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For the Record 1997:

*The UN
Human Rights
System*



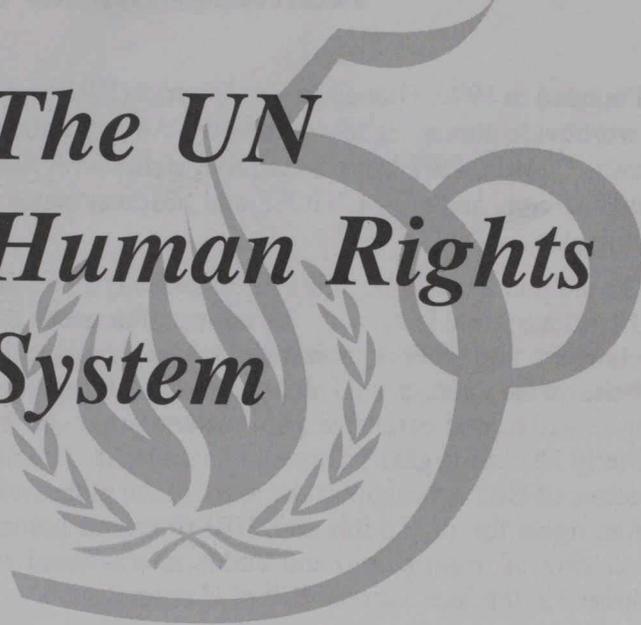
Volume 6:

**WESTERN EUROPE
& OTHER**

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For the Record 1997:

*The UN
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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

ANDORRA

Date of admission to UN: 28 July 1993.

TREATIES AND REPORTS TO TREATY BODIES

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

Discrimination against Women

Acceded: 15 January 1997.

Andorra's initial report was due 14 February 1998.

Rights of the Child

Signed: 2 October 1995; ratified: 2 January 1996.

Andorra's initial report was due 31 January 1998.

Reservations and Declarations: Paragraphs 2 and 3 of article 38; articles 7 and 8.

* * * * *

AUSTRALIA

Date of admission to UN: 1 November 1945.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Australia has submitted a core document (HRI/CORE/1/Add.44) for use by the treaty bodies. The report prepared by the government includes demographic and statistical data as well as information on the federal system, the general legal framework for the protection of human rights, including State and Territory anti-discrimination and equal opportunity legislation, and the Human Rights and Equal Opportunity Commission.

The Human Rights and Equal Opportunity Commission is a permanent independent statutory authority with responsibility for provisions in the Human Rights and Equal Opportunity Act 1986, the Racial Discrimination Act 1975, the Sex Discrimination Act 1984 and the Disability Discrimination Act 1992. The Commission also assists the Privacy Commissioner in administering the Privacy Act 1988. Additional institutional bodies include a Commonwealth Ombudsman with the mandate to investigate complaints about administrative actions of all Commonwealth government departments and some agencies, the office of Aboriginal and Torres Strait Island Social Justice Commissioner, the Office of the Status of Women and the Office of Multicultural Affairs. Federal human rights legislation operates throughout Australia and there are some areas of overlap with state and territory legislation. International human rights treaties are not self-executing and require legislative implementation to be effective in Australian law. An individual cannot complain in a domestic court about a breach of Australia's international human rights obligations unless the right has been incorporated into domestic law.

Economic, Social and Cultural Rights

Signed: 18 December 1972; ratified: 10 December 1975.

Australia's third periodic report was due 30 June 1994.

Civil and Political Rights

Signed: 18 December 1972; ratified: 13 August 1980.

Australia's third and fourth periodic reports were due 12 November 1991 and 1996 respectively.

Reservations and Declarations: Paragraphs 2 (a), (b) and 3 of article 10; paragraph 6 of article 14; article 20; declaration under article 41.

Optional Protocol: Acceded: 25 September 1991.

Second Optional Protocol: Acceded: 2 October 1990.

Racial Discrimination

Signed: 13 October 1966; ratified: 30 September 1975.

Australia's 10th and 11th periodic reports were due 30 October 1994 and 1996 respectively.

Reservations and Declarations: Paragraph (a) of article 4; declaration under article 14.

Discrimination against Women

Signed: 17 July 1980; ratified: 28 July 1983.

Australia's fourth periodic report was due 27 August 1996; the fifth periodic report is due in August 2000

Reservations and Declarations: Paragraph 2 of article 11.

Australia's third periodic report (CEDAW/C/AUL/3) was considered at the Committee's July 1997 session. The report prepared by the government, which reflects the multi-jurisdictional nature of the country, contains information on federal and state actions in such areas as: the new national agenda for women; the report of the Inquiry into Equal Opportunity and Equal Status of Women in Australia; the Office of the Status of Women; policy advising mechanisms on issues related to the status of women; the Affirmative Action Act; violence against women; exploitation and traffic in women; women in politics; the National Women's Consultative Council; the National Action Plan for the Education of Girls; employment; women in the armed services; health care; the Law Reform Commission Inquiry on equality before the law; and, marriage and family relations.

The Committee's concluding observations and comments (CEDAW/C/1997/II/L.1/Add.8) noted that Australia has prepared a comprehensive national action plan to implement the Beijing Declaration and Platform for Action but noted that the government's report essentially reiterated information that had been considered at the time of presentation of Australia's second periodic report in 1994.

Among the factors hindering implementation of the Convention, the Committee referred to the changing role of government in terms of public expenditure and the ongoing decentralization of responsibility in a number of areas, from the federal to territorial/state governments, including in health matters. The Committee also referred to the fact that aboriginal and Torres Strait Islander women continued to face discrimination and disadvantages in terms of access to rights, opportunities and resources.

The Committee acknowledged Australia's commitment to full implementation of the Convention, as reflected in such legislative and administrative efforts as the New National Agenda for Women of 1993, the Sex Discrimination Act of 1984 and Amendment of 1995, the Human Rights and Equal Opportunity Act of 1986 and its amendments, the review of the Affirmative Action (Equal Employment Opportunity for Women) Act of 1986, the annual Women's Budget Statement, the Register of Women maintained by the Office of the

Status of Women, and the Office of the Sex Discrimination Commissioner.

The Committee welcomed: the measures and strategies that had been put in place to prevent and eliminate violence against women; the establishment of the first comprehensive national statistical profile on the extent and nature of violence against women; the strong commitment to reducing the incidence of domestic violence including through preventive measures; the existence of a national health policy for women; legislation enabling prosecution of Australians who committed sexual offences abroad; steps taken to further strengthen women's equal access to justice and eliminate discrimination and gender bias in areas such as legal aid, violence against women, immigration and refugee law; and, Australia's support for the preparation of an optional protocol to the Convention on a complaints procedure.

The areas of concern identified by the Committee were: the government's apparent shift in attention and commitment to the human rights of women and the achievement of gender equality as indicated by the 38 per cent cut in the budget of the Office of the Status of Women, and a similar reduction of funding to the Human Rights and Equal Opportunities Commission; the weakened role of national machinery in providing policy advice on equality issues and monitoring the effective implementation of such policies; policy changes that apparently slowed down, or reversed, progress in achieving equality between women and men, in such areas as housing and childcare programmes, and employment assistance; the delay in appointing a Sex Discrimination Commissioner; the fact that resources for programmes and policies benefiting women or aimed at overcoming discrimination, such as in health, in the provision of legal aid services, and training and awareness programmes for health workers, judicial, professional and others on violence against women, might be subjected to disproportionate budget cuts; the fact that violence against women, notwithstanding major efforts, remained a central concern with an estimated 7 per cent of women having experienced some type of violence in the course of a year; the absence of data concerning violence against Aboriginal and Torres Strait Islander women and assessment of programmes directed at reducing such violence; and, paedophilia and sex tourism involving Australian men, primarily in Asian countries, and the situation of women brought to Australia as brides.

The Committee noted with concern: new legislation on industrial relations related to the negotiation of individual contracts between employer and employee which may have a disproportionately negative impact on women; Australia's reservation to the Convention with regard to paid maternity leave and its non-ratification of ILO Convention 103; and, the continuing adverse situation of Aboriginal and Torres Strait Islander and migrant women, including a higher incidence of maternal mortality, lower life expectancy, reduced access to the full range of health services, a high incidence of violence, including domestic violence, high unemployment rates and difficulties compounded by an apparent rise in racism and xenophobia.

The Committee recommended that the government:

- ▶ carefully monitor the impact of recent policy changes in all areas covered by the Convention, conduct analyses of

the successes and shortcomings of the new policies with a view to providing data for future action and design a long-term strategy aimed at the full implementation of the Convention;

- ▶ conduct an evaluation of the Workplace Relations Act of 1996, assessing its impact upon women of different age groups, with different educational levels and in different occupational groups and assess whether the Act leads to increased or decreased part-time and casual work, and its impact on women workers' benefits and on workers with family responsibilities, particularly women's ability to obtain maternity leave;
- ▶ conduct a similar evaluation and assessment for the new childcare benefit scheme;
- ▶ assess the benefits of a continuing national women's health policy and ensure that any further change in that policy does not lead to decreased access by women, especially vulnerable groups of women, to comprehensive health services;
- ▶ have translated the Convention and the Beijing Declaration and Platform for Action for non-English-speaking Australians;
- ▶ adopt a comprehensive strategy to eliminate violence against women, with an emphasis on prevention, and with sufficient funding;
- ▶ identify ways to involve women's groups in the development of strategies to reduce violence in the media, including electronic media, and ensure their participation in the development of self-regulatory codes of practice of the media;
- ▶ noting the differing state provisions in relation to prostitution, assess the effectiveness of the varying measures in reducing the exploitation of prostitution;
- ▶ collect statistical data on the participation of Aboriginal and Torres Strait Islander women in the workforce, in decision-making, in politics and administration, and in the judiciary, with a view to enhancing programmes that will benefit them;
- ▶ develop the necessary legislative and policy measures to ensure women's equal access to individual ownership of native land;
- ▶ strengthen its support for women's studies, provide funding for research and teaching, and facilitate international academic exchange and cooperation in that field; and,
- ▶ resume its active and visible participation in international forums on women's equality, such as in the Commonwealth and the United Nations.

Torture

Signed: 10 December 1985; ratified: 8 August 1989

Australia's second periodic report was due 6 September 1994.

Rights of the Child

Signed: 22 August 1990; ratified: 17 December 1990.

Australia's second periodic report was due 15 January 1998.

Reservations and Declarations: Paragraph (c) of article 37.

Australia's initial report (CRC/C/8/Add.31 and Annex) was considered by the Committee at its September/October 1997 session. The report prepared by the government is exhaustive in both detail and scope and includes information on: measures taken to harmonize national law and policy with the Convention; mechanisms for coordinating policies related to children; the definition of the child in laws and regulations — related to, *inter alia*, age of majority, health, education, legal counselling, employment, sexual consent, criminal liability, deprivation of liberty, consumption of alcohol; civil rights and freedoms — related to, *inter alia*, name and nationality, preservation of identity, freedom of expression, association, peaceful assembly, privacy, freedom of thought, conscience and religion; family environment and alternative care — related to, *inter alia*, parental guidance and responsibilities, adoption, illicit transfer and non-return, abuse and neglect; basic health and welfare — related to, *inter alia*, survival and development, children with disabilities, social security, standard of living; education, leisure and cultural activities; and, special protection measures. The report includes a number of annexes containing statistical data related to such areas as mortality rates, suicide death rates and education.

The Committee's concluding observations (CRC/C/15/Add.79) regretted that the report did not include full information on the external territories administered by Australia. The Committee welcomed, however: the wide range of welfare services for children and their parents; the provision of universal and free education; the advanced health system; efforts made in law reform, such as amendments to the Family Law Act, 1975 and the Crimes (Child Sex Tourism) Amendment Act, 1994; and, the intention of the government to ratify the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption.

The principal subjects of concern identified by the Committee were: the absence of a right of citizens to launch complaints in local courts on the basis of the Convention; the absence of a comprehensive federal policy for children and the lack of monitoring mechanisms at federal and local levels; the disparities between different states' legislation and practices, including budgetary allocations; the fact that employment legislation does not specify minimum age(s) for employment; lack of a prohibition on the employment of children who are still in compulsory education; the fact that the minimum age of criminal responsibility is set very low, 7 to 10 years, depending on the state; the failure to apply fully the Convention's provisions on non-discrimination and respect for the views of the child; the problems faced by Aboriginals and Torres Strait Islanders, as well as by children of non-English-speaking backgrounds, in terms of standards of living and levels of services, particularly in health and education; the fact that children can be deprived of citizenship in situations where one of the parents loses citizenship; the lack of prohibition in local legislation on the use of corporal punishment in schools, at home and in institutions; the existence of child abuse and violence within the family; the existence of local legislation that allows police to remove gatherings of children and young people in violation of their civil rights and the right to assembly; the fact that women working in the private sector are not systematically entitled to maternity leave; the spread of homelessness among young people, putting

them at risk of involvement in prostitution, drug abuse, pornography, other forms of delinquency and economic exploitation; the incidence of suicide among young people; the continued practice of female genital mutilation in some communities and the fact that there is no legislation prohibiting it in any of the states; the treatment of asylum seekers and refugees and their children, including placement in detention centres; the functioning of the juvenile justice system and the treatment of children deprived of liberty; the unjustified, disproportionately high percentage of aboriginal children in the juvenile justice system and the tendency normally to refuse their application for bail; and, the enactment, in two states where a high percentage of aboriginal people live, of new legislation providing for mandatory detention and punitive measures which result in a high percentage of aboriginal juveniles in detention.

The Committee recommended that the government:

- ▶ create a federal body to draw up programmes and policies for implementation and monitoring of the Convention;
- ▶ allocate special funds in its international programmes to children and use the principles and provisions of the Convention as a framework for its programme of international development assistance;
- ▶ take all appropriate measures, including legislative ones, to prohibit corporal punishment in private schools and at home and conduct awareness-raising campaigns to ensure that alternative forms of discipline are administered;
- ▶ investigate properly, apply sanctions to perpetrators and give publicity to decisions taken in cases of abuse and ill-treatment of children, including sexual abuse within the family;
- ▶ take further measures to ensure the physical and psychological recovery and social reintegration of the victims of abuse, neglect, ill-treatment, violence or exploitation;
- ▶ conduct awareness-raising campaigns on the Convention, with a focus on its general principles and the importance it places on the role of the family;
- ▶ disseminate the Convention in languages used by aboriginal people, Torres Strait Islanders and people from non-English-speaking backgrounds;
- ▶ incorporate the rights of the child into school curricula;
- ▶ incorporate the Convention into the training provided to law enforcement officials, judicial personnel, teachers, social workers, care givers and medical personnel;
- ▶ carry out training to enhance the ability of specialists, especially care givers and those involved in the juvenile justice system, to solicit the views of the child and help the child express these views;
- ▶ set a specific minimum age, at all levels of government, for employment of children; establish clear and consistent regulations in all states on maximum allowed work hours; and, consider ratifying ILO Convention 138 (minimum age);
- ▶ introduce legislation and undertake policy reform to ensure that children of asylum seekers and refugees are reunified with parents;

- ▶ take measures to ensure that no child is deprived of citizenship on any ground, irrespective of the status of the parent(s);
- ▶ make paid maternity leave mandatory for employers in all sectors;
- ▶ take further steps to raise the standards of health and education of disadvantaged groups;
- ▶ take measures to address the high rate of incarceration of aboriginal and Torres Strait Islander children, and identify the reasons for the high rate, including the possibility that the attitudes of law enforcement officers towards these children, because of ethnic origin, may be contributing factors;
- ▶ carry out further research to identify the causes of the spread of homelessness among young people and children; adopt further policies related to poverty alleviation and strengthen support services for homeless children; and,
- ▶ enact specific laws to prohibit female genital mutilation and ensure adequate implementation of the legislation.

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, 32, 33, 51, 67; E/CN.4/1997/60/Add.1, paras. 31–35)

The report cites information received concerning deaths in custody of persons of Aboriginal origin and indicating that, since 1989, 55 such persons had died while in custody, among them 11 minors and 7 women. The information suggested that: many of the deaths occurred because recommendations in the 1991 report of the Royal Commission into Aboriginal Deaths in Custody (RCADIC) had not been implemented to any meaningful degree; and, the deaths were in many cases investigated by a coroner's inquiry and, in a significant number of cases, the coroners' reports did not give a meaningful explanation of how the deaths occurred and included no investigation into underlying issues.

The Special Rapporteur transmitted five cases to the government of deaths in custody of persons of Aboriginal origin. No response had been received from the government at the time the report was prepared.

Independence of judges and lawyers, Special Rapporteur on: (E/CN.4/1997/32, paras. 18, 21, 61–65)

The report refers to proposals by the state government in Victoria on reform of the legal profession, including one to set up a separate regulatory body to license lawyers to practice. Information received indicated concern that such a separate body would affect the independence of the profession in the state of Victoria. The Special Rapporteur (SR) expressed the opinion that the proposals had the effect of doing away with a single organization for lawyers, such as the Law Institute of Victoria, fragmenting the legal profession, and resulting in the formation of pockets of associations. The bill was enacted and took effect on 1 January 1997. The report notes that it provides for a separate Legal Practice Board consisting of a retired judge of the Supreme Court of Victoria,

three lawyers chosen by the Law Institute and the Victoria Bar Council, and three lay persons chosen by the government. The report notes that the Law Institute and the Victoria Bar Council are at present accredited by the Legal Practice Board as recognized "professional associations" and that other legal professional associations may seek accreditation.

The report also refers to action initiated by 9 of the 11 judges of the Accident Compensation Tribunal who alleged that they had been dismissed without alternative appointments or compensation by the state government following the repeal of the legislation that had created the Tribunal. For the SR, the case raised questions about the security of tenure of judges of the subordinate courts and statutory tribunals. A hearing in the case had been scheduled for December 1996, but the nine judges settled the claim with the state government for an undisclosed sum.

Racial discrimination, Special Rapporteur on: (E/CN.4/1997/71, paras. 45–54)

The report of the Special Rapporteur (SR) on contemporary forms of racism refers to information indicating that the criminal justice remains heavily weighted against Aboriginal people and that: indigenous people still run a disproportionately high risk of arrest, detention and death in custody; there is a pattern of ill-treatment and arbitrary arrest which is carried out against a backdrop of systematic discrimination against aboriginal peoples; police continue to intimidate and harass relatives who do not accept official explanations about deaths in custody and instead have called for further investigations; and, some prisoners have been kept in leg-irons, handcuffs and chains for up to 24 hours a day and over a period of several days. The report also refers to a surge in racism, racial discrimination and xenophobia in Australia towards Aborigines, Australians of Asian origin and foreigners. No response was received from the government.

The report by the SR to the 1997 session of the General Assembly (A/52/471, paras. 10, 11, 43–44) refers to the fact that the SR is considering under taking a mission to Australia following receipt of allegations of a rise in racism and xenophobia. The government responded favourably to the SR's request for an invitation to visit. The report includes a statement by the Prime Minister made at the Australian Reconciliation Convention in Melbourne in May 1997, reaffirming a commitment to: raising the living standards and broadening the opportunities available to indigenous Australians as part of a broader commitment to providing equality of opportunity to all Australians; a realistic acknowledgement of the interrelated histories of the various elements of Australian society; and, arriving at a mutual acceptance of the importance of working together to respect and appreciate differences and to ensure that they are not obstacles to a shared future. The SR welcomed this political commitment and encouraged the government to translate it into concrete and effective action by adopting appropriate legislative or other measures.

Religious intolerance, Special Rapporteur on: (A/52/477, para. 8)

The Special Rapporteur's interim report to the General Assembly notes that a mission to Australia was conducted in February/March 1997 and that a report will be presented to the 1998 session of the Commission.

Sale of children, child prostitution, child pornography, Special Rapporteur on: (E/CN.4/1997/95, paras. 31–32, 60)

The report notes that an airport education campaign is being carried out by customs officers, providing leaflets to every person leaving the country, informing them of Australia' law on child sex tourism which provides for prosecution of nationals engaging in child sex tourism abroad. The report notes that the government has provided funding to non-governmental organizations for development, training and education projects aimed at the forces which drive children into prostitution and that the Police Royal Commission has gathered information on a number of cases of child sexual abuse.

Toxic wastes and products, Special Rapporteur on: (E/CN.4/1997/19, paras. 39, 40, 41, 42)

The report refers to a case in 1994 in which Philippine customs officials impounded two 12-metre-long containers of computer waste from Australia, as well as information that, in the first six months of 1993, waste traders from Australia were among those who shipped over 16,000 tonnes of battery scrap to the Philippines, violating a Philippine national law (Republic Act No. 6969) banning such toxic waste imports. The report states that Australia seems to be one of the top exporters of used lead acid batteries to the Philippines. The report also refers to information indicating that, in 1992, Australia exported more than 11,000 tonnes of battery scrap to Indonesia. It reports further that, in 1963, Australia granted a mining exploration licence to CRA Exploration (later Copper Pty. Ltd.) to prospect for copper at Panguna in Bougainville. On the latter case, the report notes that, although some measures were adopted to grant compensation and prevent environmental damage, landowners eventually formed associations in defence of their rights and, in 1987, a new Paguna Landowners Association emerged and was later formalized as the Bougainville Revolutionary Army (BRA).

