteur on:
(E/CN.4/1997/47, Section V)

In the section on violence against women migrant workers, the report states that the situation of women migrants within most social structures is one of heightened marginalization, often exacerbated and implicitly condoned by the state. The report refers to the Saudi state policy under which all domestic workers must surrender their passports upon arrival, and comments that the policy increases the vulnerability of migrant women to exploitation and abuse by institutionalizing employer control over the freedom of movement of domestic workers. The report characterizes the conditions of these workers as often violent and inhumane.

Other Reports

Mass exoduses, Report of the HCHR to the CHR:
(E/CN.4/1997/42, Section I.A)

The report of the High Commissioner for Human Rights takes note of information provided by the Saudi government related to the departure of Yemenis working in Saudi Arabia. It states that the departure of the Yemenis occurred without any compulsion, but that it was encouraged by the Yemeni government, motivated by their wish to avoid repercussions following the Gulf war.

Minimum humanitarian standards, Report of the S-G to the CHR: (E/CN.4/1997/77, Section I)

The report of the Secretary-General cites information provided by the government pointing out that its legal system does not involve any of the types of discrimination on the ground of race, colour, sex, language, religion or social origin. The government stated, in that context, that article 8 of the Basic Law stipulates that the government is based on justice, consultation and equality in accordance with the Islamic Shari'a, and that articles 26 and 27 further stipulate that the state shall protect human rights in accordance with the Islamic Shari'a and shall safeguard the rights of citizens and their families in situations of emergency and in the event of illness, disability or old age.

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SINGAPORE

Date of admission to UN: 21 September 1965.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Singapore has not submitted a core document for use by the treaty bodies.

Discrimination against Women

Acceded: 5 October 1995.

Singapore's initial report was due 4 November 1996.

Reservations and Declarations: Articles 2, 16 and 29; paragraph 1 of article 11.

Rights of the Child

Acceded: 5 October 1995.

Singapore's initial report was due 3 November 1997.

Reservations and Declarations: Articles 12, 13, 14, 15, 16, 17; articles 19, 32 and 37; paragraph 1 (a) of article 28.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1997/60, paras. 15, 19, 28, 81, 91; E/CN.4/1997/60/Add.1, paras. 435-438)

An urgent appeal was sent to the government on behalf of a British national sentenced to death in Singapore for murder. The man did not file an appeal against the sentence or submit a petition for clemency to the President although his sister requested clemency on his behalf and the appeal was denied. The report states that he was executed as scheduled on 19 April 1996. The government informed the Special Rapporteur (SR) that the procedure for lodging appeals is carefully explained to every prisoner, and that every person sentenced to death is asked by the prison authorities to file a notice of appeal. The government also indicated that those sentenced to death are forced to file an appeal or to continue with an appeal against their will.

The government responded to the SR's concern related to an apparent weakness in respect of the presumption of innocence. The reply stated that, in a case involving the possession of drugs, the burden of proof lies with the prosecution; but if it is established that the defendant did possess drugs, then the onus shifted to the defendant to disprove the presumption of trafficking. The SR nonetheless expressed the view that the Misuse of Drug Act does not provide sufficient guarantees for the presumption of innocence and may lead to violations of the right to life when the crime of drug trafficking carries a mandatory death sentence.

Racial discrimination, Special Rapporteur on:
(E/CN.4/1997/71, para. 10)

The report states that during the 1996 session of the General Assembly the government bitterly attacked the Special Rapporteur (SR) for the way he described the discrimination that migrant workers in some Asiatic countries suffer, and corrected what it considered an elementary factual error in the SR's comments on the execution of Flor Contemplación, a Filipina domestic servant.

Religious intolerance, Special Rapporteur on:

(E/CN.4/1997/91, paras. 9, 17, 19, 21, 24, 26, 41, 66; A/52/477, paras. 21, 25, 28, 34, 37, 46)

The reports refer to discriminatory policies, laws and/or regulations affecting Jehovah's Witnesses and the Unification Church in Singapore. On the question of conscientious objection the reports note that there have been reported cases of imprisonment for refusal to perform military service and there is no legal recognition of the right of conscientious objection. The reports also note information indicating that clergy and believers have been subjected to ill-treatment, arrests and detention.

Sale of children, child prostitution, child pornography, Special Rapporteur on the: (*A/52/482, paras. 6, 107)

The Special Rapporteur's interim report to the General Assembly notes that the government responded to the SR's request for information on the media and education as catalysts in the commercial sexual exploitation of children. The government's approach to the Internet is summarized, noting the Class Licence Scheme through which Internet service and content providers are required to block out objectionable sites as directed by the Singapore Broadcasting Authorities. The report notes further that schools, libraries and other providers of Internet access to children must institute tighter levels of control although the means to accomplish this have not yet been determined. The SR cites information indicating concerns as to the scope and vagueness of the Internet content guidelines and the effect they might have on freedom of expression.

Toxic wastes and products, Special Rapporteur on:

(E/CN.4/1997/19, para. 57)

The report indicates that in the last three years Singapore has become one of the major exporters of drained or undrained scrap batteries to the Philippines, citing exports totalling 9,280 tons between 1994 and April 1996.

Violence against women, Special Rapporteur on:

(E/CN.4/1997/47, Section V)

In the section dealing with women migrant workers, the report refers to the fact that, despite promises of education and a better standard of living for women and girls who are migrant domestic workers, they often live in a state of indentured servitude that includes physical abuse. The report notes that receiving states have implemented various policies both to encourage and discourage the "maid trade" and that a formal Foreign Domestic Maid programme was established in Singapore in 1978 to encourage educated women to assume formal employment. The report also notes that the government levies a substantial tax on the employment of foreign domestic workers and that none of the US\$146 million per year generated by this taxation is used to benefit the domestic workers.

Mechanisms and Reports of the Sub-Commission

States of emergency, Special Rapporteur on: (E/CN.4/Sub.2/1997/19/Add.1, Section II)

The report notes that emergency legislation is currently in force in Singapore which expressly provides for preventive detention.

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SOLOMON ISLANDS

Date of admission to UN: 19 September 1978.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Solomon Islands has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Succeeded: 17 March 1982.

The initial and second periodic reports of Solomon Islands were due 30 June 1990 and 1995 respectively. The Committee has scheduled a review of implementation of the Covenant for its April/May 1998 session in the absence of a report from the government.

Racial Discrimination

Succeeded: 17 March 1982.

The second through eighth periodic reports of Solomon Islands (covering the period 1985-1997) have not been submitted; the eighth periodic report was due 16 April 1997.

Rights of the Child

Acceded: 10 April 1995.

The initial report of Solomon Islands was due 9 May 1997.

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SRI LANKA

Date of admission to UN: 14 December 1955.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Sri Lanka has submitted a core document (HRI/CORE/1/Add.48) for use by the treaty bodies. The report prepared by the government contains demographic and statistical data and information on the general political structure.

The legal framework for the protection of human rights is established in the preamble and articles 10 to 16 of the Constitution. In addition to constitutional and legal provisions, there is an Ombudsman — the Parliamentary Commissioner for Administration — who has the duty to investigate and report on complaints or allegations of infringements of fundamental rights and other injustices by public officers and officers of public corporations, local authorities and other similar institutions. There is, as well, the Commission for the Elimination of Discrimination and Monitoring of Fundamental Rights, Citizens Rights Watch Committees to act as a link between the public and police, and the Human Rights Task Force (which was subsequently replaced by the Human Rights Commission). The Commission of Inquiry Act No. 17 of 1948 provides for the appointment of commissions of inquiry as required. The Sri Lanka Law Commission is charged with the responsibility to review legislation to ensure compatibility with international human rights standards, the repeal of obsolete and unnecessary laws, and the simplification and modernization of law.

Economic, Social and Cultural Rights

Acceded: 11 June 1980.

Sri Lanka's initial report (E/1990/5/Add.32) is scheduled for consideration at the Committee's April/May 1998 session; the second periodic report was due 30 June 1995.

Civil and Political Rights

Acceded: 11 June 1980.

Sri Lanka's fourth periodic report was due 10 September 1996.

Reservations and Declarations: Declaration under article 41.

Optional Protocol: Acceded: 3 October 1997.

Racial Discrimination

Acceded: 18 February 1982.

Sri Lanka's seventh and eighth periodic reports were due 20 March 1995 and 1997 respectively.

Discrimination against Women

Signed: 17 July 1980; ratified: 5 October 1981.

Sri Lanka's third and fourth periodic reports were due 4 November 1990 and 1994 respectively.

Torture

Acceded: 3 January 1994.

Sri Lanka's initial report was due 1 February 1995.

Rights of the Child

Signed: 26 January 1990; ratified: 12 July 1991.