The government's response to the information in the report noted that the allegations do not address present-day realities and pre-date legislative measures taken by the Australian Parliament in 1996 governing the export of hazardous waste. (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, para. 27, Sections III, IV)

In the section on rape and sexual violence, the report notes that Australia is among the countries in which special forensic examination kits are provided in order to accelerate and standardize the medical examination of rape victims. Referring to sexual harassment, the report notes that in Australia the display of pornographic material in the workplace is seen as contributing to a hostile work environment and that the Federal Sex Discrimination Act of 1984 makes sexual harassment unlawful in situations of: employment; education; the provision of goods and services; the provision of accommodation; land transactions; admission to clubs; and the administration of the Commonwealth. The report notes that even in the absence of specific legislation relating to sexual harassment, general tort laws may be used. It cites the case of a woman in Tasmania who successfully used tort laws on

assault and battery to sue her employer for sexual harassment since Tasmania had no specific laws governing sexual harassment.

Referring to guidelines and manuals concerning sexual harassment at the workplace or in educational institutions, the report acknowledges the successful campaign carried out by the Australian Human Rights and Equal Opportunities Commission in 1991. Entitled "SHOUT", it involved poster and media campaigns to advertise a toll-free telephone number to assist women victims of sexual harassment.

On the issue of trafficking in women and forced prostitution, the report notes that women from developing countries such as the Philippines, and from Eastern Europe, are also sold to thriving marriage markets in Australia.

Other Reports

Children and juveniles in detention, Report of the S-G to the CHR: (E/CN.4/1997/26, para. 2, Section I)

The report of the Secretary-General refers to information provided by the government, noting two papers prepared jointly by the Human Rights and Equal Opportunity Commission and the Australian Law Reform Commission entitled "Speaking for ourselves: children and the legal process". The government also provided an extract of the national legislation about children in conflict with law and the administration of juvenile justice.

HIV/AIDS, Report of the S-G to the CHR: (E/CN.4/1997/37, Appendix to the Guidelines)

The report of the Secretary-General on the Second International Consultation on HIV/AIDS and Human Rights (Geneva, September 1996) refers to law reform programmes focussing on human rights in Australia, leading to adoption of general anti-discrimination legislation at national and local levels which defines disability broadly and sensitively enough to explicitly include HIV/AIDS.

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 Australia has contributed to the Voluntary Fund for the Decade.

National institutions, Report of the S-G to the CHR: (E/CN.4/1997/41, paras. 20, 38)

The report of the Secretary-General refers to a statement to the Commission on Human Rights by a representative of the Human Rights and Equal Opportunity Commission of Australia, noting that national institutions could participate in their own right in the structures and workings of international human rights forums, and stressing that the CHR should confirm and continue arrangements for the participation of national institutions in the Commission and its subsidiary bodies. The representative stated that national institutions clearly were not governments, as they were independent, and at the same time, they were different from non-governmental organizations. An appropriate status for national institutions was therefore needed. The report notes that Australia is a member of the Coordinating Committee of National Institutions.

* * * * *

AUSTRIA

Date of admission to UN: 14 December 1955.

TREATIES AND REPORTS TO TREATY BODIES

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

Economic, Social and Cultural Rights

Signed: 10 December 1973; ratified: 10 September 1978.
Austria's third periodic report was due 30 June 1997.

Civil and Political Rights

Signed: 10 December 1973; ratified: 10 September 1978.
Austria's third periodic report (CCPR/C/83/Add.3) has been submitted but is not yet scheduled for consideration by the Commission; the fourth periodic report is due 9 April 1998.
Reservations and Declarations: Paragraph 4 of article 12; articles 9 and 14; paragraph 3 of article 10; articles 19, 21 and 22; article 26; declaration under article 41.

Optional Protocol: Signed: 10 December 1973; ratified: 10 December 1987.

Reservations and Declarations: Paragraph 2 of article 5.

Second Optional Protocol: Signed: 8 April 1991; ratified: 2 March 1993.

Racial Discrimination

Signed: 22 July 1969; ratified: 9 May 1972.
Austria's 11th through 13th periodic reports were due 8 June 1993, 1995 and 1997 respectively.
Reservations and Declarations: Paragraphs (a), (b) and (c) of article 4.

Discrimination against Women

Signed: 17 July 1980; ratified: 31 March 1982.
Austria's third and fourth periodic reports were submitted as one document (CEDAW/C/AUT/304) which is pending for consideration at the Committee's January 1999 session; the fifth periodic report is due 30 April 1999.
Reservations and Declarations: Paragraph (b) of article 7; article 11.

Torture

Signed: 14 March 1985; ratified: 29 July 1987.
Austria's second and third periodic reports were due 27 August 1992 and 1996 respectively.
Reservations and Declarations: paragraph 1 (c) of article 5; article 15.

Rights of the Child

Signed: 26 January 1990; ratified: 6 August 1992.
Austria's initial report (CRC/C/11/Add.14) has been submitted and is pending for consideration at the Committee's September 1998 session; the second periodic report is due 4 September 1999.
Reservations and Declarations: Articles 13, 15, 17 and 38.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Racial discrimination, Special Rapporteur on:
(E/CN.4/1997/71, paras. 55-77)

The Special Rapporteur (SR) on racism and racial discrimination notes reports concerning: a predawn arson attack on a Turkish-owned building that was being converted into a mosque, and information indicating the attack was racially motivated; the death of four people by a pipe-bomb concealed in a placard which read, "Gypsies go back to India" (allegedly the responsibility of the neo-Nazi Bavarian Liberation Army); and, a bomb, disguised as an aerosol can, which exploded in Stinatz-an area populated mainly by Austrians of Croatian descent-and a pamphlet at a bus stop in the town which read "Go back to Dalmatia".

The government replied that investigations into the first case had shown criminal liability for arson but failed to identify those responsible. With regard to the attacks on the Roma, the government stated that there was every reason to believe that the incident in which four people were killed was racially motivated. The investigation linked the attack to a series of letter bombs sent in December 1993. The government noted that the Romanies status as a national minority in Austria was officially recognized in 1993. Further, the Austrian police had set up a group of experts in the anti-terrorist service of the Federal Ministry of the Interior, which is chiefly concerned with investigating all the bombings that have occurred since 1993. Extra staff were assigned to other units of the Federal Ministry of the Interior and were taking part in the investigations. The government stated that, despite the wealth of information provided by the general public, it had proven difficult to identify the person or persons responsible for the attacks because they were apparently not previously known for their extremist activities. The name of the "Bavarian Liberation Army", which is linked to all the letter-bomb attacks, has so far not led to any specific person or group of persons. The Federal Ministry of the Interior has offered a \$10 million reward (approximately US \$1 million) for information leading to the arrest of the persons responsible for the Oberwart and Stinatz bombings and the other letter-bomb attacks. The city of Vienna has offered a \$200,000 reward (approximately US\$ 20,000) for any information that helps to identify the perpetrators of the letter-bomb attacks.

Religious intolerance, Special Rapporteur on: (A/52/477, paras. 21, 25, 33, 37)

The Special Rapporteur's interim report to the General Assembly notes that with regard to conscientious objection there is a legal time limit within which conscientious objectors must declare their refusal to undertake military service or apply to do non-military national service. The report further states that the duration of alternative service is such as to make it appear a form of punishment.

Torture, Special Rapporteur on: (E/CN.4/1997/7, Section III; E/CN.4/1997/7/Add.1, paras. 5-8)

The Special Rapporteur (SR) notes that two cases were transmitted to the government. The first involved a journalist who, seeing two plainclothes police officers detaining an African asylum-seeker, asked the officers for their service numbers and whether they had a warrant for the arrest. Reportedly, the journalist, who had written extensively on rightist extremism in Austria, was subsequently approached by ten uniformed officers. Identified by one of the officers, the journalist was then assaulted, beaten unconscious and placed under arrest. The government replied that an

investigation had been initiated but could not be concluded because the whereabouts of the journalist were unknown and his testimony was needed. The second case involved an Egyptian national, reportedly assaulted by four members of the Vienna Drugs Squad after he was seen with a suspected drugs dealer. The government informed the SR that the officers involved were indicted on charges of causing grievous bodily harm, but later acquitted. The Vienna Public Prosecutor's Officer had entered an appeal against the judgement. The government provided the SR with a copy of a decree issued by the Austrian Ministry of Justice in September 1989 concerning procedures for the prompt and impartial investigation of allegations of torture or ill-treatment by police or security officials.

Other Reports

Children and juveniles in detention, Report of the S-G to the CHR: (E/CN.4/1997/26, para. 2, Section I)

The report of the Secretary-General refers to information provided by the government on provisions in the Code of Criminal Procedure related to: the obligation to report offences for prosecution which applies, for example, to the staff of youth welfare offices, social, family and drug counselling services as well as to probation officers, teachers or attorneys for children and juveniles; new provisions regarding the imposition and prolongation of detention on remand; the requirement that youth welfare officers must be informed of the institution of proceedings against a juvenile; expansion of the range of persons who may be asked to take part in the questioning of a juvenile detainee to include family members and teachers; the stipulation that the juvenile concerned must be informed of the right to have family members or a teacher present during questioning immediately after his arrest; and, the stipulation that, in proceedings before courts the accused juvenile must be given a defence counsel *ex officio* for the entire duration of the proceedings. The government also provided information on: sentencing; receipt of parcels while in detention; pay for work done; the requirement that the assize court must include a minimum of four lay judges who are teachers, pedagogues or persons who have worked in the fields of public or private youth welfare or youth care; the requirement that the assessors court must have at least one such person, and at least one whose gender is the same as that of the accused; protection of the principle of the presumption of innocence; the provision that both parents or other legal representatives of the juvenile have the right to be heard in criminal proceedings to the same extent as such a right is granted to the accused; the stipulation that all judgements and decisions rendered by a court may be appealed; the requirement that, if an accused does not have sufficient knowledge of German, free linguistic assistance, usually in the form of an interpreter must be provided; the provision that, in the case of juveniles, all maximum fines and terms of imprisonment provided for under criminal law are reduced by half; the prohibition on sentencing juveniles to life imprisonment if they were not over 20 when the offence was committed; and institutions in which juveniles serve prison sentences.

Conscientious objection to military service, Report of the S-G to the CHR: (E/CN.4/1997/99, para. 46)

The report of the Secretary-General notes that: conscripts are informed about the possibility of submitting a civilian

service statement; a special information office for civilian service matters has been established at the Federal Ministry of the Interior; and several private organizations make information available about the civilian service.

Minorities, Report of the S-G to the CHR: (E/CN.4/1997/82, paras. 3, 7-8, 10-13, 15)

The report of the Secretary-General refers to information received from the government citing federal legislation or administrative arrangements which provide for: the use of minority languages as official languages; mother tongue instruction designed for children whose primary language is not German; schooling for the Slovene, Croatian and Hungarian ethnic groups and provision of an individual right to use their respective language as the language of instruction or to learn it as a compulsory subject (arising from the Minority Schools Acts for the provinces of Carinthia and Burgenland); and instruction in minority schools as both bilingual and monolingual instruction. The government also stated that, under the Ethnic Groups Act, the federal administration is obliged to promote any measures and projects that preserve and ensure the existence of ethnic groups, their traditions, as well as their characteristics and rights. Such federal assistance may be in the form of grants, training and counselling of members of ethnic groups, and financial assistance to associations, foundations and funds.

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 Ministry of Education and Cultural Affairs has commissioned the Service Centre for Human Rights Education, established within the framework of the Decade at the Ludwig Boltzmann Institute of Human Rights, to initiate the systematic development of human rights education in Austria.

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BELGIUM

Date of admission to UN: 27 December 1945.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: The core document prepared by the government for use by the treaty bodies (HRI/CORE/1/Add.1/Rev.1) contains statistical data and information on the political structures in Belgium and the general legal framework for the protection of human rights.

The rights guaranteed in the Belgian Constitution essentially mirror those set out in the Universal Declaration of Human Rights and the European Convention on Human Rights. To the extent that article 23 of the Constitution stipulates that every person has a right to a life consistent with human dignity, economic, social and cultural rights are an integral part of the rights regime and include the right to work, equitable working conditions and fair remuneration, the right to information, consultation and collective bargaining, the right to social security and health care, the right to social, medical and legal assistance, decent housing, a healthy environment and the right to cultural and social fulfilment. The courts have jurisdiction over questions related to the applicability of international treaty law when the rights

concerned are not explicitly set out in domestic law. A court may only apply provisions of national law if they are compatible or consistent with those of international law.

In addition to the courts, there are a number of institutions in Belgium with responsibility for overseeing the implementation of human rights. These include social welfare centres, legal aid bureaux and other organizations such as family planning centres and associations for the integration of immigrant as well as a wide range of non-governmental organizations.

Economic, Social and Cultural Rights

Signed: 10 December 1968; ratified: 21 April 1983.

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

Reservations and Declarations: Paragraphs 2 and 3 of article 2.

Civil and Political Rights

Signed: 10 December 1968; ratified: 21 April 1983.

Belgium's third periodic report (CCPR/C/94/Add.3) has been submitted but is not yet scheduled for consideration by the Committee; the fourth periodic report is due 20 July 1999.

Reservations and Declarations: Articles 2, 3, and 25; paragraphs 2 (a) and 3 of article 10; paragraphs 1 and 5 of article 14; articles 19, 20, 21 and 22; paragraph 2 of article 23; declaration under article 41.

Optional Protocol: Acceded: 17 May 1994.

Second Optional Protocol: Signed: 12 July 1990.

Racial Discrimination

Signed: 17 August 1967; ratified: 7 August 1975.

Belgium's 11th periodic report was due 6 September 1996.

Reservations and Declarations: Article 4.

Belgium's ninth and 10th periodic reports were submitted as one document (CERD/C/260/Add.2) which was considered by the Committee at its March 1997 session. With respect to articles 2, 3, 5, 6 and 7, the report prepared by the government contains information on: amendments to the Constitution; internal legislation on racism and xenophobia; the Centre for Equal Opportunity and Action to Combat Racism; the return of certain aliens; refugees and requests for asylum; provisions for displaced persons; marriages of convenience; expulsion; illegal workers' networks; nationality; political rights; international traffic in persons; education and training and schools and associations; information and the press; and the government's integration policy (education, housing, employment, culture).

The Committee's concluding observations and comments (CERD/C/304/Add.26) noted that the government has taken steps towards permitting Belgium to make a declaration under paragraph 2 of article 14 relating to the complaints procedure. Other measures welcomed by the Committee included amendments to various laws, such as that which led to the establishment in 1993 of the Centre for Equal Opportunity and Action to Combat Racism. The Centre is mandated to consider complaints of acts of racial discrimination and, if necessary, institute court proceedings, as well to set up training courses for the police, the gendarmerie and the judicial police, and to organize information campaigns for foreigners and campaigns to enhance public awareness of action to combat racism. Also noted were changes in law which broadened

the scope of penalties for public expressions of intent to practise racial discrimination, for discrimination in the provision of goods or services, and discrimination in employment. On the latter point, the Committee noted provisions granting workers' and employers' organizations the right to institute proceedings.

Taking note of the entry into force of the Act of 23 March 1995 which prohibits the denial, minimization, justification or approval of the genocide committed by the German national socialist regime during the Second World War, the Committee nonetheless expressed concern that the scope of this Act, which does not refer to all types of genocide, is too restricted. Concern was also expressed about: (1) case law which interprets any material containing a criminal expression, which is printed, reproduced and distributed, as a press offence rather than applying severer sanctions to acts inspired by racism and xenophobia under other laws; (2) the government's declaration on the provisions of article 4 of the Convention (see above) and the failure to take legislative measures to declare illegal and prohibit organizations which incite to racial discrimination; and, (3) the existence of a political party, in the Flemish community, with an extremist and xenophobic ideology.

The Committee expressed regret that Belgium's report did not include any information concerning the economic, social and cultural situation of Belgian citizens of foreign origin — Moroccans, Turks, Italians or others — or of foreigners resident in Belgium but not citizens. Concern was expressed at the allegation that the Public Prosecutor's Department and the police are less zealous in prosecuting offences in cases where the victim is not of European origin and at permissible limitations under law on the temporary or permanent residence of foreigners in certain communes. The Committee regretted the lack of detailed information on complaints of racist and xenophobic acts received by the Centre for Equal Opportunity and Action to Combat Racism and noted that it had requested further information, which was also not provided, on the number of complaints of racial discrimination taken to court, the nature of such complaints and how they were handled.

The Committee recommended that the government:

- ▶ take steps to ensure that the Convention can be invoked before the courts;
- ▶ ensure greater consistency in formulating new laws and, in particular, that adjustments are made to the Constitution and the laws to permit more effective criminal prosecution of racist, negatory or discriminatory writings as such;
- ▶ broaden the scope of the Act of 23 March 1995 which prohibits the denial, minimization, justification or approval of the genocide committed by the German national socialist regime during the Second World War to cover the different types of genocide;
- ▶ bearing in mind the replacement in the Act of 12 April 1994 of the concept of "national or ethnic origin" by the concepts of "origin" or "nationality", consider amendments to the Act to make it consistent with the concepts contained in paragraph 1 of article 1 of the Convention, viz. "national or ethnic origin";

- ▶ take the necessary legal steps to implement article 4 (b) of the Convention and declare illegal and prohibit organizations which promote and incite racial discrimination;
- ▶ include in its next report information on complaints of discrimination under article 4 and on how the courts handle them;
- ▶ include in its next report statistical data on the ethnic composition of the Belgian population, and especially the percentage of Belgian citizens of foreign origin in the country and in the various communities, and the number of persons established in Belgium who are not Belgian citizens, including detailed information on their socio-economic situation and particularly the unemployment rate in the various ethnic communities;
- ▶ ensure through appropriate information and training, that the judicial authorities and the police treat persons of European and non-European origin in the same way;
- ▶ reconsider provisions in law that violate article 5 (d) (i) of the Convention related to freedom of movement and residence; and,
- ▶ provide in its next report additional information on the activities of the Centre for Equal Opportunity and Action to Combat Racism, along with detailed information on the number of complaints of racial discrimination filed with the courts, the results of proceedings instituted in cases of racial discrimination and the compensation granted, where appropriate, to the victims of discrimination.

Discrimination against Women

Signed: 17 July 1980; ratified: 10 July 1985.

Belgium's third periodic report was due 9 August 1994.

Reservations and Declarations: Article 7; paragraphs 2 and 3 of article 15.

Torture

Signed: 4 February 1985.

Rights of the Child

Signed: 26 January 1990; ratified: 16 December 1991.

Belgium's second periodic report is due 14 January 1999.

Reservations and Declarations: Articles 13 and 15; paragraph 1 of article 14; paragraph 2 (b) (v) of article 40.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1997/60/Add.1, para. 56)

The report notes that in August 1996, Belgium abolished the death penalty for all crimes.

Independence of judges and lawyers, Special Rapporteur on: (E/CN.4/1997/32, paras. 10, 11, 17, 20, 79-81)

The Special Rapporteur (SR) took up a case with the government involving the dismissal of a magistrate who was investigating a case of child prostitution, kidnapping and murder. The SR acknowledged that the dismissal may have been appropriate under Belgian law because the magistrate's actions had called his impartiality into question; but the SR observed that the dismissal underscored a perception that the system by which magistrates and judges are appointed,

promoted and dismissed is affected by political and/or partisan interests, thus undermining public confidence in the judicial system. The SR also informed the government of his deep concern about media reports alleging that the public perceived the judicial system to be corrupt. The report took note of assurances by the Prime Minister that he would try to reform the system constitutionally so as to stop political considerations from influencing the appointment of magistrates. The government provided the SR with a copy of the proposed revision to the Constitution, and invited him to Brussels to discuss the proposal.

Racial discrimination, Special Rapporteur on: (E/CN.4/1997/71, paras. 20-21)

The report of the Special Rapporteur on racism includes information provided by Belgium's Centre for Equal Opportunities and Opposition to Racism. The Centre reported that between 1 January and 1 October 1995, 665 complaints were lodged. Twenty per cent of the complaints related to perceived discrimination with regard to entry into and residence within the country. Most of the cases involving residence concern expulsion or problems with obtaining a visa or work permit. Complaints were also received with respect to public services: e.g., refusal to register a person in a commune; to publish marriage bans; or to grant welfare or financial assistance. The Centre's report acknowledges that if those working in the public services handled applications properly, there would be far fewer complaints. In terms of complaints related to employment, those received by the Centre involve not only allegations of discrimination in the workplace and in hiring, but also harassment and racist remarks, including racist jokes. Referring to disputes in daily life, the Centre states that most of the problems reported relate to social conflicts in the victims' immediate neighbourhoods and some involved incidents of verbal or physical aggression against aliens. Elderly people were often harassed by groups of youth. The Centre has found that such incidents often involve situations in which violence plays a large part. According to the Centre's report, 63 per cent of the victims are Belgian and many of them are naturalized citizens. The largest group of non-Belgians filing complaints are Moroccans, followed by Zairians (Congolese), Turks and Italians. The Centre indicated that almost all complaints are lodged against public institutions, and over half specifically concern the Aliens Office.

The Special Rapporteur's interim report to the General Assembly (A/52/498, paras. 22, 38, 39) cites information received indicating that the government has "sub-contracted" to private firms the expulsion of undocumented aliens. The report states that, since 1994, Belgium has been sending hundreds of deported Africans to Abidjan (Côte d'Ivoire) — not to their countries of origin — where they are received and dispersed by the French firm Budd.

Sale of children, child prostitution, child pornography, Special Rapporteur on: (E/CN.4/1997/95, paras. 25, 30, 48)

The report briefly comments on the 13 April 1995 Act which includes provisions for combatting traffic in persons and child pornography aimed at sex tourism. The provision on extraterritoriality allows a Belgian national or a foreigner found in Belgium to be prosecuted for sexual crimes committed in another country against children under 16 years of age.

The principle of double incrimination is accepted and allows for the same acts to be equally punishable in the other country. The report notes that the sensitization of children in Belgium is being addressed through poster campaigns; these encourage child victims to talk to someone about what is happening to them and provide them with phone numbers for help-lines such as *Écoute enfants*. Other campaigns have not only targeted children and the general public but also professionals working with children; still others have focussed on denouncing existing networks of child prostitution.

The report to the 1997 GA (A/52/482, paras. 36, 74, 76) notes that, as a result of the Dutroux case, there has been strong public criticism of the government authorities, the judiciary and police force, in terms of how the case was investigated, which led to accusations of attempts of corruption and cover-up with the government. The report encouraged the government to take active measures to restore public confidence in the authorities through the adoption of appropriate legislative and administrative measures. In the section dealing with pornography, the report cites a poster campaign, known as "Article 34", that has been running since 1994 and encourages child victims of sexual exploitation to speak to someone about their abuse and not remain silent. The campaign involves *Écoute Enfants* and the telephone service the organization operates, covering the French-speaking community. The Flemish community has set up a sensitization campaign on sex tourism and child prostitution through the organization Kind en Gezin (Child and Family), which includes distribution of brochures and leaflets through travel agencies and the offices of airline companies. The objective of the campaign is to denounce existing networks of child prostitution and bring to the light the practices that exist.

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

The report notes that Colombian women are trafficked to markets in Belgium. The report points out that there are legal mechanisms in Belgium which are designed to encourage women to report trafficking or slavery-like practices associated with prostitution to the police. These allow women who are willing to participate in the prosecution of their traffickers to stay in the country during the process. In terms of other national laws, the report refers to the fact that prostitution is not a crime, but solicitation of clients is prohibited. Within that context Belgium prohibits "soliciting, taking someone to or bringing someone away from a place for the purpose of prostitution and promoting vice in public places by words, gestures, signs or publicity". The report notes that possession of condoms may be used as evidence of solicitation.

Other Reports

Racial Discrimination: (E/CN.4/1997/68/Add.1, para. 103, 107, 108, 111)

The report of the UN seminar on implementation of articles 4 and 6 of the Convention on the Elimination of All Forms of Racial Discrimination (Geneva, 9-13 September 1996) reviewed national provisions on racism and noted that in Belgium: the Constitution includes anti-discriminatory provisions; a criminal law approach was taken to racist offences; a wide range of legislation exists to deal with racism and racial discrimination; and, the anti-racism law was

amended in 1994 in response to a resurgence of nationalism, racism and xenophobia in Europe.

Voluntary Fund for victims of torture, Report of the S-G to the CHR: (E/CN.4/1997/27, para. 5)

The report of the Secretary-General notes that Belgium has contributed to the Voluntary Fund.

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

The report notes that representatives of the UN Information Centre in Brussels lectured on "Human rights, culture and communications" and participated in a symposium on the subject of "L'enfant, avenir des droits de l'homme".

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CANADA

Date of admission to UN: 9 November 1945.

TREATIES AND REPORTS TO TREATY BODIES

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

Economic, Social and Cultural Rights

Acceded: 19 May 1976.

Canada's third periodic report (E/1994/104/Add.17) will be considered at the November/December 1998 session of the Committee; the fourth periodic report is due 30 June 2000.

Civil and Political Rights

Acceded: 19 May 1976.

Canada's fourth periodic report (CCPR/C/103/Add.5) has been submitted but is not yet scheduled for consideration by the Committee; the fifth periodic report is due 8 April 2000.
Reservations and Declarations: Declaration under article 41.

Optional Protocol: Acceded: 19 May 1976.

Racial Discrimination

Signed: 24 August 1966; ratified: 14 October 1970.

Canada's thirteenth periodic report was due 13 November 1995.

Discrimination against Women

Signed: 17 July 1980; ratified: 10 December 1981.

Canada's fifth periodic report is due 9 January 1999.

The Committee examined Canada's third and fourth periodic reports (CEDAW/C/CAN/3 and 4) at its January 1997 session. The reports prepared by the government reflect the multi-jurisdictional nature of the country and include information on actions and developments at the federal, provincial and territorial levels. The reports review provisions in the Charter of Rights and Freedoms and jurisprudence related to the rights set out in the Convention, including summaries of cases decided the Supreme Court. Among the areas covered from the perspective of law, administrative measures and programmes are: violence against women; protection of women's legal rights; measures to ensure the advancement of women; special temporary measures and affirmative action programmes; reviews by Parliamentary committees of issues such as stereotyping; measures and decisions taken by the Canadian Radio-television and Telecommunications

Commission; appointments of women in politics and public life; non-governmental organizations; health, education, social benefits and social security; access to credit; and equality before the law.

The Committee's concluding observations (CEDAW/C/1997/L.1/Add.9) acknowledge that Canada plays a leading role in promoting gender equality at the international level, particularly in the areas of gender mainstreaming and violence against women. Canada's reports were acknowledged to be comprehensive in their description of new legislation and jurisprudence on women's human rights. However, reference is also made to the fact that the information provided did not adequately explain the impact of these measures on women in general or specific groups of women.

In considering difficulties affecting implementation of the Convention in Canada, the Committee's report refers to government efforts to restructure the economy and the apparent disproportionate impact this effort has had on women, which threatens seriously to erode the significant gains made by Canadian women.

The Committee commended Canada for having been one of the first countries to make gender-violence a basis for granting asylum to women and noted the introduction of the Federal Plan for Gender Equality as the framework for implementation of the Beijing Platform for Action. Further, the Committee welcomed the emphasis given to the participation of civil society in promoting gender equality and the annual consultation between the Ministry of Justice and the Council on the Status of Women.

Among areas of continuing concern identified by the Committee are: the fact that the incidence of violence against women in Canada is not decreasing despite the introduction of many measures, including laws to address violence against women; the rising teenage pregnancy rate, its impact on health and education, and an associated increase in poverty and dependency; the trend towards privatization of health care programmes which may affect access to and the quality of services available to women, especially the most vulnerable and disadvantaged; the insufficient attention paid to the impact on women in general and disadvantaged women particularly of economic and structural changes, including those related to regional and international economic arrangements; the deepening poverty among women, particularly single mothers, which is aggravated by the withdrawal, modification or weakening of social assistance programmes; weaknesses in and weak enforcement of the Federal Employment Equity Act in the public sector which are limiting its effectiveness in terms of a real impact on the economic position of women; programmes directed at aboriginal women which may have discriminatory effects; and, an erosion in the continuity of services in women's crisis centres as a result of current budget cutbacks.

The Committee recommended that the government:

- ▶ continuously monitor and evaluate the impact on long-term behaviour and attitudes of measures to combat violence against women and the sexual exploitation of women and girls, prostitutes and women victims of trafficking;

- ▶ address on an urgent basis factors responsible for the increasing poverty among women, especially women single parents, and develop programmes and policies to combat this poverty;
- ▶ in future reports, provide information on the valuation and qualification of women's unpaid work;
- ▶ in the next report, include information on the impact of legislation, policies and programmes on women in Canada;
- ▶ develop methodologies to assess progress made in closing the wage gap between women and men and ensuring equal pay for work of equal value;
- ▶ set a specific resource allocation and time-frame, incorporating benchmarks and measurable goals within the Federal Plan for Gender Equality, to monitor implementation and strong sanctions in cases of non-compliance;
- ▶ monitor closely and document the impact of economic restructuring on women in terms of jobs lost, the kind of employment available to women and the types of programmes made available by government to assist women experiencing economic difficulties as a result of the restructuring;
- ▶ monitor programmes directed at aboriginal women for their possible discriminatory impact;
- ▶ address, as a matter of urgency and priority, the situation of aboriginal women in prison; and
- ▶ restore to an adequate level social assistance programmes directed at women.

Torture

Signed: 23 August 1985; ratified: 24 June 1987.

Canada's third periodic report was due 23 July 1996.

Reservations and Declarations: Declarations under articles 21 and 22.

Rights of the Child

Signed: 28 May 1990; ratified: 13 December 1991.

Canada's second periodic report is due 11 January 1999.

Reservations and Declarations: Articles 4, 21, 30; paragraph (c) of article 37.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on: (E/CN.4/1997/4, para. 8)

The report simply notes that the government responded to communications that were sent prior to the January–December 1995 period.

Racial discrimination, Special Rapporteur on: (E/CN.4/1997/71, paras. 78–81)

The Special Rapporteur (SR) summarizes information received according to which, following the referendum in Quebec in 1995, several radical movements had been established and expressions of racism, xenophobia and intolerance had multiplied. The government replied that the information transmitted by the SR would be examined and a response

sent. A detailed reply from the government was not received prior to the 1997 session of the CHR.

Sale of children, child prostitution, child pornography, Special Rapporteur on: (E/CN.4/1997/95, para. 21)

The report indicates that the government is likely to introduce amendments to laws in Canada with the goal of protecting children from adults who recruit children for sexual services or exploit young prostitutes for economic gain.

The Special Rapporteur's interim report to the General Assembly (A/52/482, para. 99) provides commentary on the use of the Internet to distribute child pornography and notes a precedent-setting case in Canada in which an individual was convicted of distributing child pornography via computer even though the person concerned had never photographed or filmed actual children but rather distributed stories in which he depicted himself as having sex with several female children, who were always portrayed as willing partners. The report notes that under Canadian law child pornography is defined not only as materials involving real children but also as materials which depict children involved in sex or advocates sex with a child under the age of 18. The report notes that one of the ideas behind the law is that the harm caused by child pornography extends beyond the direct abuse of children in its production and that such materials have a great potential to promote child sexual abuse whether the child is a real person or not.

Torture, Special Rapporteur on: (E/CN.4/1997/7, Section III; E/CN.4/1997/7/Add.1, paras.45-47)

One urgent appeal was sent to the government on behalf of an Algerian national living in Canada whose application for asylum had been denied and who was facing deportation. The man, reportedly a member of the Algerian opposition party, Front des forces socialiste, had been detained and tortured by Algerian police in 1992. The Special Rapporteur (SR) appealed to Canada not to deport him to Algeria because of the risk of detention and torture or, if Canada proceeded with the deportation, to seek and take measures to ensure that he would not be subjected to torture or any other ill-treatment by the Algerian authorities.

The government responded that the individual was not eligible for asylum under Canada's refugee law and that there was no objective risk of torture if the man was deported. The government also indicated that not all domestic remedies had been exhausted and some were still available to the claimant. A subsequent letter from the government informed the SR that, in Canada's view, it would not be appropriate to seek assurances from the Algerian government that torture or ill-treatment would not take place as that would amount to questioning the Algerian government's willingness to fulfil obligations it had assumed under the ICCPR and the Convention against Torture. In response, the SR noted that it is common and appropriate to seek such assurances from a government: this did not imply that the commitment of the government to meet its treaty obligations was being questioned; it was intended only to make the government aware of concerns and thus reduce the potential risk to the person deported. The individual was eventually deported to a third country.

Toxic wastes and products, Special Rapporteur on: (E/CN.4/1997/19, para. 44)

The report summarizes two cases involving the Canadian company Placer Dome Inc. The first related to a mine waste spill in the Philippines in 1996 which affected the Boac River. Marcooper Mining Corporation, in which Placer Dome holds 40 per cent ownership, promised to compensate the people affected for damages caused and to rehabilitate the river. Civil and criminal charges were filed by the Department of the Environment and Natural Resources and the affected communities.

The report also summarizes information received indicating that, in Papua New Guinea, the Porgera gold mine, which is run by Placer Nuigini (a local subsidiary of Placer Dome), has been dumping 40,000 tonnes of tailings per day into the Strickland-Maiapam River and has no tailings retention facilities. The people living in the area asked the Papua New Guinea government to improve pollution monitoring and regulation below the mine. The report states that rather than taking preventive action, the government extended an exemption so that the company can continue to dump tailings.

Violence against women, Special Rapporteur on: (E/CN.4/1997/47, Sections III, III.A, III.D, IV)

The report notes that the lack of statistical data on rape arises by traditionally categorizing such violence as "private". The statistics that are available are generally under representative but can, nonetheless indicate the scope of sexual violence. The report recalls that, in Canada, a national probability sample of 1,835 women at 95 colleges and universities found that 23.3 per cent of the women had been victims of rape or attempted rape. There is a reference, as well, to the need to recognize that the behaviour of medical professionals is also decisive in determining whether the victim will initiate or continue to press charges. Special forensic examination kits are provided to medical professionals in Canada in order to accelerate and standardize the procedure.

In commentary on sexual harassment, the report recalls that mere prohibition of sexual harassment is not adequate to assist victims of violence and notes that the Canadian Federal Labour Code serves as a model in this regard. The Code requires employers to issue a sexual harassment policy that condemns sexual harassment, indicates that disciplinary measures will be taken against transgressors, provides for procedures to deal with instances of harassment and informs employees of their rights.

In terms of strategies adopted to combat rape and sexual violence, including sexual harassment, Canada has developed a sexual assault examination kit, containing information about the legal procedures, the medical examination, victim services and trial. The kit also contains instructions for the police and the examining physician, as well as receptacles for the collection of physical evidence. All the information materials in the kit are provided in Canada's two official languages — French and English.

On the question of trafficking in women and forced prostitution, the report notes that third-party assistance in illegal border-crossing is proscribed in Canada through legal provisions on practices such as alien smuggling, aiding and abetting illegal entry, the production of fraudulent documents, hiring

illegal workers, transporting illegal aliens and confiscation and forfeiture of property used in connection with alien smuggling.

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, paras. 30–42, 125)

The report refers to information provided by the government related to steps taken to implement the Plan of Action for the Elimination of Traditional Practices Affecting the Health of Women and Children. The steps included adoption of legislative and other measures to put an end to traditional practices, with a specific law declaring female genital mutilation (FGM) illegal. The report notes that four federal departments are responsible for addressing the issue of harmful practices affecting women and children. Health Canada assumes the lead on issues relating to FGM and chairs the Inter-Departmental Group on FGM which has been active for three-and-a-half years. The report states that this working group, made up of representatives of the Departments of Justice, Status of Women, Canadian Heritage, Citizenship and Immigration and Human Resources, ensures a coordinated approach to federal action addressing FGM. In 1995, the group held consultations with the members of communities concerned in order to determine the most appropriate ways in which to educate the public about Canadian criminal law, health risks and cultural and religious issues relating to FGM and to provide recommendations regarding measures that the Group could take to ensure that the practice of FGM does not occur in Canada. The report notes that in the light of those recommendations, the Inter-Ministerial Working Group developed a workshop module addressing FGM to be used for training in community workshops across Canada. This module addresses all aspects of the problem of FGM and is based on an approach that is very sensitive to the age, experience and faith factors of the members of the communities concerned. It also deals with the negative consequences of FGM. The information provided also indicated that the federal government had launched a project to determine the information needs of health-care providers serving women and children who have had FGM performed on them.

The report cites information on activities by the Canadian International Development Agency (CIDA) which has taken an active in its approach to the elimination of harmful practices by: its support of UN resolutions calling for the elimination of harmful practices affecting the health of women and children; taking into account that the definition of harmful traditional practices is broad and that there are differing approaches to addressing the problem in the various countries and regions where CIDA works; and, respecting local culture and proceeding on the basis that it is essential to work with local partners in countries where traditional harmful practices are common as well as with international and Canadian NGOs that support groups working locally. CIDA addresses traditional practices in two ways: indirectly, through policies and programmes which generally advance the status of women and girls to contribute to creating conditions conducive to the eradication of harmful traditional practices; and directly, through specific programmes which support the initiatives and efforts of those active in developing countries in eliminating traditional harmful practices

where they are common. The report notes that CIDA considers these practices to be intrinsically related to the role and status of women and, thus, that efforts to promote gender equality can provide a solid foundation for the elimination of such harmful traditional practices. The report further notes that CIDA addresses the problem of violence against women as a violation of human rights and considers that special attention should be paid to promoting the rights and meeting the health, educational and nutrition needs of girls. CIDA activities also seek to improve access to and improve the quality of health services. The report notes that several countries of South America, the Caribbean, Africa (Kenya, Mali, Egypt, Morocco, Ivory Coast, Nigeria, Senegal and Burkina Faso) and Asia (India, China and Indonesia) receive assistance from CIDA, as well as a number of national non-governmental organizations, specialized agencies, UN agencies and international non-governmental organizations.

The Special Rapporteur notes with interest CIDA's Action Programme against Female Infanticide in the Salem District in India, the Adolescent and Gender Programme in Egypt which focuses on minimum marriage age and financial programmes targeting abandoned women in Nigeria. The report states that the example set by Canada through the activities of its cooperation agency is deserving of emulation by other countries that have financial bodies of the proportions of CIDA but which, to date, have neglected the vast field of action constituted by the struggle against traditional practices.

The addendum to the main report (E/CN.4/Sub.2/1997/10/Add.1, para. 25) refers to information provided by the Division for the Advancement of Women, noting that Canada's Criminal Code prohibits female genital mutilation and precludes the removal of a child from Canada for the purposes of female genital mutilation.

Other Reports

HIV/AIDS, Report of the S-G to the CHR:
(E/CN.4/1997/37, Appendix)

The report of the Secretary-General on the Second International Consultation on HIV/AIDS and Human Rights (Geneva, September 1996) notes that law reform programmes focussing on human rights in Canada led, in part, to the adoption of the Canadian Charter of Rights and Freedoms which provides constitutional guarantees of human rights with practical enforcement mechanisms, extending non-discrimination to include persons with HIV/AIDS.

International Decade of the World's Indigenous People, Report of the HCHR and the Coordinator of the Decade:
(E/CN.4/1997/101, para. 9)

Canada has contributed to the Voluntary Fund for the International Decade.

National institutions, Report of the S-G to the CHR:
(E/CN.4/1997/41, paras. 9 and 38)

Canada supports the establishment of a separate category of participation for national institutions so that they can deal directly and in their own right with the UN Commission on Human Rights. Canada is a member of the Coordinating Committee of National Institutions which meets under the auspices of the Office of the High Commissioner for Human Rights.

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DENMARK

Date of admission to UN: 24 October 1945.

TREATIES AND REPORTS TO TREATY BODIES

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

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

Economic, Social and Cultural Rights

Signed: 20 March 1968; ratified: 6 January 1972.

Denmark's third periodic report (E/1994/104/Add.15) is scheduled for consideration at the Committee's April/May 1999 session; the fourth periodic report is due 30 June 1999.

Reservations and Declarations: Paragraph (d) of article 7.

Civil and Political Rights

Signed: 20 March 1968; ratified: 6 January 1972.

Denmark's fourth periodic report was due 1 November 1995.

Reservations and Declarations: Paragraph 3 of article 10; paragraphs 1, 5 and 7 of article 14; paragraph 1 of article 20; declaration under article 41.

Optional Protocol: Signed: 20 March 1968; ratified: 6 January 1972.

Reservations and Declarations: Paragraph 2 (a) of article 5.

Second Optional Protocol: Signed: 13 February 1990; ratified: 24 February 1994.

Racial Discrimination

Signed: 21 June 1966; ratified: 9 December 1971.

Denmark's 14th periodic report is due 8 January 1999.

Reservations and Declarations: Declaration under article 14.

Denmark's 13th periodic report (CERD/C/319/Add.1) was considered by the Committee at its August 1997 session. The report prepared by the government includes information on: the Integration Committee, which is related to the situation of Bosnian refugees and immigrants; state funding for associations of immigrants; labour and employment conditions and prospects for immigrants; the government's employment policy; laws on propaganda to prevent Denmark from becoming a sanctuary for the dissemination of Nazi and racist propaganda; housing, health services and education; police training and the relationship between police and ethnic minorities; the Board for Ethnic Equality; and, implementation of the Convention in Greenland.

The Committee's concluding observations and comments (CERD/304/Add.35) noted that there are no significant factors or difficulties hindering effective implementation of the Convention in Denmark. The Committee welcomed: legislative measures to combat ethnic discrimination, in particular in the labour market; efforts made to facilitate the integration of immigrants and refugees; efforts made to ensure that the composition of the police service reflects the diversity of the population, including persons of non-Danish ethnic origin; improvements in the human rights training of police; and, the allocation of special funds to assist the operation of ethnic associations, cultural and information activities for and about immigrants and refugees, and development of integration projects.

The principal subjects of concern identified by the Committee were: lack of information on the allocation of housing and requirements to attend special schools; the fact that, with regard to racist organizations and incitement to racial violence, the prosecuting policies focus too much on propaganda activities while treating other means of disseminating racist ideas as minor offences; the fact that there is a lenient attitude towards the dissemination of racist ideas over radio; the fact that organizations using racist propaganda to incite racial discrimination are not declared illegal and are not prohibited; information indicating discriminatory practices, especially with respect to employment, housing and bank loans; the discriminatory effect on some residents arising from rigid application of the 1981 law on names; the lack of information on protection and remedies and the right to seek reparation or satisfaction; the insufficiency of information on the population of Thule which was displaced from traditional hunting grounds and places of settlement.