Sri Lanka's second periodic report is due 10 August 1998.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on: (E/CN.4/1997/4, para. 13; E/CN.4/1997/4/Add.1, Decision 1)

Decision No. 1 (1996) related to 36 individuals, most of them arrested between 1989 and 1992 and a number of them charged with activities related to membership in or sympathy for the People's Liberation Front (JVP). The government provided information on each of the cases, which was not disputed by the original sources, indicating that 22 of those arrested or detained were no longer in custody either because they were discharged, had been acquitted, had finished serving their sentence, or were released on bail pending trial. These cases, plus three others, were filed by the Working Group (WG). The remaining 11 cases were maintained by the WG pending further information.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1997/34, paras. 12, 317-328, 392, 393)

Thirty-four newly reported cases of disappearance were transmitted to the government, 16 of them under the urgent action procedure. Of these 16 cases, four reportedly occurred in 1996. The majority of the newly reported cases occurred between mid-1995 and early 1996 following the resumption of hostilities between government forces and the Liberation Tigers of Tamil Eelam (LTTE), and concerned young Tamil men, many of them poor farm labourers, fishermen or students from Trincomalee, Batticaloa, Colombo and Jafna. The Working Group (WG) cites information indicating that the most intense fighting since hostilities broke out 13 years ago had taken place, leading to renewed reports of disappearances, particularly in Colombo and in the eastern part of the country. Those responsible reportedly included all branches

of the security forces, Muslim and Sinhalese home guards and armed Tamil groups opposed to the LTTE.

The report notes that, since the establishment of the WG in 1980, 11,513 cases of disappearance alleged to have occurred in Sri Lanka have been reported. The cases occurred in the context of two major sources of conflict: the confrontation of Tamil separatist militants and government forces in the north and north-east of the country and the confrontation between the People's Liberation Front (JVP) and government forces in the south. Cases reported to have occurred between 1987 and 1990 took place mostly in the Southern and Central Provinces, during a period in which both security forces and JVP resorted to the use of extreme violence in the contest for state power. The report further notes that, in July 1989, the conflict in the south took a particularly violent turn when JVP adopted even more radical tactics, including enforced work stoppages, intimidation and assassination, and the targeting of the family members of the police and army. To thwart the JVP military offensive, the state launched a generalized counter-insurgency campaign in which the armed forces and the police were given wide latitude of action to eliminate the rebel movement and restore law and order in any way they saw fit. By the end of 1989, the armed forces had put down the revolt, having succeeded in capturing and executing the nucleus of the JVP leadership.

Referring to the cases said to have occurred since 11 June 1990, the date of resumption of hostilities by the Liberation Tigers of Tamil Eelam (LTTE), the report states that they have taken place primarily in the Eastern and North-Eastern Provinces where the persons most often reported detained and missing were young Tamil men accused or suspected of belonging to, collaborating with, aiding or sympathizing with LTTE. Tamil persons internally displaced owing to the conflict and staying in informal shelters such as churches or school centres were the group particularly at risk of detention and disappearance and the most frequently utilized method of detention was the cordon-and-search operation in which the army, often in conjunction with the police, and particularly the Special Task Force, went into a village or a rural area and detained scores of persons. Many were released within 24 to 48 hours, but a percentage of the persons remained in custody for questioning.

The WG also cited information indicating that there was a lack of progress in prosecuting some 172 police officers who had been implicated in cases of disappearance in the central provinces, despite the fact that there was said to be sufficient information to indict many of them in the courts. The information also indicated that the military authorities had failed to take action against some 200 army officers implicated in cases of disappearance during the course of an investigation by the Presidential Commissions of Inquiry into Involuntary Removal and Disappearances, despite a directive issued by the President to the Ministry of Defence to this effect. Concern was also expressed at the duration of the mandate of the Commissions of Inquiry, which are investigating the fate of 23,000 disappeared persons in the northern and eastern parts of the country. Sources stated that the three-month extension of the Commissions' mandate granted by the President was insufficient to bring the details of the cases of disappearance to light and that the payment of compensation to affected families had been very slow with less than 5 per cent of the families compensated.

The WG referred to information asserting that the government had refused to amend provisions of the Prevention of Terrorism Act and the Emergency Regulations, which vary significantly from international standards and facilitate disappearances and other human rights violations. It was also asserted that there was a lack of compliance with safeguards installed by presidential directives in 1995 to protect the welfare of detainees and that action was not taken against members of the security forces for violating them.

The government did not provide any new information on the 11,449 cases that remain to be clarified.

The WG expressed its concern at the continuing high level of newly reported cases of disappearance and, while taking into account the legitimacy of derogating from some human rights commitments in accordance with international law in times of public emergency, stressed again that, in accordance with article 7 of the Declaration on the Protection of All Persons from Enforced Disappearance, no circumstances whatsoever may be invoked to justify enforced disappearances. The WG requested the government to bring the Prevention of Terrorism Act and the Emergency Regulations into line with its commitments under the Declaration.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1997/60, paras. 16, 17, 18, 19, 22, 32, 38, 51, 54, 56, 67, 68; E/CN.4/1997/60/Add.1, paras. 439-452)

The Special Rapporteur (SR) continued to receive reports regarding violations of the right to life committed in the context of the armed conflict between the government and the Liberation Tigers of Tamil Eelam (LTTE) during 1996. In particular, the reports referred to the large numbers of civilians who had been killed in military operations against LTTE on the Jaffna Peninsula. The report notes that, according to its sources, non-combatants were killed either in bombing raids, during cordon and search operations, or through deliberate action by members of the security forces. Information was also received related to killings of civilians by LTTE members, sometimes solely on the basis of the victims' ethnicity.

A number of cases were transmitted to the government involving deaths of civilians in the course of indiscriminate bombing by the Sri Lankan Air Force and civilians killed by members of the armed forces. The government response to the cases transmitted affirmed that: civilians had been killed during armed confrontation between its forces and the LTTE; the persons missing had likely joined the LTTE; in one case an investigation was proceeding; in another case the police officer had shot in self-defence and killed the person who had tried to throw a grenade at him during the house search.

The report notes that the government invited the Special Rapporteur (SR) to visit and that discussions were under way for the visit to be conducted during 1997. The report further notes the SR's concern about the reports related to a large number of violations of the right to life resulting from military activities in Sri Lanka, especially in the northern peninsula. The SR acknowledged the difficult circumstances arising from the situation and called on the parties to the conflict to comply with international humanitarian and human rights standards. Following on this and without undertaking any action, the SR expressed equal concern about the human rights abuses committed by LTTE, including deliberate killings of civilians.

Freedom of opinion and expression, Special Rapporteur on: (E/CN.4/1997/31, Section III)

The report notes that the case of a member of the Sri Lankan Parliament transmitted to the government related to an investigation by the Criminal Investigation Department (CID), based on an undated and anonymous petition, that the MP, had drawn a salary from the state for three years without performing his duties as medical officer to the former head of State. Information received indicated that: the CID had failed to respect its obligation to inform the Speaker of Parliament prior to its initiation of investigations and its obligation to conduct it in a confidential manner; the charge related to a possible lapse on the part of the administration for which a civil case would have been more appropriate; and the CID had instructed the Attorney-General to charge the MP for cheating in respect of public property, which is a non-bailable offence, and would imply that he could be kept in custody indefinitely and would thereby effectively be prevented from assuming his responsibilities as a member of Parliament.

The government response to the case noted that: the investigations had been initiated solely to gather evidence, oral and documentary, to assist the Attorney-General to decide whether or not an indictment should be forwarded to the High Court; while the investigation by the CID started on the basis of allegations made in an anonymous petition, the subsequent investigation was fair, impartial and comprehensive; and, after giving fullest consideration to all material placed before the Attorney-General by the CID as well as the MP, two indictments were forwarded to the High Court of Colombo and the MP was charged with: criminal misappropriation in respect of salaries drawn in the years 1991 and 1992 without reporting for work; and, cheating the Director-General Hospital (the chief authority regarding the payment of salaries) by not informing him that he was not reporting for work. The government referred to the provisions in the Offences against Public Property Act No. 12 of 1982 under which the charges were brought and stated that there had been no violation of the freedom from arbitrary arrest and wrongful confinement. The government also stated that the defendant had been given every opportunity of presenting his case to the prosecuting authorities prior to the filing of the indictments and would be entitled to all the judicial safeguards provided to an accused person under the law.

Sale of children, child prostitution, child pornography, Special Rapporteur on: (E/CN.4/1997/95, paras. 23, 29, 39)

The report notes that recent amendments to the Penal Code strengthened the legislation on trafficking and sexual exploitation and introduced the controversial concept of mandatory minimum sentences for sexual violence. The report referred to information provided by the government, noting: a Task Force which had been set up at the national level and was working to eliminate child prostitution; activities of the Monitoring Committee on the Implementation of the Children's Charter and its work related to child abuse and the monitoring of follow-up action in serious abuse cases; and, implementation of awareness programmes by the Department of Probation and Childcare Services through which children are becoming aware that they can complain and learning to whom they should complain. Citing information provided by

the ILO, the report notes that Sri Lanka is among the countries in South Asia where trafficking in children is rife.

The Special Rapporteur's interim report to the General Assembly (A/52/482, para. 24) states that there appears to be a significant problem of child prostitution, with government estimates of more than 2,000 child prostitutes in the country. The report notes the government's statement that it is addressing the problem.