The Committee recommended that the government:

- ▶ introduce measures to implement fully the provisions of article 4 and reconsider the procedure and practice of licensing radio transmissions;
- ▶ include in the next report information on judgements on cases arising from article 4 of the Convention;
- ▶ review measures for guaranteeing the economic and social rights of non-Danish residents, with particular attention given to the right to work and housing;
- ▶ include in the next report information on implementation of article 6 (protection, remedies, satisfaction, reparation) in Denmark, Greenland and the Faroe Islands;

- ▶ include in the next report information on compensation for the population of Thule; and,
- ▶ provide in the next report specific information on the status and implementation of the Convention in Greenland and the Faroe Islands.

Discrimination against Women

Signed: 17 July 1980; ratified: 21 April 1983.

Denmark's fourth periodic report was due 21 May 1996.

Denmark's third periodic report (CEDAW/C/DEN/3) was considered by the Committee at its January 1997 session. The report prepared by the government contains information on: constitutional and legal provisions related to discrimination against women, the national plan of action, authorities responsible for ensuring the equality of women and addressing temporary special measures and priority areas of concern. The report also includes information on: political rights and public participation; access to education; the labour market; equal pay for equal; social benefits; violence against women; and, the family. The report includes commentary provided by the National Council of Women. A number of annexes are attached to the report containing the texts of laws related to areas covered by the Convention as well as tables providing statistical data on issues such as public participation, population, school enrollment, unemployment and marriage and divorce.

The Committee's concluding observations (CEDAW/C/1997/L.1/Add.7) welcomed: Denmark's commitment to high standards of gender equality and its consistent efforts to create an egalitarian society with respect to gender; in a majority of Ministries in Denmark, the institutionalized participation of women's non-governmental organizations in the politics of equality; the mainstreaming of gender equality through the creation of Equality Commissions; efforts underway for the implementation of the Beijing Platform for Action; and, the incorporation of provisions concerning persecution on the basis of gender into the laws on the status of refugees.

The principal subjects of concern identified by the Committee were: the challenges posed to implementation of temporary special measures to accelerate gender equality by decisions such as the removal of quotas by political parties; the disproportionately low levels of women's participation in academe and in research positions and in management positions in the public and the private sectors; the inadequacy of culturally and gender-sensitive measures and programmes for immigrant and refugee women to enable them to benefit from legal and social services; the absence of a specific law on violence against women; the inadequacy of information provided related to the actual incidence of violence, rape and incest; the absence of specific legislation and/or measures to sensitize the police, the judiciary or the public in general regarding those issues; the persistence of perceptions of gender roles, attitudes and behaviour that keep women away from decision-making positions and men from assuming an equal share of family responsibilities; the fact that women, despite their high level of education, are more seriously affected by unemployment than men; and, the fact that women are still paid less than men, despite efforts to initiate assessments of equal pay for work of equal value.

The Committee recommended that the government:

- ▶ maintain and strengthen temporary special measures, particularly in the areas of reducing unemployment among women; by ensuring that women and men receive equal pay for work of equal value; by increasing women's participation in private-sector decision-making; by increasing the number of female university professors and researchers; and by encouraging men to devote more time to child care and housework;
- ▶ conduct more research on the incidence of violence against women, particularly in vulnerable groups such as immigrant women, and conduct research on the advantages of enacting legislation specifically directed at reducing such violence;
- ▶ make greater efforts to determine whether trafficking in women and exploitation of prostitution are taking place and whether new communications technologies, especially the Internet, are being used for such purposes;
- ▶ in secondary education, make mandatory the "Gender and culture" course, which is currently optional in pre-university curricula;
- ▶ include in national accounts, through satellite accounts, the value of non-remunerated work done by both women and men;
- ▶ continue to include among the objectives of its development assistance programmes the promotion of the rights of women and the elimination of discrimination against women and, in particular, the implementation of the Convention in beneficiary countries; and,
- ▶ include in the next report information on: implementation of the Beijing Platform for Action and of the commitments announced by Denmark at the Fourth World Conference on Women; the number of women and men who work part-time, on a flexible schedule, and outside the workplace using new technologies; the steps taken by trade unions and business organizations to implement the principle of equal pay for work of equal value; the use, in cases of abortion, of the RU-486 pill; the number of women who use medically assisted reproduction techniques and the number of children adopted; disabled women, especially in terms of their access to education and employment; the concrete results and de facto impact of policies on and programmes for women; and, the economic situation of women, including successful measures to combat the unemployment of women.

Torture

Signed: 4 February 1985; ratified: 27 May 1987.

Denmark's fourth periodic report is due 25 June 2000.

Reservations and Declarations: Declaration under articles 21 and 22.

Denmark's third periodic report (CAT/C/34/Add.3) was considered by the Committee at its April/May 1997 session. The report prepared by the government includes information on: the liability of subordinates; asylum and residency permits; the definition of torture and mental torture; cooperation with the International Tribunals for the former Yugoslavia and Rwanda; extradition and transfer of witnesses held abroad; human rights education; medical evidence related to

the use of force; conditions of custody, detention and imprisonment; complaints against the police; and, compensation.

The Committee's concluding observations and comments (CAT/C/XVIII/CRP.1/Add.4) welcomed: judicial reforms in Greenland; efforts to ensure that the composition of the police forces reflects the diversity of the population; the fact that human rights are part of the training programme for police forces; and, the funding provided to independent private organizations working in the area of rehabilitation for victims of torture.

The Committee noted difficulties related to incorporation of the Convention in domestic law as one of the factors hindering implementation of the Convention. The principal subjects of concern identified by the Committee were: the fact that doubts still exist related to the possibility of invoking the Convention before the courts and the competence of the courts to apply *ex officio* the provisions of the Convention; the fact that the penal system still does not include the specific crime of torture and that the definition of torture still does not conform to that in the Convention; the use of solitary confinement as a preventive measure during pre-trial detention and disciplinary measure in cases, for example, of repeated refusal by an inmate to work; police methods related to the treatment of detainees and during public demonstrations; and, the degree to which mechanisms established to handle complaints by detainees are actually independent.

The Committee recommended that the government:

- ▶ consider incorporating the provisions of the Convention into domestic legislation (as was done with the European Convention on Human Rights);
- ▶ adopt a law establishing the crime of torture consistent with the definition of torture in the Convention in article 1;
- ▶ but for exceptional circumstances, abolish solitary confinement, for example, as a measure during preventive detention;
- ▶ establish through law strict and precise regulations on the use of solitary confinement;
- ▶ reconsider the methods used by police in cases of custodial detention and crowd control; and,
- ▶ ensure that complaints of ill-treatment are handled by mechanisms that are independent.

Rights of the Child

Signed: 26 January 1990; ratified: 19 July 1991.

Denmark's second periodic report is due 17 August 1998.

Reservations and Declarations: Paragraph 2 (b) (v) of article 40.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Sale of children, child prostitution, child pornography,
Special Rapporteur on: (A/52/482, para. 113)

The Special Rapporteur's interim report to the General Assembly refers to problems associated with the Internet and notes that Denmark cooperated with US authorities to track down the identity of callers from the US who were downloading child pornography from Danish bulletin boards.

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/Add.1, para. 22)

The report notes Denmark's statement on follow-up to the Beijing Conference to the effect that it has examined the need to amend the Danish regulations governing asylum in order to make it easier to grant asylum and residence permits to persons for gender specific reasons such as bride burning, female genital mutilation, forced sterilization or forced marriages. The report also notes that government decided to set up a working group with the aim of launching an extensive educational campaign against female genital mutilation.

Other Reports

Decade for Human Rights Education: (E/CN.4/1997/46, para. 23)

The report of the High Commissioner for Human Rights refers to a joint project between the Ministry of Education and the Danish Centre for Human Rights, through which a plan of action has been established with the purpose of strengthening human rights education in the Danish primary and lower secondary schools and among youth. The aim of the plan is to enable key personnel from training institutions and professional organizations to carry out their own training of teachers as the basis for concrete training courses and the development of human rights education programmes in schools. The information provided by the government also stated that a human rights education bibliography will be published and highlighted the activities of the Danish Centre for Human Rights, which deals with human rights education in relation to schools, professional groups and the general public as well as in international cooperation in the area of human rights education with educational organizations and human rights non-governmental organizations.

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FINLAND

Date of admission to UN: 14 December 1955.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: The core document prepared by the government (HRI/CORE/1/Add.59/Rev.1) provides demographic and statistical data and information on the economic system, the political system, and the judicial system. In Finland international human rights instruments are applied as domestic law and supervision of observance of human rights by public authorities is handled by the Parliamentary Ombudsman and the Chancellor of Justice. At the legislative level it is the duty of the Constitutional Law Committee of Parliament to oversee the observance of human rights. Domestic law provides for right of appeal and restitution, and criminal proceedings can be brought against a civil servant who has violated human rights. The constitutional guarantees related to rights were extended, by amendment in 1995, to all persons under the jurisdiction of the government and not only to Finnish citizens. The scope of fundamental rights regulated by the Constitution has also been extended to include economic, social and cultural rights, rights related

to an individual's legal safety, the right to vote and be elected, the right to participate, and rights related to the environment.

Economic, Social and Cultural Rights

Signed: 11 October 1967; ratified: 19 August 1975.
Finland's fourth periodic report is due 30 June 1999.

Civil and Political Rights

Signed: 11 October 1967; ratified: 19 August 1975.
Finland's fourth periodic report (CCPR/C/95/Add.6) has been submitted but is not yet scheduled for consideration by the Committee; the fifth periodic report is due 18 August 1999.

Reservations and Declarations: Paragraphs 2 (b) and 3 of article 10; paragraph 7 of article 14; paragraph 1 of article 20; declaration under article 41.

Optional Protocol: Signed: 11 December 1967; ratified: 19 August 1975.

Second Optional Protocol: Signed: 13 February 1990; ratified: 4 April 1991.

Racial Discrimination

Signed: 6 October 1966; ratified: 14 July 1970.
Finland's 13th periodic report was due 13 August 1995; the 14th periodic report was due 13 August 1997.

Discrimination against Women

Signed: 17 July 1980; ratified: 4 September 1986.
Finland's third periodic report (CEDAW/C/FIN/3) has been submitted and is pending for the Committee's January 1999 session; the fourth periodic report is due 4 October 1999.

Torture

Signed: 4 February 1985; ratified: 30 August 1989.
Finland's third periodic report is due 28 September 1998.
Reservations and Declarations: Declaration under articles 21 and 22.

Rights of the Child

Signed: 26 January 1990; ratified: 20 June 1991.
Finland's second periodic report is due 19 July 1998.

THEMATIC REPORTS

Mechanisms and Reports of the Sub-Commission

Sale of children, child prostitution, child pornography: (E/CN.4/Sub.2/1997/11, para. Finland)

The report summarized information provided by the government in terms of steps taken for the protection of children. The government referred to reforms contained in a Government Bill that was sent to Parliament early in 1997. When enacted the reforms will: change provisions on sexual offences in the Penal Code with the aim of improving the legal protection of children in criminal cases; make possession of child pornography and the purchase of sexual services from persons under 18 years of age punishable offences; impose more severe sentences for offences such as the distribution of child pornography; extend the penalty for sexual abuse of a child from only a fine to imprisonment; and, broaden the grounds on which a person can be considered guilty of aggravated sexual abuse of a child.

The government also indicated that several working groups have been mandated to deal with problems related to commercial sex. The working group set up by the Police Department of the Ministry of the Interior proposed several measures aimed at reducing prostitution and crimes related to prostitution. The committee appointed by the Ministry of Justice on commercial sex and prostitution made various proposals to reduce sex tourism and problems arising from sex bars and restaurants. And the Ministry of Social Affairs and Health, in cooperation with the Ministry of Trade and Industry, developed and implemented an information campaign concerning sex tourism. Reference is also made to the fact that the government's equality programme, which was presented in February 1997, includes a chapter on commercial sex, prostitution and trafficking in wives, and explains the measures for which ministries will be responsible.

The government stated that promoting sexual health and welfare has a preventive effect on prostitution and that the development of young persons' knowledge of their sexuality has been found to be particularly important. Sex education is included in school curricula and the state finances special projects related to sex education and the elimination of social exclusion in order to prevent prostitution among the young. The information notes that the 1997 annual voluntary collection for charity arranged by schoolchildren and students raised funds for the preventive work of the End Child Prostitution in Asian Tourism (ECPAT) movement against child sex tourism in Thailand.

Other Reports

Minorities, Report of the S-G to the CHR: (E/CN.4/1997/82, para. 40)

The report of the Secretary-General summarizes information provided by the International Federation of Human Rights Leagues (FIDH) that was prepared by the Finnish League for Human Rights. A number of the provisions in the 1995 amendments to the Constitution are noted, including those pertaining to: equality before the law; non-discrimination on the basis of, *inter alia*, origin, language, religion or conviction; the right to use either of Finland's official languages before a court or other authority and the right to obtain documents from public authorities in either of the two languages; the responsibility of public authorities to provide for the educational, cultural and social needs of the Finnish- and the Swedish-speaking population of the country; the right of the Sami and the Romany to maintain and develop their own languages and cultures; and, provisions governing the right of the Sami to use the Sami language before the public authorities as prescribed by Act of Parliament.

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FRANCE

Date of admission to UN: 24 October 1945.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: France has submitted a core document (HRI/CORE/1/Add.17/Rev.1) for use by the treaty bodies. The report contains demographic data as well as information on the general political structure and the legal framework for the protection of human rights.

A number of offices and institutions have jurisdiction in matters related to human rights and include the Constitutional Council, ordinary courts (civil, district, major jurisdiction, commercial, labour, social security tribunals, joint agricultural tenancy tribunals), juvenile courts, military courts, courts of appeal, the Court of Assizes, the Court of Cassation, appeal courts and the Council of State. Remedies for violations may be claimed in the courts as well as through non-judicial procedures such as the office of the Ombudsman. The Ombudsman is independent and appointed by Cabinet decree for one term of six years. Under the Constitution, treaties ratified by France and published take precedence over law and the provisions of international conventions are incorporated directly into French law.

Among the national institutions related to human rights is the National Consultative Commission on Human Rights which advises the office of the Prime Minister, the Government and Parliament on all human rights questions, both domestic and international. Membership on the Commission includes representatives of the Prime Minister's office and nine ministries, a deputy and a senator who are appointed by the respective houses of Parliament, members of the bench, the Ombudsman, 28 national associations representing civil society, six of the main confederations of trade unions, 21 individuals representing religious interests and experts who are members of international human rights bodies. The Commission is free to decide which international and national issues it will examine and has, in the past, considered issues such as poverty, the right to asylum, social rehabilitation of drug addicts, AIDS screening, bioethics, reform of the Code of Criminal Procedure, human rights education, wiretapping, police files, and bills on the nationality law and immigration controls. All advice given by the Commission to the government is made public and it publishes an annual report on efforts to combat racism and xenophobia.

Economic, Social and Cultural Rights

Acceded: 4 November 1980.

France's second periodic report was due 30 June 1992; the third periodic report was due 30 June 1997.

Reservations and Declarations: Articles 6, 8, 9, 11 and 13.

Civil and Political Rights

Acceded: 4 November 1980.

France's fourth periodic report was due 3 February 1997.

Reservations and Declarations: Paragraph 1 of article 4; articles 9, 13 14, 19, 20, 21, 22 and 27.

France's third periodic report (CCPR/C/76/Add.7) was considered by the Human Rights Committee at its July/August 1997 session. The report prepared by the government details constitutional, legal and administrative provisions related to the rights set out in articles 1 through 27. The information provided touches on such areas as: overseas departments and territories; measures to improve relations between the public and the authorities; emergency regulations and laws; due process, prisons and detention and the administration of justice related to both adults and juveniles; marriage and family; nationality and expulsion procedures; and the freedoms of thought, conscience, religion, expression, opinion, assembly and association. Commentary on women's human rights and equality of women and men includes information on, for example, political rights and nationality, civil

rights, matrimonial regimes, occupation and employment, and women in the public service and the army.

The Committee's concluding observations and comments (CPR/C/60/FRA/4) noted that the submission of France's report had been delayed considerably and that nearly ten years had passed since the Committee last considered France's compliance with the Covenant. The Committee further noted that the reservations and declarations made by France when ratifying the Covenant, and consequent non-reporting on many issues related to those reservations and declarations, made it difficult to assess fully and comprehensively the situation of human rights in France.

The Committee expressed satisfaction that membership on the Consultative Commission on Human Rights includes non-governmental organizations and that the Commission serves as an independent consultative body. The Committee also welcomed: measures taken by France to promote equality of women and men; law reform aimed at preventing and combatting sexual harassment by employers; the increase in the proportion of women in public service posts; the July 1997 decision to stop the deportation of groups of illegal immigrants by chartered flights to their home countries; and, the direct applicability and primacy of the ICCPR in relation to domestic law and extension of this principle to administrative jurisdictions.

Note was taken of the fact that a referendum is scheduled to be held in the Overseas Territory of New Caledonia in 1998 so that New Caledonians can decide on their future political status. The Committee also noted the establishment of a Liaison Committee within the framework of the UN Decade on Human Rights Education.

The Committee expressed concern in a number of areas, including: the absence of a specific mechanism to ensure compliance with the Committee's views on individual communications under the Optional Protocol; the practice in overseas territories such as Mayotte and New Caledonia, of determining personal status on the basis of religious or customary law, which might in some situations lead to discriminatory attitudes and decisions, especially against women; the prevailing malaise in the magistracy and the legal profession concerning the independence of the judiciary and prosecutors; the incompatibility of New Caledonia's Amnesty Acts of November 1988 and January 1990 with France's obligation to investigate alleged violations of human rights; the low proportion of appointments of women to senior positions in the public administration at both local and central levels; problems concerning procedures for investigating allegations of human rights abuses by the police, the inertia of prosecutors on this issue, and delays and unreasonably lengthy proceedings concerning the investigation and prosecution of law enforcement officers for alleged abuses; the number and serious nature of the allegations received by the Committee related to ill-treatment of detainees by law enforcement officials; the unnecessary use of firearms by police which has resulted in deaths and increased the risk of ill-treatment for foreigners and immigrants; the reported increase in the rate of suicides in detention centres; the failure of the internal administration of the police (IGPN and IGS) and the Gendarmerie Nationale to investigate complaints of such ill-treatment, resulting in virtual impunity; and the

absence of an independent mechanism to deal with individual complaints from detainees.

Other areas of concern addressed by the Committee included: the frequent resort to and the length of pre-trial detention; the protracted length of pre-trial detention for juveniles; the lack of access to legal counsel in certain juvenile proceedings; the fact that the powers of the Gendarmerie Nationale (basically a military corps) are wider than those of the police when operating in a civilian public order situation; the stipulation that an application for conscientious objection to military service must be made before the conscript begins military service and may not be made thereafter; the provision which stipulates that the length of alternative service is twice that of military service; the incompatibility between the treatment given to asylum seekers and the provisions of the Covenant; the refusal to permit asylum seekers to disembark from ships at French ports, denying them the opportunity to assert their individual claims (noting, however, that France is considering abolishing this practice); the restrictive definition given to the concept of "persecution" in the refugee context which does not take into account the possibility of persecution by non-state actors; and, a lack of the right of access for the UN High Commissioner for Refugees (UNHCR) to places where persons are detained when they are applying for asylum or awaiting deportation.

The Committee addressed other areas of concern, including: continued application of anti-terrorist laws which provide for a centralized court and give prosecutors special powers of arrest, search and prolonged detention in police custody for up to four days; under anti-terrorist legislation, denying the accused the rights they would have in ordinary courts, including the right to contact a lawyer during their initial period of detention (the first 72 hours in police custody); lack of an appeal procedure against the decisions of the Special Court; and, failure of the government to provide information on which authority decides whether a case will be handled under ordinary criminal law or anti-terrorist laws, and the role of the police in that decision.

Commenting on the declaration related to article 27 of the ICCPR (minority rights), the Committee noted France's stated commitment to respect and ensure equal rights to all individuals, irrespective of their origin. The Committee disagreed with the government statement that France is a country in which there are no ethnic, religious or linguistic minorities. The Committee recalled that the act of granting equal rights to all individuals and stipulating that all individuals are equal before the law does not mean that there are no minorities in the country, and does not reduce the entitlement of the minorities to enjoy their culture, practice their religion or use their language in community with other members of their group.

The Committee expressed concern that: the Civil Code establishes a different minimum age for marriage for girls (15) and for boys (18) and sets such a low age for girls; the Civil Code specifies that only the father can make a declaration of the birth of his child; in some situations children born out of wedlock might not have their right to succession fully recognized; there is no independent complaint mechanism for protection and enforcement of human rights such as a national human rights commission.

The Committee recommended that the government:

- ▶ establish a mechanism to ensure compliance with the Committee's reviews on individual complaints considered under the Optional Protocol;
- ▶ undertake a comprehensive study to review the compatibility of the personal status of women in Mayotte, New Caledonia and other overseas territories with the provisions of the Covenant and, if needed, take appropriate measures to eliminate all existing inequalities;
- ▶ pursue active measures for realization of women's rights, especially by taking measures to achieve their equal representation at all levels of the public administration and to prevent discrimination against workers with family responsibilities;
- ▶ take appropriate measures fully to guarantee that all investigations and prosecutions in cases involving police violations of human rights are undertaken in full compliance with paragraph 3, article 2 (remedy), and articles 9 (liberty and security of person) and 14 (equality before the law) of the Covenant;
- ▶ take appropriate measures to remedy conditions of detention and imprisonment and reduce the level of use of solitary confinement;
- ▶ establish an independent mechanism to monitor detention centres and to receive and deal with individual complaints of ill-treatment by law enforcement officials;
- ▶ introduce a comprehensive course in human rights into the training of law enforcement officials at all levels;
- ▶ take measures to reduce the length of pre-trial detention and ensure legal aid to juveniles in legal proceedings;
- ▶ consider repealing or modifying the decree related to the powers of the Gendarmerie when it comes to the use of firearms in public order situations, with a view to harmonizing them with those of the police;
- ▶ adopt a wider interpretation of "persecution" to include non-state actors;
- ▶ allow the UNHCR to visit places where asylum seekers and refugee claimants are held, whenever the UNHCR thinks fit, without any obstruction or hindrance;
- ▶ bring the anti-terrorist laws fully into conformity with articles 9 and 14 of the ICCPR;
- ▶ raise the minimum age of marriage for girls;
- ▶ amend the Civil Code to allow a mother to make the declaration of birth of her child;
- ▶ ensure to all children born out of wedlock the same succession rights as are given to children born in wedlock;
- ▶ establish an institutional mechanism for receiving complaints of violations of human rights, including all forms of discrimination, with power to undertake conciliation, to make determinations in such complaints, and to grant redress;
- ▶ submit on time and include in its next report a comprehensive assessment regarding the cultural, religious and linguistic rights of ethnic groups and inhabitants of the Overseas territories; and

- ▶ reconsider the reservations and declarations to the Covenant.

Optional Protocol: Acceded: 17 February 1984.

Reservations and Declarations: Article 1; paragraph 2 (a) of article 5; article 7.

Racial Discrimination

Acceded: 28 July 1971.

France's 12th periodic report was due 28 August 1994; the 13th periodic report was due 27 August 1996.

Reservations and Declarations: Articles 4, 6 and 15.

Discrimination against Women

Signed: 17 July 1980; ratified: 14 December 1983.

France's third periodic report was due 13 January 1993; the fourth periodic report was due 13 January 1997.

Reservations and Declarations: Paragraph 11 of the Preamble; article 9; paragraph (b) of article 5; article 17; paragraph 1 (d) of article 16; paragraph 2 (c) and (h) of article 14; paragraph 1 (g) of article 16; paragraph 1 of article 29.

Torture

Signed: 4 February 1985; ratified: 18 February 1986.

France's second periodic report (CAT/C/17/Add.18) is scheduled for consideration at the Committee's May 1998 session; the third periodic report was due 25 June 1996.

Reservations and Declarations: Article 30; declaration under articles 21 and 22.

Rights of the Child

Signed: 26 January 1990; ratified: 7 August 1990.

France's second periodic report was due 5 September 1997.

Reservations and Declarations: Articles 6 and 30; paragraph 2 (b) (v) of article 40.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on: (E/CN.4/1997/4, paras. 4, 17, 20)

The Working Group sent an urgent appeal to the government about police actions in which about 200 people were stopped and placed under administrative detention. A number of those detained were aliens from Africa, arrested for violating French laws on entering and staying in France. The government replied in detail and indicated that those who were detained had made use of legal remedies, that most of them had been released by court order shortly after being detained, and that a few were escorted to the frontier.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1997/60, paras. 16, 68; E/CN.4/1997/60/Add.1, paras. 177-178)

The report notes that the Special Rapporteur sent information to the French and Iranian governments concerning the death in France of a publisher and member of the Iranian opposition; he was reportedly killed by agents acting under the orders of the Iranian authorities. The report also notes that the French government has not replied to cases that were previously transmitted.

Racial Discrimination, Special Rapporteur on: (E/CN.4/1997/71, paras. 96-115)

The report of the Special Rapporteur (SR) contains commentary on reports of attacks in France by neo-Nazis on persons belonging to minorities and on the arrest of members of right-wing extremists groups. The government indicated that a search of the homes of those arrested had turned up neo-Nazi, racist, and extreme right-wing propaganda and correspondence which demonstrated the paramilitary and Nazi nature of the structure of the group. Also found were pick axe handles, knuckledusters and other kinds of weapons as well as group photographs portraying neo-Nazi emblems and poses. The government informed the SR that the investigation had uncovered sufficient evidence to institute proceedings for premeditated wilful armed assault. The report also includes information received by the SR related to violations against persons without identity papers in the Saint-Bernard church in Paris.

The Special Rapporteur's interim report to the General Assembly (A/52/471, paras. 14, 17, 18, 38) refers to information received from the non-governmental human rights organization Nord-Sud XXI, stating that France has been elaborating a series of discriminatory legal and regulatory provisions (such as the 1996 law on identity checks). Its public administration (service des étrangers at the prefecture level, Office français pour les réfugiés et apatrides, etc.) often functions in a discriminatory manner, working on the basis of circulars which contradict legislative provisions or decisions of the Supreme Court. Rights and freedoms have thus been eroded and legality undermined by a policy of social and racial discrimination.

The report also cites information from another non-governmental organization, the Association nationale d'assistance aux frontières pour les étrangers (ANAFE) related to visits carried out to holding areas by authorized organizations. The organization noted that, in 1992, the Legislature considered access by humanitarian organizations to persons in holding areas for the provision of humanitarian and legal assistance to be vital safeguard, and made giving up an amendment to that effect subject to the government committing itself to establishing the procedures by decree. An assessment of the first year of operation of the decree was provided, noting: that the restrictions imposed, particularly in terms of the frequency of visits allowed, prevent the organizations from doing their job; that the visits have allowed the organizations to record violations of the rights, dignity and even safety of persons of such gravity that the situation for foreigners at France's air, sea and railway entry points can be described as scandalous; systematic violations of the right to one clear day before the decision to refuse entry is carried out; immediate refoulement as soon as physically possible; illegal types of deprivation of liberty (keeping persons on board ship at sea, administrative detention and arbitrary detention at some frontier posts); no possibility of communicating or appealing; no possibility under these conditions of seeking asylum; in the holding areas, accommodation in conditions that are physically very inadequate and injurious to individual dignity and even safety, particularly for minors; conditions of accommodation that for the most part allow no freedom of movement and impose excessive isolation on the individuals

held; lack of information for the interested parties on their rights and on the procedure which they are undergoing; serious procedural irregularities; violations of the right to the assistance of an interpreter or a doctor, to communicate freely, to defence and asylum.

The report refers to the UN seminar on immigration, racism and racial discrimination (Geneva, May 1997) during which representations on the restrictive, discriminatory policies of the industrialized countries of the North towards foreign workers from the South were made. The seminar heard comments on practices by EU members and, related to France, that: migrants from the former colonies were always admitted more easily; preference then began to be given to migrants from countries where political regimes seemed more favourable; and, migrants from the overseas departments and territories were not included in the statistics on aliens.

The SR recalled points in his report to the 1996 General Assembly, including: the intention of the then French legislature to increase the severity of laws governing foreign residents by adopting measures to improve control over immigration by non-Europeans through measures such as making the issuance of short-stay visas more systematically subject to proof of health insurance, reforming the procedure for the issuance of the "certificat d'hébergement", *inter alia*, by requiring the person offering accommodation to give notice of the visitor's departure; restricting hospital care for illegal aliens to "emergencies" or to diseases likely to be contagious; and extending to 40 days the period of administrative detention for persons who entered France illegally. The report recalls the SR's criticism of the discriminatory nature of the proposed measures. The new government provided information on measures recently envisaged, including regularizing the status of certain categories of undocumented aliens and drafting a preliminary bill on the entry and stay of foreign nationals. The information provided notes that the preliminary bill includes provisions designed to make it easier for foreigners to stay in France and for foreign scientists, students and persons "with strong ties to France", in particular, to obtain visas. Another bill on nationality currently being drafted by the Ministry of Justice would seek to revert to the *jus soli* system. The SR welcomed the positive development and expressed the hope that improvements will be made to these measures and given material form in laws and regulations.

Torture, Special Rapporteur on: (E/CN.4/1997/7, Section III; E/CN.4/1997/7/Add.1, paras. 157-167)

The report recounts information related to ill-treatment by mobile police in Tahiti of several members of the Executive Secretariat of the Trade Union Confederation A Ti'a I Mua as they were preparing a press conference. The authorities took the action because they held the union responsible for a riot which had occurred on the island on 6 September 1995, after the resumption of nuclear tests. A second case transmitted to the government involved the arrest of a French and Algerian national by three members of the Unité de surveillance des transports en commun (USTC) who was severely beaten with truncheons. The report notes that the three men responsible were said to have been arrested in the course of the inquiry that followed the incident.

The report summarizes information received from the government related to cases that were previously transmitted by the Special Rapporteur. All of the cases involved police violence in various forms. A number of them were still under investigation or judicial inquiry. In two cases the officers involved had either been suspended from duty and/or sentenced to pay compensation.

Toxic wastes and products, Special Rapporteur on: (E/CN.4/1997/19, paras. 46-47)

The report comments on the 1993 order to close the Rhône Poulenc's plant in Cubatao, Brazil. A judge ordered the closure to protect plant workers from further exposure at the facility to chemicals which had led to soil contamination, far exceeding legal limits, from the use of hexachlorobenzene and pentachlorophenol. The report also comments on Total, a French oil company, engaged in building a pipeline in Myanmar (Burma) as part of a joint venture with Unocal. It notes that, to facilitate the construction of the pipeline through the rain forest, the army has declared "free-fire zones" in which soldiers are authorized to shoot civilians, including members of the Karen tribe who live near the Thai border. The report further states that some indigenous people have been forced to work on clearing forest areas to prepare them for oil and gas exploration and transportation; and that, because of the pipeline, some indigenous people have been evicted from their homes and relocated to areas where means of earning a living are scarce. (For further information, see section on Myanmar.)

Other Reports

Children and juveniles in detention, Report of the S-G: (E/CN.4/1997/26, paras. 2, Section II)

The report of the Secretary-General contains information provided by the government which notes that: France has laid down the principle of special treatment for juvenile delinquents, combining penal sanctions with educational measures and giving priority to the latter; minors in conflict with the law are subject to special rules, applied by specialized magistrates and courts (i.e., juvenile magistrates each assisted by two co-magistrates, juvenile courts and juvenile assize courts); an "urban recovery pact" has been launched to deal with juvenile delinquency which includes a set of new judicial measures coordinated around three basic aims-speeding up the course of penal justice for minors, diversifying educational measures, and improving the consistency of prevention measures; added protections have been introduced for minors in police custody or under temporary detention measures; children between the ages of 10 and 13 cannot be held in police custody unless there is strong evidence that they have committed, or attempted to commit, a crime punishable with at least seven years' imprisonment; the temporary detention of minors may not exceed 10 hours, the minor must see a lawyer, and the Procurator of the Republic must report the detention to the Ministry of Justice; children under 13 may not be held in pre-trial detention; pre-trial detention for children over the age of 13 is strictly limited according to the crime or offence committed; and, minors may be imprisoned in special and suitable quarters during the course of the investigation, subject to an order for pre-trial detention, or as a form of penalty once they have been sentenced.

HIV/AIDS, Report of the Secretary-General to the CHR:
(E/CN.4/1997/37, Appendix)

The report of the Secretary-General on the Second International Consultation on HIV/AIDS and Human Rights (Geneva, September 1996) refers to law reform programmes focussing on human rights and notes that, in France, the Penal Code defines disability broadly and sensitively enough to explicitly include HIV/AIDS under non-discrimination provisions.

International Peace and Security, Report of the S-G to the Sub-Commission: (E/CN.4/Sub.2/1997/27, para. 45)

The report of the Secretary-General refers to information provided by the International Indian Treaty Council (IITC), a non-governmental organization related to contamination of indigenous peoples and communities arising from nuclear bomb explosions; uranium mining and milling operations; nuclear reactors; storage of nuclear waste; dumping of nuclear waste; and radioactive human experimentation and testing. The IITC cited Tahiti, Polynesia, in particular, as an indigenous community poisoned by nuclear testing, with long-term health problems including cancers, miscarriages, premature births, neurological diseases in newborn babies, deformed children, deaths of babies and children, and leukaemia. The information also stated that there are relocation-related and poverty-related illnesses and illnesses of the Earth, such as the sinking and cracking of atolls, tidal waves and other environmental changes.

National institutions, Report of the S-G:
(E/CN.4/1997/41, para. 19)

The report of the Secretary-General notes that the French National Consultative Commission on Human Rights referred to successive resolutions of the Commission on Human Rights and the UN General Assembly which recognized the role and functions of national institutions for the promotion and protection of human rights. The French Commission also recalled that national institutions had been accorded a special place at the World Conference on Human Rights. In the light of this, the French Commission believes that there is a case for permitting such bodies to participate, with observer status, in the work of the UN Commission on Human Rights and its subsidiary bodies. The report notes that France is a member of the Coordinating Committee on national institutions which has been meeting under the auspices of the UN Centre for Human Rights.

Racial Discrimination: (E/CN.4/1997/68/Add.1, paras. 77, 83, 90-91, 95, 103, 104, 108, 112, 115)

The report of the UN seminar on racism notes that France has entered a reservation on article 4 of the Convention on the Elimination of All Forms of Racial Discrimination (as above). The report refers to new measures introduced in France to combat racial discrimination and xenophobia, including a wide range of laws that: provide penal sanctions for public expressions of incitement to discrimination, hatred or violence on grounds of racial or religious origin; establish penalties for defamation or insult and non-public racial provocation (e.g., in a letter); sanction questioning the existence of crimes against humanity; prohibit distribution of racist publications to minors; ban the manufacture and distribution of racist and xenophobic propaganda material such as

uniforms, insignias or emblems (except for a film, play or historical exhibition); increase the penalties for racially motivated desecration of bodies and graves (up to five years' imprisonment); provide for the dissolution by presidential decree of organizations, associations or groups inciting to racial discrimination, hatred or violence or disseminating such ideas; establish a penalty of up to seven years' imprisonment for the leaders of such dissolved organizations who reconstitute a banned group, or in the case of armed combat groups; and, establish new rights for associations fighting against racism.

UN Decade for Human Rights Education:
(E/CN.4/1997/46, para. 23)

The report notes that France has established, jointly with the National Commission for UNESCO, the National Committee for Human Rights Education. The Committee includes representatives from 11 ministries, including Justice, Education, Defence, Foreign Affairs, Social Affairs, Interior, Culture, Youth, and Humanitarian Action and is mandated to: conduct a survey on past/current activities in the area of human rights education; assess needs; and, elaborate a plan of action. Assessment of the state of human rights education is being carried out in primary and secondary schools, universities and institutions of higher education, adult education (including several professional groups such as police, the armed forces, judges, teachers and social workers) and activities undertaken by NGOs, associations and trade unions. The report also notes that a national centre for information and training on human rights, which is publicly accessible and has a broad range of human rights documentation, was inaugurated in November 1996.

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GERMANY

Date of admission to UN: 18 September 1973. (With the unification of West and East Germany in 1990, the Federal Republic of Germany acts in the UN under the designation of Germany, and the date of entry of what was formerly called West Germany.)

TREATIES AND REPORTS TO TREATY BODIES

Land and People: The core document prepared by the government for use by the treaty bodies (HRI/CORE/1/Add.75) contains demographic and statistical data, information on the social and political systems, the judicial system, and human rights protections. According to the government, the state is based on principles derived from rule of law, including the independence of the judiciary, legal protection in court for anyone whose rights are violated by public authorities, constitutional jurisdiction, legal security and proportionality of means and ends in state acts that encroach on the rights of individuals and impartial execution of state power. The International Covenants on civil, cultural, economic, political and social rights have become an integral part of German law and each international human rights convention is taken into account in the interpretation of Germany's Basic Law (which functions as its Constitution) and ordinary statutes.

The Basic Law includes provisions on: the free development of the personality, life and physical integrity, equal treatment, equality of women and men, religion and conscience, conscientious objection to military service, expression and opinion, press freedom, assembly and association, political parties, freedom of movement, choice of occupation and place of work, privacy, property, citizenship, asylum, participation in the electoral process, the right to a legal hearing, non-retroactive application of law and protections related to deprivation of liberty. In terms of economic, social and cultural rights the Basic Law contains provisions related to: entrepreneurship, ownership, sale and disposition of property, choice of residence, an adequate standard of living, assistance for those who are ill or unable to work or find work, marriage and family, children, non-discrimination on the basis of sex, parentage, race, language, homeland, religion or political opinions, and labour rights.

In Germany there is no state body for the protection of human rights on the bases that comprehensive judicial protection exists, assistance is provided through a highly developed network of legal professions and special interest groups, and the Basic Law provides for special procedures and institutions such as petition committees. There is, however, a Commissioner for Human Rights Questions in the Ministry of Justice who acts as agent for Germany to the human rights organs of the Council of Europe. The Commissioner also represents Germany at the Commission on Human Rights on those occasions when the CHR addresses issues related to Germany under the 1503 confidential procedure and represents Germany in cases of individual complaint brought before the Human Rights Committee under the Optional Protocol to the ICCPR.

Economic, Social and Cultural Rights

Signed: 9 October 1968; ratified: 17 December 1973.

Germany's third periodic report (E/1994/104/Add.14) is scheduled for consideration by the Committee at its November/December 1998 session; the fourth periodic report is due 30 June 2000.

Civil and Political Rights

Signed: 9 October 1968; ratified: 17 December 1973.

Germany's fifth periodic report is due 3 August 1998.
Reservations and Declarations: Articles 2 (1), 19, 21 and 22; paragraphs (3) (d) and (5) of article 14; article 15 (1); declaration under article 41.

Optional Protocol: Acceded: 25 August 1993.

Reservations and Declarations: Paragraph 2 (a) of article 5.

Second Optional Protocol: Signed: 13 February 1990; ratified: 18 August 1992.

Racial Discrimination

Signed: 10 February 1967; ratified: 16 May 1969.

Germany's 15th periodic report was due 15 June 1996.

The Committee considered Germany's 13th and 14th periodic reports which were submitted as a single document (CERD/C/299/Add.5) at its March 1997 session. The report prepared by the government includes information on, *inter alia:* protection of national minorities and other ethnic groups traditionally resident in Germany; protection of the Jewish community; criminal law and measures to combat

racist propaganda and organizations; foreign residents, asylum-seekers and refugees; the integration policy of the government; consideration of the interests of foreigners in legal decisions; compensation for racial discrimination; measures against discrimination in social sectors; xenophobic activities, incidents and causes; accusations directed at the German police authorities; and measures to combat racial prejudices at school.

The concluding observations and comments (CERD/C/304/Add.24) note that Germany has made no declaration in respect of article 14 of the Convention relating to the Committee's competence to receive complaints. The Committee noted that the lack of a national human rights institution or ombudsman, authorized to monitor and coordinate the government's efforts to eliminate racial discrimination, and the lack of a comprehensive anti-discrimination law remain obstacles to full implementation of the Convention.

The Committees acknowledged that, in the past few years, there has been a significant decrease in criminal offences against foreigners and asylum seekers and of other expressions of racial discrimination and violence. This decrease is attributed to the various legislative, administrative and judicial measures taken by federal and provincial authorities, including amendments to the criminal law, and enactment of additional legislation aimed at making the prohibition of racial discrimination and the protection of victims more effective. The government's decision to prohibit the production and distribution of neo-Nazi literature and to punish severely persons found guilty of incitement to racial hatred were also viewed as contributions to the improvement in the situation. The Committee recognized that attitudes based on xenophobia and racial discrimination are rejected by a broad section of the German public, as shown by anti-discrimination demonstrations, expressions of compassion for the victims of violence, and frequent condemnation of xenophobia and racial discrimination in the daily press and other media.

The information provided by the government indicated that some victims of discrimination have been successful in vindicating their rights in the German courts and referred to the guidelines on education which provide for the systematic teaching of human rights and the principles of tolerance and coexistence in a multicultural society. The Committee commended the authorities for the improved curricula at various levels of schooling which includes instruction about other cultures and religions, and aims to instil a feeling of respect for all human beings regardless of ethnic origin or religious affiliation.

The Committee expressed concern over a number of issues, including manifestations of xenophobia and racial discrimination, acts of anti-Semitism and hostility against certain ethnic groups, and the racial violence that still occurs on a substantial scale in Germany. The Committee noted that such manifestations appear to reflect deep-seated prejudices and latent fears that still prevail in certain sections of the population, particularly among the less educated and the unemployed, despite the government's efforts to prevent such actions and to punish the perpetrators. Concern is also expressed over the fact that while protections are provided for small ethnic groups that have traditionally resided in

Germany, much larger ethnic groups remain without any specific protection. This pertains particularly to members of those ethnic groups who have long-term residence status or who have become German citizens. Reference is also made to: instances of police brutality against foreigners, particularly Africans and Turks; discrimination against certain ethnic groups by some private insurance carriers; the absence of comprehensive legislation to prohibit racial discrimination in the private sector; the fact that certain categories of foreigners, including those without legal status and temporary residents, are not entitled to redress for acts of racial discrimination committed against them; and, the failure of the government to provide information on the measures taken to eradicate de facto racial segregation.