Violence against women, Special Rapporteur on:
(E/CN.4/1997/47, Sections III, V; E/CN.4/1997/47/Add.4, paras. 3, 9)

In the section dealing with rape and sexual violence, the report refers to the November 1995 amendments to the Penal Code in Sri Lanka which set the minimum sentence for a rape conviction at seven years and, for certain aggravated cases, such as custodial rape, gang rape or rape of a pregnant woman, at ten years. In the section referring to violence against women migrant workers, the report notes a survey conducted at Colombo international airport which found that 84 per cent of migrant workers leaving the country were women and that 94 per cent of the women were migrating for domestic work. The Special Rapporteur (SR) noted that Sri Lanka is among the primary sending countries for domestic workers to the Gulf region and states that, in April 1995, in Kuwait, some 150 migrant domestic workers sought shelter in Sri Lanka's embassy. Steps taken by the government to regulate the sending of migrant workers are noted, including provisions in the Overseas Employment Act of 1995, requiring that a prospective migrant worker must possess a "Certificate of Registration", issued only upon presentation of an employment contract, in order to leave. The Act also prescribes that overseas employers are required to cover the cost of travel and medical benefits for the migrant workers.

The SR transmitted a case to the government related to the case of a young woman who was gang-raped by 11 members of the Sri Lankan security forces and subsequently killed after she disappeared from the Kaithady checkpoint, Jaffna. The information received on the case indicated that the young woman's body, along with those of her mother, brother and a neighbour, were recovered and buried at state expense and, further, that nine suspects had been arrested in connection with the rape and murder of the young woman and her family and neighbour. The SR expressed the strong hope that every effort would be made by the government to ensure that the perpetrators of the crimes were prosecuted and convicted in a manner consistent with international human rights standards.

The government's reply to the case condemned the killing and stated that it did not represent a pattern since military operations in Jaffna had been conducted without major civilian casualties and collateral damage. The government informed the SR that a police investigation and magisterial inquiry were carried out and the courts decided, after non-summary proceedings, that further judicial inquiries would be held in Jaffna to facilitate, *inter alia*, access to witnesses.

Mechanisms and Reports of the Sub-Commission

States of emergency, Special Rapporteur on:
(E/CN.4/Sub.2/1997/19/Add.1, Section I)

The report notes that a state of emergency was declared on 20 June 1989 and terminated on 4 September 1994, except

in the Northern and Eastern provinces and in certain other areas bordering those two provinces.

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SYRIA

(Syrian Arab Republic)

Date of admission to UN: 24 October 1945. [Syria withdrew in 1958 to unite with Egypt as the United Arab Republic and resumed its independence and separate membership in the UN in 1961.]

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Syria has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Acceded: 21 April 1969.

Syria's third periodic report was due 30 June 1994.

Reservations and Declarations: General declaration; paragraph 1 of article 26.

Civil and Political Rights

Acceded: 21 April 1969.

Syria's second through fourth periodic reports were due 18 August 1984, 1989 and 1994 respectively.

Reservations and Declarations: General declaration.

Racial Discrimination

Acceded: 21 April 1969.

Syria's 12th through 14th periodic reports were due 21 May 1992, 1994 and 1996 respectively.

Reservations and Declarations: General declaration; article 22.

Rights of the Child

Signed: 18 September 1990; ratified: 24 February 1997.

Syria's second periodic report is due 13 August 2000.

Reservations and Declarations: General reservation; articles 14, 2 and 21.

Syria's initial report (CRC/C/28/Add.2) was considered by the Committee at its January 1997 session. The report prepared by the government provides statistical and demographic data as well as information on constitutional and legal provisions related to areas covered by the Convention, including but not limited to: harmonization of national law and policy with provisions of the Convention; definition of the child; name and nationality; freedom of expression and access to appropriate information; association and peaceful assembly; protection of privacy; parental guidance and responsibilities; separation from parents and family reunification; adoption, illicit transfer and non-return of children; basic health and social welfare; education, including vocational education and guidance; children in states of emergency; young offenders; children with disabilities; child victims of exploitation and children belonging to minorities or indigenous population groups. The report also cites the role of popular organizations involved in the general promotion of the Convention as well as specific areas of rights, including the Women's General Federation, the Tala'i al-Baath (Baath Vanguard) and the Shabibat al-Thawra (Revolutionary Youth) Federation.

The Committee's concluding observations and comments (CRC/C/15/Add.70) welcomed the fact that the Convention is fully incorporated into domestic law, and that the Civil Code and the Code of Criminal Procedure expressly provide that their provisions shall not apply in cases where they conflict with a provision of an international Convention in force in Syria. The Committee also welcomed the fact that a number of provisions of domestic law are currently being reviewed in order to ensure their conformity with the principles and provisions of the Convention.

The Committee viewed positively: initiatives taken by the government, such as the establishment at the ministerial level of a Higher Committee for Child Welfare, the setting up of a National Committee for Children to monitor the implementation of the Convention in Syria and the adoption of a national plan of action to implement the World Declaration on the Survival, Protection and Development of Children in the 1990s; the fact that education is free at all levels and that it has been made compulsory at the primary level; and, the intention of the government to publish its initial report, as well as the summary records of the debate with the Committee and the concluding observations.

Regarding factors and difficulties impeding implementation of the Convention, the Committee noted that part of Syria's is under occupation and the government is therefore not in a position to exercise control over all of its territory and consequently cannot ensure the implementation of the Convention in all parts of the country. The Committee also noted that significant budgetary resources are devoted to military expenses and that resources allocated to social expenses were insufficient and may contribute to the hindering of the enjoyment by children of their rights under the Convention.

The principal subjects of concern identified by the Committee were: the broad nature of the reservations made by Syria to the Convention; the insufficient coordination between bodies established at the national level, as well as with local bodies, in order to develop a comprehensive approach to the implementation of the Convention; the insufficiency of measures taken systematically to gather reliable quantitative and qualitative data on all areas covered by the Convention in relation to all groups of children, so as to evaluate progress achieved and to assess the impact of policies adopted with respect to children, with particular emphasis on education, health, child labour, refugee children and children belonging to minorities, girls, children involved with the administration of juvenile justice, disabled children, child victims of abuse or ill-treatment, and children living and/or working in the street; the insufficiency of measures taken to ensure that the principles and provisions of the Convention are made widely known to children, parents, officials and professionals working with and for children; insufficient systematic training in the field of children's rights for members of the police force and other law enforcement officials, judicial personnel, teachers at all levels of education, social workers and medical personnel; and, lack of measures to publish and disseminate the text of the Convention within the public, in formats intended for both children and adults, and according to their levels of education.

The Committee noted with concern that: the best interests of the child, the prohibition of discrimination and the respect

for the views of the children and their right to participate in family, school and social life, are not fully reflected in domestic legislation and implemented in practice; there is a lack of conformity of relevant domestic laws with the definition of the child under the Convention, especially with regard to the low ages of criminal responsibility (7) and of access to employment established by law; persistent discriminatory attitudes towards girls, including the practice of early marriage, and towards children born out of wedlock; and, the fact that the law sets a lower marriageable age for girls than for boys.

The Committee expressed concern over: the inadequacy of measures taken to ensure the implementation of children's economic, social and cultural rights, with a particular emphasis on health and education; the insufficient policies, measures and programmes for the protection of the rights of the most vulnerable children, especially children living in poverty, girls, disabled children, child victims of abuse, children belonging to minority groups and children who are living and/or working in the street; the situation of refugee and Syrian-born Kurdish children, noting the absence of facilities for the registration of refugee children born in Syria, and that Syrian-born Kurdish children are considered either as foreigners or as *maktoumeen* (unregistered) by the Syrian authorities and face great administrative and practical difficulties in acquiring Syrian nationality, although they have no other nationality at birth; the high drop-out rates from the secondary school, especially among girls, the low teacher/student ratio and the lack of adequate learning and teaching facilities; failure to incorporate into the school curricula a programme on human rights and children's rights education; the lack of appropriate measures to combat and prevent ill-treatment and abuse within the family and to provide physical and psychological recovery and social reintegration to child victims; the fact that disciplinary measures in schools, although it is prohibited by law, often consist of corporal punishment; the fact that the minimum age for employment of children is too low, and that, under article 129 of the Labour Act No. 91 of 1959, children working in family enterprises are not protected by the relevant provisions of the Labour Act, including the minimum age of employment, the prohibition of night work and other protection measures with regard to harmful occupations; and, reports of exploitation of child labour in the agricultural sector and of the lack of available means in rural areas to combat and prevent this phenomenon; the fact that the system of the administration of juvenile justice in Syria does not conform with provisions in the Convention and other relevant UN standards; and, the fact that children may be deprived of liberty at a very low age and that insufficient attention has been paid to date to find alternatives to institutional care of children.