The Committee recommended that the government:

- ▶ consider enactment of a comprehensive anti-discrimination law and the establishment of a national institution to facilitate the implementation of the Convention;
- ▶ continue to explore ways of providing specific protection to all ethnic groups living in Germany; and,
- ▶ in its next report, address: issues of racial discrimination in the private sector; access to employment by foreigners; post-employment contract equality; de facto racial segregation; prompt investigation and prosecution of xenophobic offences, in particular those committed by members of the police forces; legislation about foreigners and its implementation in the context of current asylum practices, in particular in relation to the list of so-called "safe countries"; compensation to all victims of acts of racial discrimination in Germany, and the respective competences of the federal and provincial (Lander) authorities.

Discrimination against Women

Signed: 17 July 1980; ratified: 10 July 1985.

Germany's fourth periodic report is due 9 August 1998.

Reservations and Declarations: Eleventh preambular paragraph and article 7 (b).

Torture

Signed: 13 October 1986; ratified: 1 October 1990.

Germany's second periodic report (CAT/C/29/Add.2) is scheduled for consideration at the Committee's May 1998 session; the third periodic report is due 30 October 1999.

Reservations and Declarations: Article 3.

Rights of the Child

Signed: 26 January 1990; ratified: 6 March 1992.

Germany's second periodic report is due 4 April 1999.

Reservations and Declarations: Article 18 (1); paragraphs (2) (b) (ii) and (v) of article 40; article 38 (2).

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1997/60/Add.1, para. 182)

On a case that had previously been transmitted, the Special Rapporteur sent a follow-up letter requesting the government to provide additional information concerning the

investigations and proceedings in regard to the case of a Nigerian national, who reportedly died on 30 August 1994 in the aircraft which was to return him to Nigeria, after being injected with a sedative.

Mercenaries, Special Rapporteur on: (E/CN.4/1997/24, para. 21)

The information in the report provided by the government relates to a case dating from 1995 in which two mercenaries were given life sentences by a German court for murdering two Germans in Croatia, one a mercenary and one who had applied for recruitment into their mercenary unit. The government informed the Special Rapporteur that the convictions were primarily based on statements voluntarily given to police by one of the defendants, as well as corroborative evidence supporting the charge that both murders had been jointly committed.

Racial discrimination, Special Rapporteur on: (A/52/471, paras. 17, 29-31)

In his interim report to the General Assembly, the Special Rapporteur (SR) refers to the UN seminar on immigration, racism and racial discrimination (Geneva, May 1997) and cites comments on efforts by countries of the European Community to restrict immigration from outside the Community. The report notes that Germany gave preference to Turkish workers, then to Yugoslav workers, mainly Croats, and to asylum-seekers from the Eastern European countries, before finally adopting more restrictive legislation.

The report also refers to information provided by the government on: racially motivated violence against migrant workers and their families and other vulnerable social groups; the responsibility of the media (including the Internet) in inciting acts of racially motivated violence; social measures to eliminate all forms of racism, including the organization of the European Year against Racism and educating people to be tolerant; the legal situation in the area of racism and racial discrimination (status of criminal law); the policy for integrating foreigners; and compensation for victims of acts of violence in Germany.

With regard to new technologies, the SR notes that the law stipulates that anything which is harmful or even punishable in an "off-line" form must not be assessed or treated differently once it is presented "on-line". Referring specifically to the Internet, a new law came into force in Germany, 1 August 1997. The law: lays down the basic legal terms for the provision and use of the new information and communication services; defines the responsibility of the so-called providers; extends the Act Concerning the Distribution of Publications Harmful to Young Persons to the new information and communication services; is based on the principle of freedom of access; and, reflects the fact that the responsibility of those concerned needs to be regulated, with the providers' responsibility for their own content being governed by general statutes. The government's information also addressed issues such as: establishment of an unequivocal identification procedure for all Internet users world wide so as to ensure, both nationally and internationally, that information which is relevant from a criminal law point of view is not disseminated via the data networks; the need to harmonize the terms and systems of criminal law; the connection between the portrayal of

violence in the media and the actual use of violence; and, the fact that in Germany there is a ban on censorship, so that media content cannot be checked in detail.

Religious intolerance, Special Rapporteur: (A/52/477, paras. 8, 21)

The Special Rapporteur's interim report to the General Assembly notes that a mission was conducted to Germany in September 1997.

Sale of children, child prostitution, child pornography, Special Rapporteur on the: (E/CN.4/1997/95, paras. 30, 56, 59)

The report notes that Germany has initiated an awareness-raising campaign, "*Keine Gewalt gegen Kinder*" (Stop violence against children), which has focused on child pornography and prostitution, the sexual abuse of children, and the neglect and maltreatment of children in the family. The report notes that trafficking in girls follows the same general pattern as trafficking in women, namely from the East to West, and that Germany is often the final destination for girls trafficked from, for example, Russia, Ukraine and Belarus. There is also reference to a case — the first of its kind in Germany — in which two German nationals were prosecuted and convicted for the commercial sexual exploitation of children in Thailand.

Torture, Special Rapporteur on: (E/CN.4/1997/7, Section III; E/CN.4/1997/7/Add.1, paras. 168–171)

The reports notes that the Special Rapporteur (SR) has received information concerning cases of severe beatings and other ill-treatment of individuals belonging to ethnic or national minorities by police officers, particularly in Berlin. The injuries caused included fractures, bruises, abrasions, cuts. In one case, a racial epithet was used. The government's reply to the SR stated that: in some cases, the police maintained that the degree of force used was necessary to overcome resistance to arrest; in others, investigations had been conducted and concluded that excessive force had not been used by the police; and in still others, investigations had not yet been concluded. The government admitted that in one case, involving a police raid on a residence that resulted in injuries, the police action had been taken at the wrong house, and the victims had refused the medical treatment offered.

Toxic wastes and products, Special Rapporteur on: (E/CN.4/1997/19, paras. 27, 48–50)

The government informed the Special Rapporteur (SR) that in Germany, the federal law implementing the Basel Convention stresses the duty to reimport illegal/unauthorized or impracticable shipments of hazardous wastes. Waste exporters required must ensure financial security for their waste shipments and contribute to a solidarity fund which pays whenever a solvent operator with a duty to reimport cannot be found in time. The government also noted that a special unit, the Federal Environment Agency, has been set up in Germany to deal with transit permits and information exchange. Additionally, the government referred to the establishment of a special procedure to notify, which ensures that the responsible authorities are informed of the notifications made. Transactions arranging the movements of wastes require official authorization.

In the report, information is included on several cases and situations involving toxic wastes and products. The first relates to a case in 1993, in which 239 tons of hazardous pesticides from Germany, stored in leaking drums, were found at the northern Albanian border. The German government was requested to reimport the products. Then, in 1994, 450 tonnes of expired pesticides, originally sent to Albania as "humanitarian aid", were returned to Germany and either burned or consigned to a waste storage facility. In a second case, this one in 1992, Egyptian authorities refused to permit the unloading of 950 tonnes of plastic waste originating in Germany; the shipment was being sent to Egyptian cement kilns to be used as fuel. The third case concerned the Germany company Wilhelm Grillo, which exported metal wastes to Bharat Zinc Ltd. in India for zinc recovery processing. Germany, in its response: referred briefly to the measures taken to dispose of the expired pesticides found in Albania; it noted that the cargo that had been refused by the Egyptian authorities had been exported illegally from Germany and that, upon the return of this waste, it had been disposed of in an environmentally sound manner; and concerning the metal wastes to India, the government stated that the exports were legal and had been approved by competent German and Indian authorities, and that the company in India had the necessary permit to process the zinc powder imported from Germany. (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, Sections IV, IV.B)

In the section of the report dealing with trafficking in women and forced prostitution, the Special Rapporteur (SR) noted that Colombian women are trafficked into Germany. The report characterizes German national laws on trafficking in women as "regulationism" (i.e., attempts to control prostitution through government regulatory schemes), implying official state tolerance of what is understood to be a "necessary evil". As an illustration of regulationism, the report summarizes a German court case in which defendants were accused of recruiting and coercing Thai women into prostitution. After a trial which lasted 11 months, the defendants were acquitted on the charge of trafficking and only found guilty of promoting prostitution and procuring, offences that are considerably less heavily punished. The SR indicates that, throughout the trial, the judge showed himself reluctant to pursue the case, complained about the expected length of the trial, was friendly toward the defendant and the defence counsel, and showed skepticism towards the prosecutor and the plaintiffs' counsel. The judge shared the defendants' view and did not believe that the women had been forced, even though evidence indicated otherwise. The report notes that, in deciding whether the women could have been victims of trafficking, the judge took into account the past records of the women in Thailand and, on several occasions, equated their past status to that of prostitutes. The credibility of the women's testimony was undermined by the lack of knowledge that the officers of the court had of Thai culture and by translation difficulties. The report concludes by noting that the Thai government was not interested in the case, ignored successive calls for evidence, and refused to allow a Thai police officer to be questioned.

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 notes a response from Germany to the request for information on national measures related to the detention of children and juveniles. The government drew attention to the fact that a law adopted in 1990 expanded the options available to public prosecutors to avoid bringing charges and to take instead less drastic measures. Such measures could include the discontinuation of proceedings against a juvenile if the offender redressed the wrong done to the victim. Also, stricter preconditions have been attached to the imprisonment of young people awaiting trial. Generally, imprisonment may only be ordered where absolutely necessary and when other options are not available. When an arrest warrant of a juvenile is executed, the law requires that defence counsel be appointed.

The Youth Court Act and the Prison Act set out basic and organizational provisions related to the youth custody system and remand detention of juveniles and adolescents. Most issues related to juvenile detention are addressed through the National Administrative Regulations on Youth Detention, the Prison Act and the Remand Detention Code. The stated task of the youth custody system is to teach convicts to lead a law-abiding and responsible life and includes both schooling and vocational training. Short leave and work outside the prison are permitted, with emphasis placed on maintaining contacts with family members and others outside prison. The government's summary includes descriptions of how the prison system in Germany is administered and by what authority.

Conscientious objection to military service, Report of the S-G to the CHR: (E/CN.4/1997/99, paras. 6, 26, 39)

Conscription exists in Germany but the Basic law stipulates that no one may be forced to perform "war service", activities that have a direct bearing on the use of weapons of war. The government indicated that the right to refuse to render war service is broadly interpreted and permits an individual to invoke reasons of religion, morals and philosophy. Anyone granted conscientious objector status must perform a substitute service for a time that may not be longer than a regular tour of duty in the military. The substitute service should serve the general good; in determining acceptable forms of substitute service, priority is given to needs in social areas. Substitute service may also involve work in civil defence and disaster prevention.

Minimum humanitarian standards, Report of the S-G to the CHR: (E/CN.4/1997/77/Add.2, paras. 1-5)

The report of the Secretary-General includes information provided by the government reaffirming the inviolability the principles of the equal protection of the laws and the unlawfulness of arbitrary rule and briefly reviewing constitutional and legal provisions relevant to a state of tension or state of defence (external state of emergency: crisis and war).

National institutions, Report of the S-G to the CHR: (E/CN.4/1997/41, para. 10)

While recognizing the important role national institutions can play in the promotion and protection of human rights,

Germany opposes the establishment of a new category of participants to accommodate participation by national institutions in the work of Commission on Human Rights. Instead, Germany suggested that the approach be one of integrating representatives of national institutions into governmental delegations. This suggestion was made on the basis that, in most cases, national institutions are linked to, or are even part of, either the executive or the legislature.

Voluntary Fund for victims of torture: (E/CN.4/1997/27)

The report notes that Germany contributed slightly more than US\$120,000 to the Fund in 1996.

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GREECE

Date of admission to UN: 25 October 1945.

TREATIES AND REPORTS TO TREATY BODIES

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

Economic, Social and Cultural Rights

Acceded: 16 May 1985.

Greece's initial report was due 30 June 1990; the second periodic report was due 30 June 1995.

Civil and Political Rights

Acceded: 5 May 1997.

Greece's initial report is due 4 August 1998.

Optional Protocol: Acceded: 5 May 1997.

Second Optional Protocol: Acceded: 5 May 1997.

Reservations and Declarations: Article 2.

Racial Discrimination

Signed: 7 March 1966; ratified: 18 June 1970.

Greece's 12th periodic report was due 18 July 1993; the 13th periodic report was due 18 July 1995; the 14th periodic report was due 18 July 1997.

Discrimination against Women

Signed: 2 March 1982; ratified: 7 June 1983.

Greece second and third periodic reports (CEDAW/C/GRC/2-3) were submitted as one document which is scheduled for examination at the Committee's January 1999 session; the fourth periodic report was due 7 July 1996.

Torture

Signed: 4 February 1985; ratified: 6 October 1988.

Greece's third periodic report was due 4 November 1997.

Reservations and Declarations: Declaration under articles 21 and 22.

Rights of the Child

Signed: 26 January 1990; 11 May 1993.

Greece's initial report was due 9 June 1995.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1997/34, paras. 153-156)

The Working Group (WG) transmitted one new case of disappearance to the government which reportedly occurred in 1995. This reportedly involved a Swiss citizen travelling from Greece to Italy on a Greek ship who was denied entry into Italy and returned to Greece on the same ship. The government responded, noting that the individual involved had twice been denied entry into Greece and had been expelled on several occasions for involvement in international criminal activity. No official exit from the ship was recorded and authorities suggested that the passenger had gone ashore before disembarkation control was in place. The authorities were investigating. As of December 1996, two cases that had been referred to the government in 1993 remained to be clarified.

Racial discrimination, Special Rapporteur on:
(E/CN.4/Sub.2/1997/27, para. 45)

The Special Rapporteur's interim report to the General Assembly refers to discrimination against Romas and cites information indicating that, in October 1996, police officers swooped down on the Roma camp at Ano Liosia in Attica on the pretext of arresting a 21-year-old Roma suspected of stealing cannabis. In the suspect's absence, the police officers took his mother and sister hostage and verbal exchanges took place as a result of the rage felt by the camp's population. Stones were thrown at the police and they reacted with a second incursion. The information indicated that on the same day, the Minister of the Interior stated that the police had been doing their job and that people should not believe what gypsies said.

Religious intolerance, Special Rapporteur on: (A/52/477, paras. 8, 12, 15, 25, 28, 34, 38, 39, 46, 51, 56)

The Special Rapporteur's interim report to the General Assembly notes the mission to Greece in June 1996 and communications sent to the government related to: violations of religious freedom against followers of Islam and the case of a Muslim religious leader who was reportedly taken to court and then released after being accused of illegally building a mosque. In response to the case, the government stated that the construction work on the mosque had been interrupted because aspects of the building had not been included in the approved building licence. The actions were taken to stop arbitrary construction, pending issuance of a revised licence. The government stated that no application for a revised building permit had been submitted. In response to a previously transmitted case related to conscientious objection, the government informed the SR that the person, a Seventh-Day Adventist minister, had been exempted from military service.

Sale of children, child prostitution, child pornography, Special Rapporteur on: (E/CN.4/1997/95, para. 50)

The report refers to the arrest of more 700 people in Athens in August 1996 following newspaper reports that child prostitution involved not only children from Eastern Europe but also under-aged Greek girls who had been forced into prostitution. Information also indicated that child sex tourism had been organized from Belgium to Greece. During searches carried out under warrants, children were found chained in brothels in order to facilitate rape. The report notes that the case has raised the question of how many of the 500 Greek

girls and 170 boys reported missing over the past five years may have been picked up by child prostitution recruiters.

Torture, Special Rapporteur on: (E/CN.4/1997/7, Section III; E/CN.4/1997/7/Add.1, paras. 172-173)

Five cases were transmitted to the government alleging beatings by officers of the Anti-Drug Squad or use of excessive force by police against demonstrators, including ill-treatment during arrest and transfer to the Security Police building. Concerning the drug case, the government replied that no such person had ever been detained or interrogated in the Security Division of Thessaloniki for breach of the "law on drugs". Responding to the allegations of excessive use of force, the government stated that the preventive inspection of 100 anarchist demonstrators had been considered necessary by the Public Prosecutor because some of them were carrying bags which could have contained weapons. The government asserted that the demonstrators had violently attempted to prevent the inspection, a minor clash had followed and those individuals on whose behalf the Special Rapporteur had sent the query had been arrested. Forensic examination revealed that they had received minor injuries which had been sustained while resisting arrest, not from torture or ill-treatment. The government informed the SR that nine police officers had also been slightly injured and that the detainees had been convicted by the First Three-Member Magistrate Court of Thessaloniki on various charges, including sedition. The findings of an administrative examination had failed to establish any disciplinary or other responsibilities on the part of the General Police Division of Thessaloniki.

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

The report notes that Colombian women are being trafficked to markets in Greece.

Other Reports

International Decade of the World's Indigenous People, Report of the S-G: (E/CN.4/1997/101, para. 9)

The report of the Secretary-General notes that Greece has contributed to the Voluntary Fund for the Decade.

Minorities, Report of the S-G: (E/CN.4/1997/82, para. 42)

The report of the Secretary-General refers to information provided by the International Federation of Human Rights Leagues in which concern was expressed that article 19 of the Nationality Code of Greece provides a legal basis for racial discrimination to the extent that nationality may be withdrawn from any person who is not of Greek origin and who leaves Greece without the intention of returning. The Federation asserted that this article is used against the Muslims of Thrace of Turkish origin, on the occasion of their return after a lengthy visit abroad, or against students returning from Turkey after their studies or holidays. The information also states that this minority is subjected to discrimination with regard to acquisition of property, the securing of shop licences, use of their language and in the field of education. Further, the report notes that the Macedonian minority in Greece is not recognized as a minority by the Greek authorities and, therefore, cannot benefit from guarantees on the use of, and instruction in, their mother tongue. They are also subject to the application of article 19 of the Nationality Code and are restricted in

their right to establish and maintain their own associations and to freedom of expression. In terms of the Roma minority in Greece, the Federation stated that members encounter discrimination in the areas of education, housing and access to public services. There is also a reference to discriminatory practices against religious minorities, especially Muslims, Catholics, Protestants, Jehovah's Witnesses and Jews who face difficulties in obtaining building licences for places of worship and are subject to interference by the authorities in the area of education.

Voluntary Fund for victims of torture: (E/CN.4/1997/27, para 4)

The report notes that Greece had contributed to the Fund.

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

The report of the Secretary-General notes that the UN Information Centre Athens organized a round table discussion on the occasion of the launch of the book published by DPI, *The United Nations and Apartheid*. The DPI video "UNOMSA" was screened and 200 people attended the event. During the visit of the Special Rapporteur on religious intolerance to Greece (1996), UNIC arranged meetings for him with NGOs, academics and representatives of religious minorities in Athens and northern Greece. UNIC also participated in the opening of a symposium on "Torture in the Middle East and North Africa: Strategies for prevention and rehabilitation" organized by the Medical Centre for the Rehabilitation of Torture Victims.

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HOLY SEE

Date of admission to UN: The Holy See is a non-Member State with observer status.

TREATIES AND REPORTS TO TREATY BODIES

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

Racial Discrimination

Signed: 21 November 1966; ratified: 1 May 1969.

The Holy See's 13th periodic report was due 31 May 1994; the 14th periodic report is due 31 May 1998.

Rights of the Child

Signed and ratified: 20 April 1990.

The Holy See's second periodic report was due 1 September 1997.

Reservations and Declarations: Ninth preambular paragraph; paragraph 2 (f) of article 24; articles 13 and 28.

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ICELAND

Date of admission to UN: 19 November 1946.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Iceland has submitted a core document (HRI/CORE/1/Add.26) for use by the treaty bodies. The

report prepared by the government includes demographic data and information on the economy, the constitutional structure and government, and remedies with respect to human rights violations.

Through the courts, any individual claiming a violation of human rights make seek compensatory damages, annulment of libellous or slanderous statements, compensation for non-financial loss and/or invalidation of administrative decisions if those decision have violated rights. There is no separate constitutional court to resolve disputes related to alleged violations of constitutionally protected human rights. The Ombudsman of the Althing is elected by parliament to which an annual report is submitted. The office functions independently, however, and has responsibility to secure the rights of citizens vis-à-vis the administrative authorities. Investigations may be undertaken on receipt of a complaint or on independent initiative. The opinions of the Ombudsman are not binding on administrative authorities but, in general, the authorities act on the opinions offered.

Iceland adheres to the legal doctrine that international treaties do not assume the force of domestic law even if ratified but rather are only binding according to international law. As a consequence, human rights treaties have not been incorporated into Icelandic law and cannot be directly applied by the courts. This stipulation is balanced by the principle that domestic law shall be construed in conformity with international law and, in recent years, the Supreme Court has tended to accord international instruments added weight, particularly in terms of the European Convention on Human Rights.

Economic, Social and Cultural Rights

Signed: 30 December 1968; ratified: 22 August 1979.

Iceland's second periodic report (E/1990/C/Add.15) has been submitted and is scheduled for consideration by the Committee at its April/May 1999 session; the third periodic report is due 30 June 2001.

Civil and Political Rights

Signed: 30 December 1968; ratified: 22 August 1979.

Iceland's fourth periodic report was due 30 October 1997. *Reservations and Declarations:* Paragraphs 2 (b) and 3 of article 10; paragraph 7 of article 14; paragraph 1 of article 20; declaration under article 41.

Optional Protocol: Acceded: 22 August 1979.

Reservations and Declarations: Paragraph 2 of article 5.

Second Optional Protocol: Signed: 30 January 1991; ratified: 2 April 1991.

Racial Discrimination

Signed: 14 November 1966; ratified: 13 March 1967.

Iceland's 15th periodic report was due 4 January 1998.

Iceland's 14th periodic report (CERD/C/299/Add.4) was considered by the Committee at its March 1997 session and focuses on legal reforms and other measures relevant to implementation of the Convention. The Committee's concluding observations and comments (CERD/C/304/Add.27/C/304/Add.27) note that Iceland has incorporated the European Convention on Human Rights into domestic law but has not done the same with the Convention on the Elimination of All Forms of Racial Discrimination. The Committee expressed the view that conferring constitutional status on the

Convention would enhance its effectiveness by providing for direct domestic application.

Among the aspects considered positively by the Committee were: amendments to the Constitution which extensively changed and added to human rights provisions previously in effect, including an explicit reference to equality without regard to national origin, race or colour; abolition of the requirement that a naturalized foreigner assume an Icelandic-sounding family name; changes to the Penal Code which make racial discrimination punishable by law; initiatives by the Human Rights Office including special lectures on human rights and tolerance for persons working with and teaching immigrants; providing human rights education both in the schools and for the adult population; including a compulsory general course on human rights in the training of the Icelandic School for Policemen; and, establishing a special Information and Cultural Centre for Foreigners which, *inter alia*, provides practical information concerning residents' permits, health care, social services, insurance and the school system.

The Committee expressed concern that Iceland had not implemented fully or in part recommendations contained in its concluding observations of 17 August 1994 related to the Convention's status in the domestic legal order of Iceland, measures to implement fully the provisions of article 4 (racist organizations and hate speech) of the Convention, and measures to combat racial discrimination in the fields of teaching, education, culture or information.

The Committee recommended that the government:

- ▶ further publicize Iceland's acceptance of article 14 of the Convention (complaints procedure) so as to make this avenue widely available to the residents of Iceland;
- ▶ implement fully article 4 and adopt measures accordingly to combat racial discrimination in the fields of teaching, education, culture and information; and,
- ▶ include in its next report further information on the naturalization law and its mechanisms.

Discrimination against Women

Signed: 24 July 1980; ratified: 18 June 1985.

Iceland's third periodic report was due 18 July 1994.

Torture

Signed: 4 February 1985; ratified: 23 October 1996.

Iceland's initial report was due 22 November 1997.

Rights of the Child

Signed: 26 January 1990; ratified: 28 October 1992.

Iceland's second periodic report is due 26 November 1999.

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IRELAND

Date of admission to UN: 14 December 1955.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Ireland has submitted a core document (HRI/CORE/1/Add.15) for use by the treaty bodies. The report prepared by the government contains demographic data and information on the Irish language, the Constitution, the Government, Parliamentary Committees, the electoral system, the civil service and local government and the legal framework for the protection of human rights.

Ireland's legal system is based on common law, and international agreements to which Ireland is a party are not automatically incorporated into domestic law. Amendments to domestic laws may be required and enacted to ensure that they conform with the provisions of international treaties to which Ireland has acceded or has ratified. The Constitution includes provisions on a number of rights, including: equality before the law, the right to life, security of person, reputation, property, personal liberty, freedom of expression, assembly and association, family rights, conscience and religion, the right to vote and be elected, trial by jury and the non-retroactive application of law. Remedies for infringements of civil or political rights may be claimed either through judicial review or action for damages.

Economic, Social and Cultural Rights

Signed: 1 October 1973; ratified: 8 December 1989.

Ireland's initial report (E/1990/5/Add.34) has been submitted and is scheduled for consideration at the Committee's April/May 1999 session; the second periodic report was due 29 June 1997.

Reservations and Declarations: Paragraph 2 of article 2; paragraph 2 (a) of article 13.

Civil and Political Rights

Signed: 1 October 1973; ratified: 8 December 1989.

Ireland's second periodic report was due 7 March 1996.

Reservations and Declarations: Paragraph 2 of article 10; article 14; paragraph 2 of article 19; paragraph 1 of article 20; paragraph 4 of article 23; declaration under article 41.

Optional Protocol: Acceded: 8 December 1989.

Reservations and Declarations: Paragraph 2 of article 5.

Second Optional Protocol: Acceded: 18 June 1993.

Racial Discrimination

Signed: 21 March 1968.

Discrimination against Women

Acceded: 23 December 1985.

Ireland's second periodic report was due 21 January 1991; the third periodic report was due 21 January 1995.

Reservations and declarations: Paragraphs (b) and (c) of article 13; paragraph 3 of article 15; paragraph 1 (d) and (f) of article 16; paragraphs 1 (b), (c) and (d) of article 11; paragraph (a) of article 13.

Torture

Signed: 28 September 1992.

Rights of the Child

Signed: 30 September 1990; ratified: 28 September 1992.

Ireland's initial report (CRC/C/11/Add.12) has been submitted and is pending for consideration by the Committee at its January 1998 session; the second periodic report is due 27 October 1999.

Reservations and declaration: General declaration on signature.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Sale of children, child prostitution, child pornography, Special Rapporteur on: (E/CN.4/1997/95/para. 24)

The report notes that, on the question of extraterritorial jurisdiction of courts, there were two bills before Parliament.

The first would make it an offence for anyone in Ireland to organize travel abroad for child sex tourism; the second would extend the application of national criminal law to acts by Irish citizens involving foreign children abroad.

The Special Rapporteur's interim report to the General Assembly (A/52/482, para. 37) notes that sexual abuse of children has received increasing media attention, especially in connection with allegations of sexual abuse of children by orphanage staff and members of the Roman Catholic clergy. The report notes that, in at least three cases, the clergy have pleaded guilty and several other cases remain pending.

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

The report notes that the use of laws against loitering and curb crawling in Ireland increases the danger of violence against prostitutes, since they have less time to assess potential risks and negotiate safe sex. Further, the report notes that such policies relegate prostitution to the private sphere where violence and abuse can be officially discounted.

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ITALY

Date of admission to UN: 14 December 1955.

TREATIES AND REPORTS TO TREATY BODIES

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

Economic, Social and Cultural Rights

Signed: 18 January 1967; ratified: 15 September 1978.
Italy's third periodic report was due 30 June 1996.

Civil and Political Rights

Signed: 18 January 1967; ratified: 15 September 1978.
Italy's fourth periodic report (CCPR/C/103/ADD.4) has been submitted but is not yet scheduled for consideration by the Committee; Italy's fifth periodic report is due 31 December 2000.

Reservations and Declarations: Paragraph 5 of article 9; paragraph 4 of article 12; paragraphs 3 and 5 of article 14; paragraph 1 of article 15; paragraph 3 of article 19; declaration under article 41.

Optional Protocol: Signed 30 April 1976; ratified: 15 September 1978.

Reservations and Declarations: Paragraph 2 of article 5.

Second Optional Protocol: Signed: 13 February 1990; ratified 14 February 1995.

Racial Discrimination

Signed: 13 March 1968; ratified: 5 January 1976.
Italy's 10th periodic report was due 4 February 1995; the 11th periodic report was due 4 February 1997.

Reservations and Declarations: Paragraphs (a) and (b) of article 4; article 6.

Discrimination against Women

Signed: 17 July 1980; ratified: 10 June 1985.
Italy's fourth periodic report is due 10 July 1998.
Reservations and Declarations: General reservation on signature.

Italy's second and third periodic reports were submitted as one document (CEDAW/C/ITA/2) which was considered by the Committee at its July 1997 session.

The Committee's concluding observations (CEDAW/C/1997/II/L.1/Add.6;C/1997/II/L.1/Add.6) welcomed the establishment of the Ministry of Equal Opportunities as a coordinating ministry and expressed appreciation of the efforts of that office related to gender mainstreaming in the legal, institutional and social aspects of life in Italy. The Committee commended the 7 March 1997 Directive of the Prime Minister to focus on gender issues across a wide spectrum of activities.

The Committee noted efforts to enact legislation against discrimination and welcomed the introduction of the draft Domestic Violence Act into the Parliament, viewing the Act as complementary to the 1996 Violence Act. The Committee also welcomed: the gender-sensitization and awareness-raising efforts of the government aimed at the elimination of xenophobia and racism; the promotion of the role of women as peacekeepers in different parts of the world; the commitment made, and the steps taken to confront acts of violence against women allegedly perpetrated by Italian soldiers during peacekeeping missions; efforts by the Ministry of Equal Opportunities to ensure gender mainstreaming in the planned welfare reform by moving the focus from the "male breadwinner regime" to respond better to the needs of the elderly, particularly women; the gains made by women in education and occupational fields, significantly enhancing women's economic independence and contributing to their de facto equality in many respects; and, efforts by the government to promote entrepreneurship among women through provision of credit and via monitoring and coordination of the activities of different public and private agencies in that field. The Committee acknowledged the progressive and humane provisions of Italy's immigration law, and expressed appreciation for those provisions in immigration legislation that were protective of the human rights of immigrant women.

Referring to factors impeding full implementation of the Convention and achieving de facto equality in Italian society, the Committee noted the persistence of significant cultural, social and economic differences and inequalities that exist between the north and south and the feminization of poverty, indicated by data showing that over 60 per cent of families headed by women live under the poverty line.

Among the principal subjects of concern, the Committee noted: the inadequacy of efforts to combat stereotypes through education and other public means; lack of a substantial initiative to rid textbooks and teaching materials of stereotypes and/or make women and their contributions to history and society more visible and apparent; the persistence of patriarchal norms and stereotypes in Italian society and the relative lack of attention to this area in government policies and by governmental officials; the fact that the government's attitudes and actions aimed at "utilizing women's own resources" potentially reinforced and glorified stereotypical roles of women, and impeded the realization of de facto equality; the limited presence of women in politics and decision-making positions and the decline in political participation in recent years; the fact that the government's opinion that the adoption of numerical goals and quotas was

unnecessary may have contributed to the decline in political participation by women; the lack of programmes to sensitize the public and particularly the police, the judiciary and health professionals, to the conditions and needs of victims of domestic violence; and, the absence of such measures as anti-discrimination laws, as well as laws on violence against women, preventing effective action to combat indirect discrimination, accurate reporting of incidents, and rigorous prosecution of all forms of violence against women.

The Committee expressed concern about the lack of sex-disaggregated data relating to part-time work and underlined the importance of close monitoring in this area in order to determine the number of women occupied in part-time employment. The Committee noted that, when the number of women in part-time employment was disproportionate, it became a factor that contributed to indirect discrimination. Concern was expressed about: the inequality in the sharing of "caring responsibilities", the fact that caring responsibilities fall predominantly on women, particularly in southern Italy, and the absence of efforts or programmes to encourage men to undertake their fair share of domestic responsibilities and to care for the children and the elderly.

The Committee expressed concern with respect to: the lack of statistics and/or studies into the causes of a number of health related issues concerning women; studies which suggested an increase in the incidence of lung cancer among women; the very high incidence of caesarian section deliveries and the failure of women to take advantage of early detection technologies, including mammography and pap smears; the lack of data on occupational health and disease; and, the limited availability of abortion services for women in southern Italy, as a result of the high incidence of conscientious objection among doctors and hospital personnel.

Referring to current welfare reforms and the shift in emphasis from the concept of man as breadwinner and the fact the reforms was intended to give women autonomy and reduce humiliating financial dependence, the Committee expressed concern that the reforms posed real risks for women who had been, *inter alia*, homemakers (not part of the paid workforce), or whose careers had been interrupted by childcare and other responsibilities and for older women who had little earning capacity.

The Committee recommended that the government:

- ▶ continue to implement and strengthen the current measures it is taking to empower women and mainstream gender issues;
- ▶ establish specific affirmative actions targeted to numerical goals and quotas, in particular in areas such as political and decision-making positions of public life;
- ▶ undertake large-scale measures to combat the widespread acceptance of stereotypical roles of women and men, particularly in the south, by alerting the public to the importance of an equitable distribution between women and men of family roles and "caring responsibilities";
- ▶ review and revise text books and teaching materials to reflect the non-stereotypical roles of women and men;
- ▶ amend existing legislation, where needed, in order effectively to deal with the phenomenon of indirect discrimination;

- ▶ implement measures to sensitize judges and lawyers and law enforcement personnel to indirect discrimination and to Italy's international obligations, in particular those outlined in the Convention;
- ▶ in its next report, provide full information evaluating the impact of legislation and policy concerning equality for women and discrimination;
- ▶ undertake public sensitization campaigns in relation to domestic violence in its various manifestations (sexual, physical, etc.) to ensure the protection of the human rights of women and girls in the family;
- ▶ introduce measures to encourage complaints related to domestic violence and provide mechanisms for effective and timely response to such claims;
- ▶ provide training to health professionals and the police in the care and management of domestic violence cases;
- ▶ introduce measures to increase the numbers of shelters in Italy for women victims of domestic violence and other abuses and difficulties;
- ▶ take steps to secure the enjoyment of women, and in particular, southern Italian women, of their reproductive rights by, *inter alia*, guaranteeing them access to safe abortion services in public hospitals;
- ▶ take the necessary steps to incorporate participation of non-governmental organizations in the preparation of the country's next report to the Committee;
- ▶ as a member of the European Union, take concrete initiatives to encourage the acceptance by the European Union of the Convention as a fundamental bill of rights for women;
- ▶ ensure that all women have an adequate income and that husbands and fathers are obliged to provide financial support; and,
- ▶ introduce measures to enforce payment of alimony and of a fair share of the matrimonial assets, including those measures which will enable the courts to set aside provisions which are intended to or have the effect of concealing assets and income and thereby deprive women of their entitlements.

Torture

Signed: 4 February 1985; ratified: 12 January 1989.

Italy's third periodic report was due 10 February 1998.

Reservations and Declarations: Declarations under articles 21 and 22.

Rights of the Child

Signed: 26 January 1990; ratified: 5 September 1991.

Italy's second periodic report is due 4 October 1998.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Racial Discrimination, Special Rapporteur on: (E/CN.4/1997/68/Add.1, para. 77, 83, 84, 93, 95, 103, 111)

The report of the UN seminar to assess implementation of the Convention on the Elimination of All Forms of Racial Discrimination and particularly articles 4 and 6 (September

1996) refers to the reservations entered by Italy to article 4, noting that the government had instituted a procedure for their formal withdrawal. The report refers to the absence of general legislation to counter racial or ethnic discrimination, but recalled that non-discrimination was covered by the Italian Constitution and in criminal legislation. Reference is made to the 1993 Decree-Law No. 122 which contains special provisions related to propaganda to promote racial discrimination or hatred and that Italian law had expanded the term "racial discrimination" to cover incitement to violence and provocation of violence not only on racial but also ethnic grounds. The report also notes that new criminal offences have been introduced, including the dissemination of ideas rooted in racial superiority, external or ostentatious displaying of symbols of racist organizations and gaining access to sports events with such symbols. The report notes that additional penalties have been introduced for offences committed with racist motivation and that the courts now have the power to impose community service on offenders.

The report of the Special Rapporteur on racism (E/CN.4/1997/71, paras. 128-129) refers to information received indicating that ill-treatment by law enforcement officers continued to concern non-Europeans of ethnic origin. The report notes two cases: one involved the beating of a Ghanaian citizen at Leonardo Da Vinci International Airport while in transit between Denmark and Ghana; the second concerned a woman, an Italian citizen of Nigerian origin, who alleged that police officers had physically assaulted her and that there had been a xenophobic aspect to their behaviour. The woman reported that when she told police she was an Italian citizen, the officers replied that a "black woman cannot be an Italian citizen".

Sale of children, child prostitution, child pornography, Special Rapporteur on the: (E/CN.4/1997/95, para. 56)

The report notes that Italy is one of the main destinations for trafficking in Romanian girls.

Torture, Special Rapporteur on: (E/CN.4/1997/7, Section III; E/CN.4/1997/7/Add.1, paras. 275-284)

The Special Rapporteur (SR) refers to information indicating that people suspected of having committed offences under ordinary law or during identity checks were sometimes ill-treated by police officers when they were arrested. The report notes that in most cases ill-treatment occurred in the street, during the arrest and the first 24 hours of detention-before the person arrested had seen a lawyer or been brought before a judge. The report also notes cases in which police officers brutalized individuals who tried to intervene to stop police from ill-treating others. Reference is made to the fact that physical violence appeared to be used as a means of punishment or humiliation and, further, that certain forms of prejudice, particularly racial prejudice, seemed to be a factor, and included insults, particularly racial insults when the persons concerned were immigrants or Gypsies. The report notes that the most common forms of ill-treatment were repeated slapping, kicking, punching and beating with a truncheon. The SR transmitted 10 individual cases to the government arising from allegations of police brutality. The government replied to all of the cases and variously responded that: the person concerned had been charged with bringing false accusations of ill-treatment against police officers; the police involved had been charged, tried and acquitted; a judicial inquiry was proceeding; investigations were proceeding; and,

the police officers involved had been sentenced to a fine and ordered to pay damages to the victim. Referring to a case previously transmitted by the SR related to conduct and conditions in the Secondigliano prison, the government indicated that 64 officials had been charged and that the trial was proceeding.

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

In the section of the report dealing with trafficking in women and forced prostitution, the report refers to information indicating that more than 5,000 Nigerian women prostitutes between the ages of 16 and 30 were reportedly sold as wives to farm workers in the south of Italy. The report also notes that women from Latin America and Eastern Europe are forced to work the streets of Italy to pay back the debt accrued from their migration and that, in some cases, traffickers withhold all money. Referring to national laws on trafficking in women, the report states that hundreds of women from the Dominican Republic, arrested during raids on nightclubs, are currently being detained in Italy.

Other Reports

UN Decade for Human Rights Education, Report of the S-G to the CHR: (E/CN.4/1997/46, para. 23 (d))

The report of the Secretary-General notes that a comprehensive survey on human rights education and information at the national level, was published in September 1996 by the Department for Information of the Presidency of the Council of Ministers and that it is being disseminated throughout the country, and in particular in all educational establishments.

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, when the High Commissioner for Human Rights was in Italy, the UN Information Centre Rome organized interviews for her with two Italian dailies, *Messaggero* and *Il Manifesto*, and two news agencies, ANSA and Vatican Radio. The report also notes that the Centre's Director participated in a meeting on human rights education in Europe attended by 300 people representing the media, academic institutes, NGOs and the general public.

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LIECHTENSTEIN

Date of admission to UN: 18 September 1990.

TREATIES AND REPORTS TO TREATY BODIES

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

Discrimination against Women

Acceded: 22 December 1995.

Liechtenstein's initial report was due 21 January 1997.

Reservations and Declarations: Article 1.

Torture

Signed: 27 June 1985; ratified: 2 November 1990.

Liechtenstein's second periodic report was due 1 December 1995.

Reservations and Declarations: Declaration under articles 21 and 22.

Rights of the Child

Signed: 30 September 1990; ratified: 22 December 1995.
Liechtenstein's initial report was due 20 January 1998.
Reservations and Declarations: Articles 1, 7 and 10.

THEMATIC REPORTS**Voluntary Fund for victims of torture, Report of the S-G to the CHR: (E/CN.4/1997/27, para. 4)**

The report of the Secretary-General notes that Liechtenstein contributed to the Voluntary Fund in 1996.

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LUXEMBOURG

Date of admission to UN: 24 October 1945.

TREATIES AND REPORTS TO TREATY BODIES

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

Economic, Social and Cultural Rights

Signed: 26 November 1974; ratified: 18 August 1983.
Luxembourg's third periodic report is due 30 June 1998.

Luxembourg's second periodic report (E/1990/6/Add.9) was considered by the Committee at its November/December 1997 session. The report prepared by the government provides commentary on: the right to work, including just and favourable conditions of work and trade union rights; social security (sickness insurance, old-age and disability insurance, maternity benefits, family allowance, accident insurance, unemployment allowances); protection of the family and the mother and child; rights of the child; an adequate standard of living; physical and mental health; and, education and the system of the education.

The Committee's concluding observations and comments (E/C.12/1/Add.22) noted positively: the existence of a comprehensive social security scheme; efforts to improve and update legislation with regard to economic and social rights; introduction of dependence insurance; drafting of a law to guarantee the right to health care; establishment of the Tripartite Coordination Committee to promote social peace and stability; efforts made to address the problem of rising unemployment; and, measures taken to ensure the economic, social and cultural rights of foreigners living in the country.