The Committee recommended that the government:

- ▶ review its reservations to articles 14, 20 and 21 of the Convention and consider making interpretive declarations to clarify its position on these provisions;
- ▶ make further efforts to increase and systematize vertical coordination between central and local administrations and bodies involved in the protection of the rights of the child and in the implementation of the various policies and programmes;

- ▶ improve the system of data collection and ensure that it identifies appropriate and specific disaggregated indicators to allow the identification of sectors where further action is needed in all parts of the country and with regard to all groups of children, including children in especially difficult circumstances;
- ▶ continue and increase activities in the field of the promotion of public awareness of the principles and provisions of the Convention;
- ▶ set up programmes for the continuous training of officials and professionals working with and for children, including members of the police force and other law enforcement officials, judicial personnel, teachers at all levels of education, social workers and medical personnel;
- ▶ within the review of the school curricula currently under way, place special emphasis on the incorporation of the general principles of the Convention in the programmes of education;
- ▶ pursue efforts to ensure full conformity of national laws with the Convention, bearing in mind the general principles of the best interests of the child, the prohibition of discrimination and the respect for the views of children and their right to participate in family, school and social life, and incorporate specific provisions in the law to reflect those principles;
- ▶ as a matter of priority, review and bring into line with the Convention provisions related to the minimum age of marriage for girls, the age of criminal responsibility, the minimum age of access to employment and work in family enterprises;
- ▶ launch information campaigns to prevent and combat prevailing discrimination towards girls;
- ▶ adopt appropriate pro-active measures for the protection of children born out of wedlock;
- ▶ give priority in budget allocations to the realization of the economic, social and cultural rights of children, with particular emphasis on health and education, and on the enjoyment of these rights by children belonging to the most disadvantaged groups;
- ▶ bearing in mind the situation of refugee children born in Syria and Syrian-born Kurdish children, guarantee the right to be registered and to acquire a nationality to all children under Syria's jurisdiction without discrimination of any kind, irrespective, in particular, of the race, religion or ethnic origin of the child, parents or legal guardians;
- ▶ consider ratification of the 1951 Convention related to the Status of Refugees and its 1967 Protocol, as well as the 1961 Convention on the Reduction of Statelessness;
- ▶ pay special attention to the problem of ill-treatment and abuse of children within the family and of corporal punishment in schools;
- ▶ develop information and education campaigns to prevent and combat the use of any form of physical or mental punishment within the family or in schools;
- ▶ consider establishment of a complaint mechanism intended to benefit child victims of such ill-treatment or abuse;
- ▶ establish mechanisms for the physical and psychological recovery and social reintegration of child victims of ill-treatment and abuse;
- ▶ review and bring into line with the Convention provisions of the Labour Act No. 91 of 1959 related to the protection of children with regard to employment and consider ratifying ILO Convention No. 138 on the minimum age for admission to employment;
- ▶ undertake a reform of the system of juvenile justice and set up an independent monitoring body to receive and consider complaints of children involved with the administration of juvenile justice; and,
- ▶ conduct studies, in close cooperation with UNICEF and others, in the field of health and the adequacy of the family planning system; education and human rights education; early marriage; and child abuse, including sexual abuse of children within the family.

COMMISSION ON HUMAN RIGHTS

At its 1997 session, the Commission on Human Rights considered the situation in Syria under the 1503 procedure. The documents prepared for this process and the summary records of discussions are confidential. The Commission decided to discontinue consideration under 1503.

The report of the Secretary-General (E/CN.4/1997/13), prepared as requested in the 1996 resolution of the Commission (1996/2) on human rights in the occupied Syrian Golan, notes that the Department of Public Information (DPI) undertook activities related to this question. [These are discussed in greater detail under the heading of Israel and the occupied territories.]

At its 1997 session, the Commission adopted by roll call vote a resolution (1997/2) on human rights in the occupied Syrian Golan. In the resolution the Commission: recalled relevant UN resolutions and called on Israel to end violations of the rights of Syrian citizens in the Golan and its occupation of territory; reaffirmed the illegality of the 1981 Israeli decision to impose its laws, jurisdiction and administration on the Golan; reaffirmed the international principle of non-acquisition of territory by force; noted with concern the report of Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs; reaffirmed the importance of the peace process and noted the principle of land for peace; expressed concern at the suspension of the peace process on the Syrian and Lebanese tracks; expressed the hope that the commitments reached in previous talks will be respected so that peace talks may be resumed as soon as possible; called on Israel to comply with relevant UN resolutions including those related to the Israeli decision to impose its laws, jurisdiction and administration on the Golan; called on Israel to desist from changing the physical character, demographic composition, institutional structure and legal status of the Golan; emphasized that displaced persons must be allowed to return to their homes and recover their properties; called on Israel to desist from imposing Israeli citizenship and Israeli identity cards on Syrian

citizens in the Golan; called on Israel to desist from repressive measures and other practices against Syrian citizens in the Golan cited in the report of the Special Committee; determined that legislative and administrative measures taken by Israel that alter the character and legal status of the Golan are null and void and constitute a violation of international law and the Geneva Conventions; and, called on UN member states not to recognize any of the legislative and administrative measures taken by Israel in the Golan.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on: (E/CN.4/1997/4, paras. 4, 5, 13, 17; E/CN.4/1997/4/Add.1, Decisions 29, 30, 31)

The main report notes that 22 cases and one urgent appeal were transmitted and that the government responded. No details of the cases or the response were provided.

Decision 29 (1996) concerns 11 people who were arrested on various dates between 1982 and 1990, on the sole charge of belonging to the Hizb-'al-Amal al Shuyu'i, the Party for Communist Action. None was brought to trial until 1994, when they were sentenced by the Supreme State Security Court to prison terms ranging from 8 to 15 years. The Working Group (WG) cited a number of difficulties in assessing these cases, including the government's lack of cooperation with the Working Group, the inadequacies in the information provided by the source (no indication of each individual's date of arrest, what sentence was passed in each case, or why the detainees have not benefited from the 1995 amnesty) and the lack of information from either the source or the government on whether or not the time that has elapsed between the day of arrest and the day of sentencing will be taken into account in the sentences handed down. Despite these difficulties and shortcomings the Working Group declared the detentions to be arbitrary, contravening articles 19 and 20 of the Universal Declaration and articles 19 and 22 of the ICCPR related to freedom of expression and the right of association.

Decision 30 (1996) concerns two individuals who were arrested in 1981 and 1990 on the sole charge of belonging to the Hizb-'al-Amal al Shuyu'i, the Party for Communist Action. Their trial did not begin until 1992 and in 1994 they were sentenced to prison terms of 15 years. The same difficulties as those encountered in Decision 29 are noted but again the Working Group declared the detentions to be arbitrary for the same reasons as above, as well as a denial of the right to be tried within a reasonable period of time.

Decision 31 (1996) concerns the cases of eight people who were arrested between 1980 and 1990 on the sole charge of belonging to the asl-Hizb al Shuyu'i al Maktab al Siyassi, the Communist Party Political Bureau. Over 100 people were involved in the arrests, all of whom-with the exception of the eight persons related to this decision-were released as a result of various amnesties. The trial of the eight was not held until 1992 and in 1994 they were sentenced by the Supreme State Security Court to terms of imprisonment ranging from 12 to 15 years. The Working Group noted that none of the defendants benefited from the 1995 amnesty. Citing the same

difficulties as above, the Working Group nonetheless declared the detentions to be arbitrary on the same bases as the others.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1997/34, paras. 339-341)

No new cases of disappearance were transmitted by the Working Group to the government. The government provided information clarifying six outstanding cases; there remain 11 cases to be clarified, most of which occurred in the early- to mid-1980s. Some of those disappeared were allegedly members of terrorist groups and others were reportedly members of the military or civilians.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1997/60, paras. 18, 19; E/CN.4/1997/60/Add.1, paras. 461-462)

The report refers to a case of death custody that had previously been sent to the government and the government's response that the individual had been suffering from an incurable disease that had led to his death.

Torture, Special Rapporteur on: (E/CN.4/1997/7, Section III; E/CN.4/1997/7/Add.1, para. 477)

One urgent appeal was sent to the government on behalf of two individuals, both Sudanese asylum seekers who were being detained in Syria at an immigration prison. Fears had been expressed that if forcibly returned to Sudan there was a risk of arrest, torture and ill-treatment. The government replied that they had not expressed any objection to going to Sudan, did not consider their lives to be danger and did not feel they had any political problems in their country. The government provided the Special Rapporteur with a declaration to this effect, apparently signed by the two men.

Mechanisms and Reports of the Sub-Commission

States of emergency, Special Rapporteur on: (E/CN.4/Sub.2/1997/19/Add.1, Section I)

The report notes that a state of emergency was proclaimed in Syria on 8 March 1963 and is still in force.

Other Reports

Detention of international civil servants, Report of the S-G to the CHR: (E/CN.4/1997/25, Annex)

The report of the Secretary-General notes that a member of the UN Relief and Works Agency for Palestine Refugees in the Near East has been missing in Syria since April 1980 and that another UN staff member has been detained in Syria since 1980.

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TAJIKISTAN

Date of admission to UN: 2 March 1992.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Tajikistan has not submitted a core document for use by the treaty bodies.

Racial Discrimination

Acceded: January 1995.

Tajikistan's initial report was due 10 February 1996.

Discrimination against Women

Acceded: 26 October 1993.

Tajikistan's initial report was due 25 October 1994.

Torture

Acceded: 11 January 1995.

Tajikistan's initial report was due 9 February 1996.

Rights of the Child

Acceded: 26 October 1993.

Tajikistan's initial report was due 24 November 1995.

THEMATIC REPORTS***Mechanisms of the Commission on Human Rights*****Disappearances, Working Group on enforced or involuntary:** (E/CN.4/1997/34, paras. 342-344)

No new cases of disappearance were transmitted by the Working Group (WG) to the government. All six cases of disappearance reported to the WG were alleged to have occurred between late 1992 and July 1993 in the context of the escalating civil war, when progovernment forces took over the capital of Dushanbe. The report notes that the government has never provided any information on these cases.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1997/60, paras. 15, 17, 18, 22, 32, 45, 60, 61, 106; E/CN.4/1997/60/Add.1, paras. 463-466)

The report notes information received indicating that conditions in Tajik prisons constitute a serious threat to the life and physical integrity of detained persons; numerous detainees have died in custody; the government has failed to provide sufficient food to prisoners, resulting in numerous deaths from malnutrition, and it has neglected its duty to provide medical treatment to prisoners; and, the widespread occurrence of tuberculosis, without separation of infected inmates, was as an important cause of death in custody. The report refers to an urgent appeal sent by the Special Rapporteur (SR), jointly with the Representative of the Secretary-General on internally displaced persons, on behalf of 300 internally displaced persons who had reportedly been moved to the Tavildara area, a region of active armed conflict, littered with landmines and other hazardous war materials. The SR cites information indicating that, contrary to prior agreement, neither the government nor the opposition had removed all landmines from the area. The SR reiterated to the government his interest in visiting Tajikistan. No response has been received from the government either on cases transmitted or the request for an invitation to visit. With regard to the distressing situation in prisons, the SR urged the government to allow humanitarian organizations access to all prisons in Tajikistan.

Religious intolerance, Special Rapporteur on: (E/CN.4/1997/91, paras. 9, 17, 24, 26)

The report refers to violations of religious freedom against followers of Islam and murders of clergy and believers.

Mechanisms and Reports of the Sub-Commission**Freedom of movement, Working Paper:** (E/CN.4/Sub.2/1997/22, para. 22, 24, 32)

The working paper on freedom of movement and related issues notes that the breakup of the Soviet Union led to the

appearance of 15 new states which have, more or less, created their own legislation, including laws dealing with questions of freedom of movement. The report mentions constitutional provisions, the nationality laws, laws on refugee status and laws on forced migrants and notes that the conflict in Tajikistan has contributed to the massive flows of refugees.

States of emergency, Special Rapporteur on: (E/CN.4/Sub.2/1997/19/Add.1, Section I)

The report notes that a state of emergency was declared in February 1993 and a curfew imposed in the whole territory of the country. The measures were extended in July 1994 and are still in force.

Other Reports**Cooperation with UN representatives, Report of the S-G to the CHR:** (E/CN.4/1997/50, para. 21)

The report of the Secretary-General refers to the mission by the Representative on internally displaced persons and notes comments on a case of reprisals against the Pamiri population in a village of returnees. The Representative stated that: it was apparent that those who spoke out were afraid to do so; several people told him that they were convinced that they were going to be punished afterwards for having told the Representative about their problems; and, some people had been threatened in advance of his meeting with them by a local official of Kulyabi origin, who had said that they should not voice complaints or they would be arrested.

Detention of international civil servants, Report of the S-G to the CHR: (E/CN.4/1997/25, para. 59)

The report of the Secretary-General refers to information provided by the World Food Programme (WFP) related to threats by groups of armed men against staff distributing food in the Vaksh District in the Korgan-Tjube area of southern Tajikistan.

Mass exoduses, Report of the HCHR to the CHR: (E/CN.4/1997/42, Section I.B)

In the section dealing with human rights situations affecting refugees and displaced persons, the report of the High Commissioner for Human Rights refers to work done by the Representative of the Secretary-General on internally displaced persons. The Representative noted that when displaced persons returned home, they faced multiple obstacles in Tajikistan, including the widespread destruction and looting of their homes, occupation of their property, lack of seeds for planting, and the collapse of the health care system. The Representative also noted that, with regard to security, the displaced population had been identified with the enemy and, as a consequence, faced considerable hostility among the local population upon return. At the time of the Representative's visit, the problems were compounded by the general lack of law and order, with numerous disappearances, killings, beatings and other forms of harassment of the returnees (see A/51/483/Add.1).

SECURITY COUNCIL

The reports of the Secretary-General (S/1997/56, January 1997; S/1997/198, March 1997; S/1997/415, May 1997; S/1997/686, September 1997; S/1997/859, November 1997) provide information on, *inter alia*: negotiations between the

government and the United Tajik Opposition (UTO), development in Tajikistan — including the Khusdeh ceasefire agreement; the physical harassment of and threats against the UN Mission of Observers in Tajikistan (UNMOT); hostage-taking; serious acts of violence (bombings in towns, murders of security officers, terrorist acts); the large number of anti-personnel mines which are insufficiently charted; the drafting of a reciprocal pardon act and an amnesty act; the allocation to UTO of 25 per cent of the seats on the central electoral commission; reform of the government through the incorporation of UTO representatives into structures of the executive branch and judicial and law-enforcement bodies on the basis of a quota; the lifting of the ban on the activities of political parties and movements, and mass media; the repatriation of Tajik refugees from northern Afghanistan; and, a high level of violence in the centre of the country.

The resolutions adopted by the Security Council (S/RES/1099, March 1997; S/RES/1113, June 1997; S/RES/1128, September 1997; S/RES/1138, November 1997) *inter alia*: welcomed progress in national reconciliations; expressed grave concern over the worsening humanitarian situation in Tajikistan and continuing attacks on international personnel; strongly condemned acts of mistreatment against UNMOT and other international personnel, and urgently called on the parties to cooperate in bringing the perpetrators to justice; expressed concern at the security situation and noted the high level of violence in the central part of the country; welcomed the exchange of prisoners of war and detainees, the registration of UTO fighters inside Tajikistan and the repatriation of refugees from Afghanistan; and, extended the mandate of UNMOT to 15 May 1998 and stipulated the tasks as including: providing good offices and expert advice, cooperating with the Commission on National Reconciliation (CNR) and its subcommissions, and with the Central Commission on Elections and the Holding of a Referendum, investigating reports of ceasefire violations, monitoring the assembly of UTO fighters and their reintegration, disarmament and demobilization, and assisting in the reintegration into governmental power structures or demobilization of ex-combatants.

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THAILAND

Date of admission to UN: 16 December 1946.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Thailand has submitted a core document (HRI/CORE/1/Add.78) for use by the treaty bodies. The report prepared by the government is largely comprised of demographic and statistical data; short commentaries are provided on the general political framework, the judiciary, the civil law system, the military courts and proceedings in criminal and civil cases.

Civil and Political Rights

Acceded: 29 October 1996.

Thailand's initial report was due 28 January 1998.

Reservations and Declarations: Paragraph 1 of article 1; paragraph 5 of article 6; paragraph 3 of article 9; article 20.

Discrimination against Women

Acceded: 9 August 1985.

Thailand's second and third periodic reports have been submitted as one document (CEDAW/C/THA/203) which is pending for consideration at the Committee's January 1999 session; the fourth periodic report is due 8 September 1998. *Reservations and Declarations:* Article 16 and paragraph 1 of article 29.

Rights of the Child

Acceded: 27 March 1992.

Thailand's initial report (CRC/C/11/Add.3) has been submitted and is pending for consideration at the Committee's September 1998 session; the second periodic report is due 25 April 1999.

Reservations and Declarations: Articles 7 and 22.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1997/60, paras. 16, 17, 18, 28, 78, 91; E/CN.4/1997/60/Add.1, paras. 469–473)

The report notes that, in Thailand, the death penalty is mandatory for, *inter alia*, the production and trafficking of heroine and the death penalty is discretionary in the case of possession of more than 100 grams of heroine. The Special Rapporteur (SR) recalled that the safeguards guaranteeing the protection of the rights of those facing the death penalty states that the scope of crimes for which the death penalty is imposed should not go beyond intentional crimes with lethal or other extremely grave consequences. Following on this, the SR restated his conclusion that the death penalty should be abolished for economic and drug-related crimes.

Two cases were sent to the government related to the killing of two community leaders, one of whom is known to have been shot by a police officer. The government had not responded to the two cases by the time the report was finalized.

Religious intolerance, Special Rapporteur on: (A/52/477, paras. 21, 25, 28, 30, 38)

The Special Rapporteur's interim report to the General Assembly notes that communications were transmitted to the government related to: violations of religious freedom against all religions and religious groups or communities but for the official or state religion or predominant religion and information received indicating that textbooks in public schools provide information only on Buddhism.

Sale of children, child prostitution, child pornography, Special Rapporteur on: (E/CN.4/1997/95, paras. 19, 34, 39, 41, 69)

The report refers to work being done to amend the Penal Code and the Criminal Procedure Code in the areas of child exploitation, child pornography, witness protection programmes, and procedural safeguards prior to and during the interrogation and trial stages. The report notes that: a special task force has been set up to suppress the commercial sex business, child sex abuse and prostitution; a Child's Rights Protection Division has been established within the office of the Attorney General; and the National Economic and Social Development Plan VII has placed an emphasis on the development of children's welfare. Information from the ILO

indicates that Thailand is among the countries in the Mekong region where child trafficking is rife.

The Special Rapporteur's interim report to the General Assembly (A/52/482, paras. 25, 122) notes that the National Commission on Women's Affairs has estimated that there are 150,000 to 200,000 prostitutes in Thailand, of which some 20 per cent are children. The report notes the government's commitment actively to combat the problem, in cooperation with national and international NGOs. Initiatives in this area are noted as including: the Daughters of Education project, which provides funding for girls who might otherwise be sold into the sex trade, enabling them to remain in school; a Children's Forum that was created by Parliament and through which children are involved in decisions related to or affecting them; and, the fact that a "media page" in newspapers and magazines channels the experiences of children to the adult world.

Toxic wastes and products, Special Rapporteur on:
(E/CN.4/1997/19, para. 58)

The report refers to an explosion in Bangkok in 1991 in an area where imported and abandoned hazardous chemicals and wastes had been stored for years. The report states that after the fire, a toxic waste burial site was established in a military region of Kanchanaburi. Residents in the area suffered health complications as a result of toxic chemicals leaking into ground water. In response, the authorities announced that the site would be upgraded.

Violence against women, Special Rapporteur on:
(E/CN.4/1997/47, Sections IV & V)

In the section on trafficking in women and forced prostitution, the report cites information received indicating that officials of Thailand are involved in trafficking women from Burma to Thailand with women being transported into Thailand, often in police vehicles, with armed policemen in uniform. The report states that: brothels are under protection and have the patronage of the police; police often know the owners well and are around dressed in uniform, with guns and walkie-talkies; officers often take the girls to the rooms or out for the whole night; and, in some cases police have special arrangements with owners and can take the girls for free.

The report refers to national laws on trafficking in women and cites a trial in Germany related to the recruitment and coercion of Thai women into prostitution. The report notes that the Thai Government was not interested in the case: successive calls for evidence were ignored and Thai authorities refused to allow a Thai police officer to be questioned. (For further details, see entry for Germany.)

In the section dealing with violence against women migrant workers, the report refers to conditions in a sweatshop in El Monte, California, in 1995 where inhumane measures were used to confine the workers, mostly Thai women, and states that passport seizure and armed guards were employed to hold the women and force them to work in slavery-like conditions.

Mechanisms and Reports of the Sub-Commission
Contemporary forms of slavery, Working Group on:
(E/CN.4/Sub.2/1997/13, 38)

In the section on suppression of the traffic in persons and of the exploitation of the prostitution of others, the report noted that, with regard to sex tourism, the fear of being infected with HIV was leading clients from industrialized countries to choose ever younger girls and boys as their victims. The report notes that the government has taken steps to counteract this practice, and revised its law on prostitution in 1996.

Other Reports

World Public Information Campaign on Human Rights, Report of the S-G to the CHR: (E/CN.4/1997/36, para. 85)

The report of the Secretary-General notes that the UN Information Centres and Services organized a lecture for 150 students in Bangkok on "Promotion, protection, prevention: Creating a culture of human rights".

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TONGA

Date of admission to UN: Tonga is not a member of the UN.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Tonga has not submitted a core document for use by the treaty bodies.

Racial Discrimination

Acceded: 16 February 1972.

Tonga's 11th through 13th periodic reports have been submitted as one document (CERD/C/319/Add.3) which has not yet been scheduled for consideration by the Committee; the 14th periodic report is due 17 March 1999.

Reservations and Declarations: Paragraph (d) (v) of article 5 and articles 4, 6, and 15.

Rights of the Child

Acceded: 6 November 1995.

Tonga's initial report was due 6 December 1997.

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TURKMENISTAN

Date of admission to UN: 2 March 1992.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Turkmenistan has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Acceded: 1 May 1997.

Turkmenistan's initial report is due 30 June 1999.

Civil and Political Rights

Acceded: 1 May 1997.

Turkmenistan's initial report is due 31 July 1998.

Optional Protocol: Acceded: 1 May 1997.

Racial Discrimination

Acceded: 29 September 1994.

Turkmenistan's initial report was due 29 October 1995.

Discrimination against Women

Acceded: 1 May 1997.

Turkmenistan's initial report was due 30 May 1998.

Rights of the Child

Acceded: 20 September 1993.

Turkmenistan's initial report was due 19 October 1995.

THEMATIC REPORTS***Mechanisms of the Commission on Human Rights*****Disappearances, Working Group on enforced or involuntary:** (E/CN.4/1997/34, paras. 385–386)

The two outstanding cases were clarified based on information provided by the government. The persons concerned had been tried and sentenced to imprisonment, but had subsequently been granted clemency by the President. The cases reportedly occurred in 1995 and concerned two journalists who were allegedly taken from their home by government agents in the days following the sweep of arrests of individuals who participated or were believed to have participated in a peaceful public demonstration held in the capital in July 1995.

Extrajudicial, summary or arbitrary execution: (E/CN.4/1997/60/Add.1, paras. 503–504)

The report cites information stating that Turkmenistan retains the death penalty for 14 offences, including drug trafficking. Reports were received indicating that the Supreme Court had sentenced to death two persons on charges of drug trafficking, probably in August 1995. It was also brought to the attention of the Special Rapporteur (SR) that Turkmenistan, in relation to its population of 4.5 million, has a very high number of executions annually: 100 death sentences were passed in 1992, 114 in 1993, and 126 in 1994. All of them were said to have been carried out by mid-1995. The SR expressed concern about the reports received concerning the large number of executions and the provision of the death penalty for drug-related offences. The attention of the government was drawn to paragraph 1 of the safeguards guaranteeing protection of the rights of those facing the death penalty, approved by the Economic and Social Council in 1984, which stipulates that capital punishment may be imposed only for the most serious crimes with lethal or other extremely grave consequences. The SR called on the government to abolish the death penalty for drug-related crimes.

Torture, Special Rapporteur on: (E/CN.4/1997/7/Add.1, paras. 529–531)

The report refers to the case of the co-Chairman of the unregistered Party of Democratic Development of Turkmenistan and former editor-in-chief of the clandestine opposition newspaper *Ata Vatan*. Information received indicated that he had been confined against his will, for political and not medical reasons, in a psychiatric hospital since February 1996. A second case was also transmitted to the government concerning one person who was among a number of people arrested during a demonstration, in July 1995, held to protest economic conditions in the country. The information received indicated that the man was beaten severely and that, the day after he was released from police custody, he hanged himself at his home. Reportedly, the marks of injuries sustained from his beatings in police custody were discovered

on his body. The report notes that the government had not responded to cases transmitted in 1994 and 1995.

Other Reports**Freedom of movement, Working Paper:** (E/CN.4/Sub.2/1997/22, para. 24)

The working paper refers to the states that emerged after the breakup of the Soviet Union and notes laws that affect the right to freedom of movement, citing those on the legal status of foreigners and the procedure for entry and departure.

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TUVALU

Date of admission to UN: Tuvalu is not a member of the UN.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Tuvalu has not submitted a core document for use by the treaty bodies.

Rights of the Child

Acceded: 22 September 1995.

Tuvalu's initial report was due 21 December 1997.

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UNITED ARAB EMIRATES

Date of admission to UN: 9 December 1971.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: The United Arab Emirates has not submitted a core document for use by the treaty bodies.

Racial Discrimination

Acceded: 20 June 1974.

The 12th report of the UAE was due 20 July 1997.

Reservations and Declarations: General declaration.

Rights of the Child

Acceded: 3 January 1997.

The initial report of the UAE is due 7 March 1999.

Reservations and Declarations: Article 7, 14, 17 and 21.

THEMATIC REPORTS***Mechanisms of the Commission on Human Rights*****Arbitrary detention, Working Group on:** (E/CN.4/1997/4, para. 17)

The report notes that one urgent appeal was sent to the government on behalf of one individual but does not provide any details about the case.

Religious intolerance, Special Rapporteur on:

(E/CN.4/1997/91, paras. 9, 10, 16, 17, 19; A/52/477, paras. 25, 26, 27, 28, 36, 38)

The reports note that discrimination against and intolerance of Christianity occurs in the United Arab Emirates. The reports also note that the Special Rapporteur (SR) sent an urgent appeal to the government related to the case of a Lebanese Christian man who had married a Muslim woman. The

government replied to the urgent appeal, stating that the trial had been conducted in accordance with the provisions of the Shariah and the law; all are equal before the Shariah, the Constitution and the law; and there had been no discrimination on the grounds of belief of nationality.

Torture, Special Rapporteur on: (E/CN.4/1997/7, Section III; E/CN.4/1997/7/Add.1, para. 534)

The report notes that an urgent appeal was sent to the government on behalf of a Lebanese Christian who was arrested for having married a Muslim woman. The individual was reportedly beaten and flogged while in police custody. The report states that a Shariah court ruled the man's marriage was null and void and that "because the marriage was immoral, he should receive 39 lashes and a one-year prison sentence."

Violence against women, Special Rapporteur on: (E/CN.4/1997/47, Section IV)

In the section on trafficking in women and forced prostitution, the report refers to women from Uganda who are lured to Dubai where they are forced to work as prostitutes to pay back the debt accrued from their migration. The report notes that in some cases traffickers withhold all money.

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UZBEKISTAN

Date of admission to UN: 2 March 1992.

THEMATIC REPORTS

Land and People: Uzbekistan has not provided a core document for use by the treaty bodies.

Economic, Social and Cultural Rights
Acceded: 28 September 1995.

Uzbekistan's initial report was due on 6 June 1997.

Civil and Political Rights

Acceded: 28 September 1995.

Uzbekistan's initial report was due on 27 December 1996.

Optional Protocol: Acceded: 28 September 1995.

Racial Discrimination

Acceded: 28 September 1995.

Uzbekistan's initial report was due on 28 October 1996.

Discrimination against Women

Acceded: 19 July 1995.

Uzbekistan's initial report was due on 18 August 1996.

Torture

Acceded: 28 September 1995.

Uzbekistan's initial report was due on 27 October 1996.

Rights of the Child

Acceded: 29 June 1994.

Uzbekistan's initial report was due on 28 August 1996.

COMMISSION ON HUMAN RIGHTS

The situation in Uzbekistan was considered by the Commission at its 1997 session under the confidential 1503 procedure. The Commission decided at that session to discontinue consideration of Uzbekistan and did not take any action

officially to move discussions into public meetings under another agenda item.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights Disappearances, Working Group on enforced or involuntary: (E/CN.4/1997/34, paras. 366-368)

The Working Group (WG) did not receive reports of any new cases of disappearance in Uzbekistan but did retransmit two cases to the government on the basis of new information. The cases involved an Islamic religious leader and his assistant who were reportedly detained in August 1995 by the National Security Service in Tashkent as they were waiting to board an international flight. A third case recently brought to the WG's attention was referred to the government and involved the leader of the Islamic Renaissance Party, an unregistered political party, who was allegedly arrested in 1992 by men believed to be government agents. The government's replies to these three cases indicated that the investigations and a search for the three missing persons were continuing.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1997/60, paras. 15, 18, 28; E/CN.4/1997/60/Add.1, para. 554)

The Special Rapporteur (SR) sent an urgent appeal to the government, together with the SRs on the question of torture and the independence of judges and lawyers, on behalf of a defendant found guilty of murder and sentenced to death. The appeal was based on information that had been received, indicating that the defendant had confessed under duress and that there were numerous violations of the right to a fair trial.

Independence of judges and lawyers, Special Rapporteur on: (E/CN.4/1997/32, paras. 15, 17, 20, 21, 184-185)

The Special Rapporteur (SR) requested an invitation from the government to visit Uzbekistan.

The report indicates that one urgent appeal was transmitted to the government involving reported harassment by state security organs of an attorney and board member of the Human Rights Society of Uzbekistan. The harassment included a house search, confiscation of newspapers that reportedly were published outside Uzbekistan, and interrogation about the newspapers as well as her participation in a human rights conference in 1995 in Kazakhstan. A second interrogation was conducted by security agents, again on the subject of contacts with human rights activists and organizations abroad. No official charges were brought. The government responded to the SR's communication and indicated that the search of the attorney's house had been authorized in connection with the investigation of an ordinary crime. The authorities asserted that they had found literature there that distorted the situation in Uzbekistan and had invited the attorney to the National Security Service (SNB) for an interview. The government indicated that she had expressed her regret about the incident and had left the literature in the office of the SNB. According to the government, the criminal investigation of the ordinary crime was continuing.

Religious intolerance, Special Rapporteur on: (A/52/477, paras. 25, 28, 30, 33, 36, 38)

The Special Rapporteur's interim report to the General Assembly notes that communications were sent to the government related to violations of religious freedom against Christians and followers of Islam, including refusal to grant official recognition, imposition of controls on and interference with religious activities, and harassment and threats.

Sale of children, child prostitution, child pornography, Special Rapporteur on the: (E/CN.4/1997/95, para. 26)

The government informed the Special Rapporteur (SR) that problems related to the commercial exploitation of children generally do not exist in Uzbekistan; therefore, there was no need for special legislation and programmes to protect child victims. The SR noted in her report that, despite a perceived absence of the phenomenon of commercial exploitation of children in a country, appropriate preventive measures should be in place to ensure that children's rights will not be limited or directly violated at some future time.

Torture, Special Rapporteur on: (E/CN.4/1997/7, Section III; E/CN.4/1997/7/Add.1, para. 543-544)

The Special Rapporteur (SR) transmitted three individual cases to the government. He also made an urgent appeal in conjunction with the SR on extrajudicial, summary or arbitrary executions and the SR on the independence of judges and lawyers on behalf of four persons. The cases involved criminal charges in which the information indicated that torture and ill-treatment had been used to extract confessions which were then used in court to get convictions.

Other Reports

UN Decade for Human Rights Education, Report of the S-G to the GA: (A/52/469, para. 42)

The report of the Secretary-General notes that the National Centre for Human Rights prepared a national plan of action for human rights education and public information. Among the activities included in the plan are initiatives addressed to high school and post-high school institutions and the Academy of the Ministry of Interior; seminars for various professional groups and for NGO leaders, and on women's rights; translation of UNESCO publications and publications of the Office of the High Commissioner for Human Rights; translation and publication of international instruments; and other public information activities, such as the production of brochures, posters, television shows and the like.

VANUATU

Date of admission to UN: 15 September 1981.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Vanuatu has not submitted a core document for use by the treaty bodies.

Discrimination against Women

Acceded: 8 September 1995.

Vanuatu's initial report was due 8 October 1996.

Rights of the Child

Signed: 30 September 1990; ratified: 7 July 1993.

Vanuatu's initial report (CRC/C/28/Add.8) has been submitted and is pending for consideration at the Committee's January 1999 session; the second periodic report is due 5 August 2000.

VIETNAM

Date of admission to UN: 20 September 1977.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Vietnam has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Acceded: 24 September 1982.

Vietnam's second periodic report was due 30 June 1995.

Reservations and Declarations: Paragraph 1 of article 26.

Civil and Political Rights

Acceded: 24 September 1982.

Vietnam's second periodic report was due 31 July 1991; the third periodic report was due 23 December 1993.

Reservations and Declarations: Paragraph 1 of article 48.

Racial Discrimination

Acceded: 9 July 1982.

Vietnam's sixth through eighth periodic reports were due 9 July 1993, 1995 and 1997 respectively.

Reservations and Declarations: Paragraph 1 of articles 17 and 18; article 22.

Discrimination against Women

Signed: 29 July 1980; ratified: 17 February 1982.

Vietnam's second through fourth periodic reports were due 19 March 1987, 1991 and 1995 respectively.

Reservations and Declarations: Paragraph 1 of article 29.

Rights of the Child

Signed: 26 January 1990; ratified: 28 February 1990.

Vietnam's second periodic report was due 1 September 1997.

THEMATIC REPORTS

Arbitrary detention, Working Group on: (E/CN.4/1997/4, paras. 4, 5, 6, 13, 14, 15, 17, 18, 21; E/CN.4/1997/4/Add.1, Decision 3)

The main report notes that one case and three urgent appeals were transmitted. The government responded to the communications, informing the Working Group that the persons named in the urgent appeals had been released. The government also reported that the two persons named in Decision 3/1996 had been released.

Decision 3 (1996) related to the cases of two individuals, both arrested in June 1995. The first was a founding member of the Club of Former Resistance Fighters, in charge of religious affairs within the Vietnamese Communist Party (VCP), and author of an essay concerning the policy and line of action of the VCP. He was arrested in June 1995 at his home in Ho Chi Minh City and held in a centre for interrogation in Ho Chi Minh City, on the charge of having committed acts of propaganda against the socialist regime. The second man was

the former director of the Institute of Marxist-Leninist Philosophy, who was arrested and accused of "anti-socialist propaganda". He was released and, in an article, urged the deletion from the Vietnamese Constitution of article 4, related to the predominant role of the VCP. The government informed the Working Group (WG) that the men had been tried in a public hearing by the People's Court of the City of Hanoi and sentenced to 15 and 12 months' imprisonment, respectively, for defamation of state bodies and social organizations, under article 205 of the Vietnamese Penal Code, which punishes any person who "abuses democratic freedoms to jeopardize the interests of the State and social organizations". The WG noted that the major defect of vague and imprecise charges of the kind provided for in article 205 is that they do not distinguish between armed and violent acts capable of threatening national security, on the one hand, and the peaceful exercise of the rights to freedom of opinion and expression, on the other. The WG declared the detentions to be arbitrary.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1997/60, paras. 15, 19; E/CN.4/1997/60/Add.1, paras. 559-560)

The report refers to an urgent appeal sent on behalf of three individuals, jointly with the Special Rapporteur on the question of torture, one of whom was reportedly facing the death penalty for crimes aimed at overthrowing the government. Information received on the case expressed concern that the man would not be allowed sufficient time to exhaust appeal procedures and to make use of his right to petition the President.

Freedom of opinion and expression, Special Rapporteur on: (E/CN.4/1997/31, Section II)

The report notes that the Special Rapporteur has requested an invitation to visit Vietnam.

Religious intolerance, Special Rapporteur on: (E/CN.4/1997/91, paras. 9, 17, 24, 58,66)

The report notes violations of religious freedom against Christianity and Buddhism with cases involving ill-treatment, arrests and detention. The report also notes that Special Rapporteur has requested an invitation to visit Vietnam and that the government is considering the request.

The Special Rapporteur's interim report to the General Assembly (A/52/477, paras. 10, 21, 25, 28, 36, 38, 45, 46) notes that communications were sent to the government related to violations of religious freedom against Buddhism, including arrests and detentions. The government replied to the case of three bonzes (*sic*) who were reported to be under house arrest, stating that they had been released and were free to carry on their religious activities.

Sale of children, child prostitution, child pornography, Special Rapporteur on the: (E/CN.4/1997/95, para. 39)

The report refers to information provided by the International Labour Organization in which Vietnam is identified as one of the countries in the Mekong region where trafficking in children is rife.

Torture, Special Rapporteur on: (E/CN.4/1997/7, Section III; E/CN.4/1997/7/Add.1, paras. 565-566)

Two urgent appeals were sent to the government. The first, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, involved three people who had been deported from Cambodia, detained and subjected to various forms of ill-treatment. Two of the three were accused of writing articles critical of the government. The government response to the urgent appeal stated that the three had been deported from Cambodia for having engaged in activities opposing Vietnam and that they were being treated humanely, receiving adequate medical attention and were in a normal condition of health. A second urgent appeal was transmitted, jointly with the Chairman of the Working Group on Arbitrary Detention on behalf of a Buddhist monk who, information indicated, was being held in an underground solitary confinement cell and denied urgent medical treatment for stomach ulcers. The government replied that health care had been provided and that he was not being held in solitary confinement underground.

Violence against women, Special Rapporteur on: (E/CN.4/1997/47, Section IV)

In the section dealing with trafficking in women and forced prostitution, the report notes that in Taiwan, poor farmers and the elderly are among the men who pay intermediaries approximately US\$3,000 for young Vietnamese wives. The report also notes that in Vietnam the traffic in brides is growing as ethnic Chinese women from poor northern Vietnamese villages are transported across the border into China to marry rural Chinese men from villages devoid of women.

Other Reports

Regional arrangements, Report of the S-G to the CHR: (E/CN.4/1997/44, para. 22)

The report of the Secretary-General notes that, at the request of the government, a needs assessment mission on juvenile justice was fielded to Vietnam in March 1996.

* * * * *

YEMEN

(Republic of)

Date of admission to UN: 30 September 1947. (In May 1990 Democratic Yemen and the Arab Republic of Yemen merged; the former had been admitted to the UN in 1967 and the latter in 1947.)

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Yemen has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Acceded: 9 February 1987.

Yemen's initial report was due 6 June 1990; the second periodic report was due 6 June 1995.

Reservations and Declarations: General declaration.

Civil and Political Rights

Acceded: 9 February 1987.

Yemen's third periodic report is due 8 May 1998.

Reservations and Declarations: General declaration.

Racial Discrimination

Acceded: 18 October 1972.

Yemen's 11th periodic report was due 9 July 1995; the 12th periodic report was due 9 July 1997.

Reservations and Declarations: General declaration; article 22; and, paragraphs 1 of articles 17 and 18.

Discrimination against Women

Acceded: 30 May 1984.

Yemen's fourth periodic report was due 29 June 1997.

Reservations and Declarations: Paragraph 1 of article 29.

Torture

Acceded: 5 November 1991.

Yemen's initial report was due 4 December 1992; the second periodic report was due 4 December 1996.

Rights of the Child

Signed: 13 February 1990; ratified: 1 May 1991.

Yemen's second periodic report (CRC/C/70/Add.1) has been submitted and is pending consideration at the Committee's January 1999 session; the third periodic report is due 30 May 2003.

THEMATIC REPORTS***Mechanisms of the Commission on Human Rights*****Disappearances, Working Group on enforced or involuntary:** (E/CN.4/1997/34, paras. 372-375)

No new cases of disappearance were transmitted by the Working Group (WG) to the government. The report notes that the majority of the 98 cases transmitted in the past occurred between January and April 1986 in the context of fighting between supporters of President Ali Nasser Muhammad and his opponents. The individuals concerned are said to have been arrested either during the fighting on 13 January 1986 or in the period thereafter, between January and April 1986. The majority of the victims were members of the air force, the army or the security forces, but there were also civilians and most of them were members of the Yemen Socialist Party. The report states that the forces implicated in the disappearances include the state security forces, the air force and the people's militia. Ninety-seven cases remain to be clarified.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1997/60, paras. 16, 18, 32, 35; E/CN.4/1997/60/Add.1, paras. 561-563)

The Special Rapporteur transmitted to the government eight cases in which only two of the victims were identified. The deaths occurred in the context of: central security forces opening fire on spectators at a football match in the Aden stadium; death in custody following torture; and, the killing of a man, mistaken for his brother, by a member of the security forces. The report notes that the government has not responded to the information sent about these cases or about ones previously transmitted.

Religious intolerance, Special Rapporteur on: (E/CN.4/1997/91, paras. 9, 17, 20, 23, 24, 26, 41)

The report notes that religious intolerance and discrimination occurs in Yemen against Christianity, Islam and Hinduism and that religious extremism may threaten the

entire society. The report also refers to desecration of religious property and to threats against, as well as the murder of, clergy and believers.

The Special Rapporteur's interim report to the General Assembly (A/52/477, paras. 25, 28, 30, 33, 38, 46) notes that communications were sent to the government related to violations of religious freedom against all religious groups and communities except the official or state religion or the predominant religion, including restrictions on non-Muslims such as a prohibition on proselytizing by non-Muslims aimed at Muslims.

Mechanisms and Reports of the Sub-Commission**States of emergency, Special Rapporteur on:** (E/CN.4/Sub.2/1997/19/Add.1, Section I)

The report notes that, in May 1994, a 30-day state of emergency was declared and a curfew imposed in the whole territory of the country and is still in force.

Other Reports**Detention of international civil servants, Report of the S-G to the CHR:** (E/CN.4/1997/25, para. 38)

The report of the Secretary-General refers to information provided by the World Food Programme (WFP) noting incidents in which heavy shooting broke out within 100 metres of the UNDP/UNFPA/WFP offices in Sana'a, requiring all staff to take cover in the basement while the government forces fought an armed group in a land dispute.

Mass exoduses, Report of the HCHR to the CHR: (E/CN.4/1997/42, Section I.A)

The report of the High Commissioner for Human Rights notes information provided by Saudi Arabia stating that the mass exodus of Yemenis working in Saudi Arabia occurred without any compulsion on the part of the Saudi government, but rather was encouraged by the Yemeni government at that time and was motivated by their wish to avoid repercussions following the Gulf War.

Appendix

Human Rights Treaty Bodies Draft Schedules for Consideration of State Reports

The following schedules of the treaty bodies was prepared after the country profiles were completed. This accounts for any discrepancies that may appear between information in the profiles, related to consideration of state reports, and the information contained below. Please note: the following schedule was compiled at the beginning of February 1998 and is subject to change at short notice.

Committee on Economic, Social and Cultural Rights (CESCR)

<i>18th Session: 27 April–15 May 1998</i>	Sri Lanka Initial report	E/1990/5/Add.32
	Cyprus 3 rd periodic report	E/1994/104/Add.12
	Solomon Islands Non-reporting state	
<i>19th Session: 16 November–4 December 1998</i>	Israel Initial report	E/1990/5/Add.39

Human Rights Committee (HRC or CCPR)

<i>62nd Session: 23 March–9 April 1998</i>	Cyprus 3 rd periodic report	CCPR/C/94/Add.1
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Committee on the Elimination of Racial Discrimination (CERD)

<i>52nd Session: 2–20 March 1998</i>	Bahrain Without report	
	Bangladesh Without report	
	Cambodia 2 nd – 7 th periodic reports	CERD/C/292/Add.2
	Israel 7 th – 9 th periodic reports	CERD/C/294/Add.1
	Lebanon 6 th – 13 th periodic reports	CERD/C/298/Add.2
	Papua New Guinea Without report	
	Syria Without report	

Committee on the Elimination of Discrimination against Women (CEDAW)

<i>18th Session: 19 January–6 February 1998</i>	Indonesia 2 nd & 3 rd periodic reports	CEDAW/C/IND/2-3
<i>19th Session: 22 June–10 July 1998</i>	South Korea 3 rd periodic report	CEDAW/C/KOR/3
<i>20th Session: 19 January–6 February 1999</i>	Thailand 2 nd & 3 rd periodic reports	CEDAW/C/THA/2-3

Committee against Torture (CAT)

<i>Scheduled for consideration in 1998</i>	Israel
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Committee on the Rights of the Child (CRC)

<i>17th Session: 5–23 January 1998</i>	Micronesia Initial report	CRC/C/28/Add.5
<i>18th Session: 19 May–5 June 1998</i>	North Korea Initial report	CRC/C/3/Add.41
	Fiji Initial report	CRC/C/28/Add.7
	Japan Initial report	CRC/C/41/Add.1
	Maldives Initial report	CRC/C/8/Add.3
<i>19th Session: 21 September–9 October 1998</i>	Iraq 2 nd periodic report	CRC/C/41/Add.3
	Kuwait Initial report	CRC/C/8/Add.35
	Thailand Initial report	CRC/C/11/Add.3
	Yemen 2 nd periodic report	CRC/C/70/Add.1
<i>20th Session: January 1999</i>	Vanuatu Initial report	CRC/C/28/Add.8
<i>21st Session: May/June 1999</i>	India Initial report	CRC/C/28/Add.10
<i>22nd Session: September/October 1999</i>	Cambodia Initial report	CRC/C/11/Add.16
<i>23rd Session: January 2000</i>	Iran Initial report	CRC/C/41/Add.5

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