The principal subjects of concern identified by the Committee were: the fact that the ICESCR has not been given the status of domestic law; the absence of judicial decisions related to the application of the Covenant by domestic courts; the failure of the Constitution to entrench a clear definition of the principle of gender equality; the persistence of inequitable gender disparities, particularly in the conditions of work and salary scales in the private sector; failure to incorporate fully into law the provisions of ILO Conventions on medical examinations of young people in industrial and non-industrial occupations, particularly with regard to employment in domestic service and agriculture; the absence of a comprehensive and specific legal framework that promotes and protects the rights of persons with disabilities; provisions in the Civil Code making a clear distinction between "legitimate" and "natural" children and discrimination against

children born out of wedlock; the absence of a comprehensive programme to combat all forms of sexual exploitation and abuse of children and adolescents; the occurrence of adolescent health problems arising from, for example, drug abuse; the high incidence of suicides among young people; the absence of specialized geriatric doctors and facilities to address the problems associated with an aging population; the high drop-out rates among youth of secondary school age; the absence of human rights education in the school curricula; and, the low level awareness of the ICESCR, particularly among the judiciary and within professional groups, NGOs and the general public.

The Committee recommended that the government:

- ▶ take all appropriate measures to ensure equal treatment of women and men in employment, especially in the private sector;
- ▶ follow-up on the intention to ratify ILO Convention 111 related to discrimination in employment;
- ▶ adopt the draft law on the rights of persons with disabilities to enhance the promotion and protection of their fundamental rights;
- ▶ eliminate any existing distinction in the Civil Code regarding children born out of wedlock;
- ▶ adopt more effective legislation to prevent and protect children and adolescents from all forms of sexual exploitation and abuse;
- ▶ continue efforts to prevent and combat drug abuse and suicide tendencies among youth and, where necessary, reinforce existing measures;
- ▶ take steps to decrease the high number of school drop-outs and adopt the draft law guaranteeing the right to continuing education; and,
- ▶ include human rights education in the school curricula and undertake measures to educate the judiciary, professional groups, NGOs and the general public about the provisions of the Covenant.

Civil and Political Rights

Signed: 26 November 1974; ratified: 18 August 1983.
Luxembourg's third periodic report was due 17 November 1994.

Reservations and Declarations: Paragraph 3 of article 10; paragraphs 3 and 5 of article 14; paragraph 2 of article 19; article 20; declaration under article 41.

Optional Protocol: Acceded: 18 August 1983.

Reservations and Declarations: Paragraph 2 of article 5.

Second Optional Protocol: Signed: 13 February 1990; ratified: 12 February 1992.

Racial Discrimination

Signed: 12 December 1967; ratified: 1 May 1978.
Luxembourg's 10th periodic report was due 31 May 1997.

Luxembourg's ninth periodic report (CERD/C/277/Add.2) was considered at the Committee's March 1997 session. The report prepared by the government includes demographic data and information on: integration and immigration; expression of violence; organized and non-organized racial, ethnic, anti-Semitic or xenophobic harassment; statistics of racist offences; and anti-racist and anti-discrimination legislation.

The Committee's concluding observations and comments (CEDAW/C/304/Add.23) noted that there is a very high proportion of foreign residents (over 35 per cent) in the country and welcomed the fact that Luxembourg has made a declaration under article 14 and is the first state party to implement paragraph 2 of article 14 by establishing a standing committee against discrimination in May 1996. (Note: Paragraph 2 of article 14 refers to the establishment of a national body to receive and consider petitions from individuals and groups within the state's jurisdiction who claims to be victims of a violation of any of the Convention rights and for whom other available domestic remedies are exhausted.)

The Committee also welcomed steps undertaken to bring its legislation and practice into line with the Convention's requirements-promulgation of the Aliens Act in July 1993; current efforts to amend the Penal Code; cooperation by the government with non-governmental organizations to facilitate the integration of aliens and to prevent and combat all types of racial discrimination and, in this regard, the 1993 working agreement between the government and the Liaison Committee for Aliens' Associations; efforts undertaken to raise awareness and to promote action against all forms of racial discrimination; the training of the police on human rights issues; that fact that school and adult education policies reflect a plurinational and multilingual population; that fact that radio broadcasting includes programmes in various foreign languages; and, special measures to promote and protect the right to housing of foreign workers.

The principal subjects of concern identified by the Committee were: the fact that racist and xenophobic acts and incidents occurred in Luxembourg during 1994; the failure to prohibit by law racist organizations; and, the absence or insufficiency of educational measures on racial discrimination for some professional groups, such as judges, magistrates, lawyers and civil servants.

The Committee recommended that the government:

- ▶ amend article 455 of the Penal Code to declare illegal and prohibit racist organizations;
- ▶ include in its next report further information on the number of complaints of racial discrimination, the outcome of the prosecution of cases of racial discrimination and the redress, if any, provided to persons suffering from such discrimination;
- ▶ amend article 444 of the Penal Code with a view to introducing stronger penalties for acts of slander and/or defamation of a racial character;
- ▶ consider providing education and training on racial tolerance and human rights issues to professional groups such as judges, magistrates, lawyers and civil servants; and,
- ▶ with regard to the review of national legislation related to freedom of the press and information, take appropriate measures to ensure that all of the provisions of the Convention are taken into account.

Discrimination against Women

Signed: 17 July 1980; ratified: 2 February 1989.

Luxembourg's third periodic report was due 4 March 1998.

Reservations and Declarations: Article 7; paragraph 1 (g) of article 16.

Luxembourg's initial and second periodic reports (CEDAW/C/LUX/1 and CEDAW/C/LUX/2) were considered by the Committee at its July 1997 session. The reports prepared by the government include information on, *inter alia*: the draft constitutional amendment related to equality and non-discrimination; the Ministry for the Advancement of Women, the Women's Labour Committee, the National Council of Women of Luxembourg, and the Liaison, Discussion and Action Group; labour and vocational training; elimination or prejudices; temporary special measures; the exploitation of and trafficking in women; representation of women in political and public life; nationality, education, employment and health; economic and social life; and personal and family rights.

The Committee's concluding observations and comments (CEDAW/C/1997/II/L.1/Add.3) welcomed: the separation of the Ministry for the Advancement of Women from the Ministry of the Family and noted that it aimed to promote the mainstreaming of gender in all policies and programmes of the government and local authorities; the preparation of the National Action Plan as a follow-up to the Fourth World Conference on Women; the programme of the Ministry for the Advancement of Women to disseminate the Convention widely and its new publication for schools and training courses; and, the new measures taken to combat violence against women and the newly established facilities for young women victims of sexual violence. The Committee noted the reservations entered by Luxembourg as hindering full implementation of the Convention.

The principal areas of concern identified by the Committee were: the fact that a clear definition of the principle of equality between the sexes is not expressly enshrined in the Constitution, thereby requiring legislative amendment on a case-by-case basis to ensure equality in each sector; the persistence of discrimination, with the majority of women in part-time jobs and the evident disparities in treatment between the public and private sectors; the lack of gender disaggregated statistical information in the fields of labour, health, prostitution and rural women; the lack of information as to when the principle of equality would be discussed with the constitutional review that was under way; the persistence of gender disparities, in particular in labour conditions, job evaluation and gender-based job insecurity and the evident discrimination women suffer in the private sector; the failure of the government to use article 4 (temporary special measures) to ensure the equitable participation of women in the conduct of public affairs and, generally, in economic, social and cultural life; the failure to adopt effective measures to overcome attitudes based on traditional roles, which hinder equality between women and men; the high level of violence against women, in particular domestic violence, and the delay of adoption of a law on sexual harassment; the lack of effective measures for the protection and rehabilitation of women prostitutes; the lack of gender analysis of women's health needs, in particular in relation to their reproductive rights; the fact that existing legislation on abortion penalizes women; lack of sufficient mechanisms to prevent abortion, including free distribution of contraceptives; the inadequacy of steps taken to ensure that the high number of women foreigners in Luxembourg are able to take advantage of the guarantees in the Convention; and, the restrictions on women in relation to remarriage after divorce.

The Committee recommended that the government:

- ▶ take the necessary steps to remove the reservations to the Convention, as promised in the oral presentation by the government;
- ▶ incorporate the principle of equality into the text of the Constitution;
- ▶ introduce temporary special measures to strengthen the participation of women in the political, economic and social life of the country;
- ▶ examine strategies to ensure the better representation of women in decision-making posts in all fields;
- ▶ initiate, through the Ministry for the Advancement of Women, the adoption of measures aimed at eliminating the gap between the treatment of women and men in the public and private sectors;
- ▶ examine the gap between women and men in the labour force, particularly in the context of part-time work;
- ▶ reorient education programmes in schools to remove the stereotyped attitudes and perceptions of the role of women in society and to raise the awareness of men of their family responsibilities;
- ▶ with regard to violence against women, take all appropriate measures, including legislation, to combat the sexual abuse of women, in particular within the family, so as to ensure effective protection of women against domestic and other forms of violence;
- ▶ adopt effective measures to prevent abortion and review the social insurance benefits system with a view to allowing women to have access to free contraceptive methods;
- ▶ undertake an analysis of women's health needs and continue awareness-raising campaigns on mammography in order to ensure that more women make use of this service;
- ▶ take legislative steps to remove outdated laws that restrict women's right to remarry after divorce, as well as those that classify children as "legitimate/natural" or "illegitimate";
- ▶ ensure the better integration of refugee and migrant women into the social and economic life of the country; and,
- ▶ pursue and develop further its policy of disseminating information and increasing awareness of the Convention and integrate the provisions of the Convention and women's rights into the training curricula of professional groups, such as teachers, law enforcement and correctional officers, judges, social workers and health personnel, who deal with women.

Torture

Signed: 22 February 1985; ratified: 29 September 1987.

Luxembourg's second and third periodic reports were due 28 October 1992 and 1996 respectively.

Reservations and Declarations: Declarations under articles 21 and 22.

Rights of the Child

Signed: 21 March 1990; ratified: 7 March 1994.

Luxembourg's initial report (CRC/C/41/Add.2) has been submitted and is pending for consideration at the

Committee's May 1998 session; the second periodic report is due 5 April 2001.

Reservations and Declarations: Articles 3, 6, 7 and 15.

THEMATIC REPORTS

Voluntary Fund for victims of torture, Report of the S-G to the CHR: (E/CN.4/1997/27, para. 4)

The report of the Secretary-General notes that Luxembourg contributed to the Fund in 1996.

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MALTA

Date of admission to UN: 1 December 1964.

TREATIES AND REPORTS TO TREATY BODIES

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

Economic, Social and Cultural Rights

Signed: 22 October 1968; ratified: 13 September 1990.

Malta's initial report was due 30 June 1992; the second periodic report was due 30 June 1997.

Reservations and Declarations: Article 13.

Civil and Political Rights

Acceded: 13 September 1990.

Malta's second periodic report was due 12 December 1996.

Reservations and Declarations: Article 13; paragraphs 2 and 6 of article 14; articles 19, 20, 21 and 22; declaration under article 41.

Optional Protocol: Acceded: 13 September 1990.

Reservations and Declarations: Article 1.

Second Optional Protocol: Acceded: 29 December 1994.

Reservations and Declarations: General reservation.

Racial Discrimination

Signed: 5 September 1968; ratified: 27 May 1971.

Malta's 13th periodic report was due 26 June 1996.

Reservations and Declarations: Articles 4 and 6.

Discrimination against Women

Acceded: 8 March 1991.

Malta's initial report was due 7 April 1992; the second periodic report was due 7 April 1994.

Reservations and Declarations: Paragraph 1 of article 2; article 4; articles 13, 15 and 16.

Torture

Acceded: 13 September 1990

Malta's second periodic report was due 12 October 1995.

Reservations and Declarations: Declaration under articles 21 and 22.

Rights of the Child

Signed: 26 January 1990; ratified: 30 September 1990.

Malta's initial report was due 29 October 1992.

Reservations and Declarations: Article 26.

THEMATIC REPORTS

Other Reports

Children and juveniles in detention, Report of the S-G to the CHR: (E/CN.4/1997/26, para. 2, Section I)

The report of the Secretary-General includes the following information provided by Malta.

- ▶ The Probation of Offenders Act (1957) allows for the supervision of an offender in a therapeutic programme involving reconciliation between victim and offender in a criminal act; these programmes are not obligatory and require mutual consent.
- ▶ A priority has been to establish in the national Correctional Facility a suitable building for young offenders between the ages of 16 and 24 who will not be in contact with other prisoners in the remaining part of the prison complex.
- ▶ A Substance Abuse Assessment Unit has recently been set up in the existing Correctional Facility, where imprisoned substance abusers (including juveniles) sentenced for less than two years can undergo an in-house rehabilitation programme. As well, a halfway house is planned to enable people in this programme to receive social reintegration assistance. This will include group therapy and family support to reduce the likelihood of recidivism.
- ▶ Probation officers have been recruited both to work within the Ministry and to facilitate mediation and reconciliation work between victims and offenders.
- ▶ Within the vice squad section of police headquarters, a victim support section has been given responsibility to trace runaway minors, to work with child and juvenile prostitutes and help them access mainstream services, to refer juvenile offenders to the Socio-Legal Unit of the Department for Children and Family Services, and to take other steps.
- ▶ A Code of Practice for the Interrogation of Arrested Persons came into effect on 1 April 1996 and establishes general rules and procedures for the questioning of suspects, including juveniles to be interviewed by the police. This stipulates that youths and children attending school or other educational institutions should not, as far as possible, be arrested or interviewed at school. If such action becomes necessary, the student should be interviewed in the presence of the head teacher.
- ▶ The Social Welfare Development Programme (SWDP) offers specialized services for abused children, including representation in court, a help-line for abused children and victims of domestic violence, assistance for battered women and their children, and a child crisis centre where abused children are medically examined.
- ▶ A service plan is being developed for a secure or semi-secure facility for young early offenders.
- ▶ Under the Juvenile Court Act, the Juvenile Court can appoint two non-legal assistants, chosen every court session from among social workers, sociologists, teachers and other professionals, to assist the magistrate in arriving at his decisions.
- ▶ The Juvenile Court is a closed court and the press and public are not admitted to its proceedings. Cases of

children and juveniles in conflict with the law are heard in an informal setting outside the formal national Law Courts building.

- ▶ Imprisonment or depriving juveniles of their liberty is only used as an extreme measure of last resort; preference is given to non-custodial measures such as community-based correctional methods. Suspended sentences and probation orders incorporating restitution and compensation measures are becoming more common.

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 notes that there is neither compulsory military service nor conscription in Malta which has established voluntary military service.

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 information received from the government on programmes to focus on human rights education in schools and other formal education settings, for instance, through the training of teachers and the organization of courses at the university level.

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MONACO

Date of admission to UN: 28 May 1993.

THEMATIC REPORTS

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

Economic, Social and Cultural Rights

Signed: 26 June 1997; ratified: 28 August 1997.

Monaco's initial report is due 30 June 1999.

Reservations and Declarations: Paragraph 2 of article 2; articles 6, 9, 11 and 13; paragraphs 1(a), (b) and (c) and 2 of article 8.

Civil and Political Rights

Signed: 26 June 1997; ratified: 28 August 1997.

Monaco's initial report is due 28 December 1998.

Reservations and Declarations: Paragraphs 1 and 2 of article 2; articles 3, 13, 19, 21, 22 and 25; paragraph 5 of article 14.

Racial Discrimination

Acceded: 27 September 1995.

Monaco's initial report was due 27 October 1996.

Reservations and Declarations: Paragraph 1 of article 2; article 4.

Torture

Acceded: 6 December 1991.

Monaco's second periodic report was due 4 January 1997.

Reservations and Declarations: Paragraph 1 of article 30.

Rights of the Child

Acceded: 21 June 1993.

Monaco's initial report was due 20 July 1995.

Reservations and Declarations: Article 7; paragraph 2 (b) (v) of article 40.

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NETHERLANDS

Date of admission to UN: 10 December 1945.

TREATIES AND REPORTS TO TREATY BODIES

Land and People:

The European part of the Kingdom of the Netherlands: The core document prepared by the government (HRI/CORE/1/Add.66) includes statistical data and summary commentary on the form and branches of government and the legal framework for the protection of human rights. The commentary incorporates information on, for example, relevant laws and institutions, legal aid, compensation, states of emergency and responsibility for supervising the observance of human rights.

The framework for the protection of human rights is established by the Constitution and supplemented by various laws and institutions, including the Equal Treatment Act (1994) which explicitly prohibits discrimination, the National Ombudsman, which is an office independent of government, and the Legal Aid Act which is the basis on which the state-subsidized legal aid system functions. Compensation, rehabilitation and restitution are provided and restitution can be obtained during criminal proceedings, either before or during a trial. Victims who are unsuccessful in recovering compensation from the offender, insurance company or elsewhere may apply to the Criminal Injuries Compensation Fund which assists victims of crimes involving violence against the person. As well, there is a National Victim Support Association where victims of both summary and indictable offences may apply for, as examples, information and advice, emotional support, assistance to prepare petitions, accompaniment for visits to the police, public prosecutor's office, lawyers, the court, physician, and mediation. In terms of states of emergency the only legislation which infringes a fundamental right is the Media Act in which the Prime Minister is empowered, after consultation, to lay down regulations related to the content of radio and television programmes and the supervision of content during a period of national emergency. The degree to which international human rights law prevails in the Netherlands varies. In those cases where supranational or international law offers greater protection than national law the former prevails. National law prevails in cases where it affords greater protection than that set out in international law.

The Netherlands Antilles: The second core document prepared by the government (HRI/CORE/1/Add.67) contains information on the social and economic infrastructure, type of government, the legal system and the judiciary.

The Netherlands Antilles has governing bodies at both the central and island levels. The courts (ordinary and administrative) may review government action and legislation to ensure that they conform to relevant human rights instruments. Compensation for victims of rights violations is available under the provisions of the Civil Code (for damages caused to others) and the Code of Criminal Procedure (for damages caused by the offender). A victim may join criminal proceedings as an injured party and apply for damages. Claims for compensation of any tort are handled in the civil courts. Most of the

material rights set out in various human rights instruments are directly applicable and can be applied by the courts without additional or separate legislation. Provisions in treaties that stipulate which acts must be regarded as criminal and require prosecution under national law, however, are not directly applicable. Definitions of criminal offences set out in international instruments must be incorporated into national law before they can be applied at the domestic level. In addition to law, several institutions and mechanisms have been set up to reinforce the protection of human rights. These include but are not limited to the Police Conduct Complaints Committee and the Administrative Procedure Bill.

Aruba: The third core document prepared by the government (HRI/CORE/1/Add.68) contains information on various subjects including the economy and labour, education, health care, housing, the general political structure and the legal framework for the protection of human rights.

Aruba's system of government is that of a parliamentary democracy. The Queen is head of state and executive power is vested in the seven-member Council of Ministers and headed by the Prime Minister. The protection of human rights is set out in the Constitution as well as human rights treaties to which Aruba is a party in its own right, including the International Bill of Human Rights and various European rights instruments.

Economic, Social and Cultural Rights

Signed: 25 June 1969; ratified: 11 December 1978.

The Netherlands' second periodic reports (E/1990/6/Add.11, E/1990/6/Add.12, E/1990/C/Add.13) have been submitted and are scheduled for consideration by the Committee at its November/December 1998 session; the third periodic report was due 30 June 1997.

Reservations and Declarations: Paragraph 1(d) of article 8.

Civil and Political Rights

Signed: 25 June 1969; ratified: 11 December 1978.

The Netherlands' third periodic report was due 31 October 1991; the fourth periodic report was due 31 October 1996.

Reservations and Declarations: Paragraphs 2 and 3 of article 10; paragraphs 1, and 4 of article 12; paragraphs 3 (d), 5 and 7 of article 14; paragraph 2 of article 19; paragraph 1 of article 20; declaration under article 41.

Optional Protocol: Signed: 25 June 1969; ratified: 11 December 1978.

Second Optional Protocol: Signed: 9 August 1990; ratified: 26 March 1991.

Racial Discrimination

Signed: 24 October 1966; ratified: 10 December 1971.

The Netherlands' tenth through 13th periodic reports were submitted as a single document (CERD/C/319/Add.2) which is scheduled for consideration at the Committee's March 1998 session; the 14th periodic report is due 9 January 1999.

Discrimination against Women

Signed: 17 July 1980; ratified: 23 July 1991.

The Netherlands' second periodic report was due 22 August 1996.

Reservations and Declarations: Preambular paragraphs 10 and 11.

Torture

Signed: 4 February 1985; ratified: 21 December 1988.
The Netherlands' third periodic report was due 19 January 1998.

Reservations and Declarations: Paragraph 1 of article 1; declaration under articles 21 and 22.

Rights of the Child

Signed: 26 January 1990; Acceded: 6 February 1995.
The Netherlands' initial report (CRC/C/51/Add.1) has been submitted and is pending for the Committee's May/June 1999 session; the second periodic report is due 5 May 2000.
Reservations and Declarations: Articles 14, 22, 26, 37, 38 and, 40.

THEMATIC REPORTS***Mechanisms of the Commission on Human Rights***

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1997/60, paras. 15, 45; E/CN.4/1997/60/Add.1, para. 359)

The Special Rapporteur (SR) noted that an urgent appeal was sent to the government arising from concern of imminent expulsion of a Somali national back to Somalia. According to the information received by the SR, there existed a grave risk of extrajudicial, summary or arbitrary execution because of the individual's ties to someone who was a secret service officer at the time of President Siad Barre. The case also raised concerns that the individual had reasonable grounds to fear reprisals from members of his own tribe or, at the least, could not count on their protection.

Racial discrimination, Special Rapporteur on: (A/52/471, para. 15)

The Special Rapporteur's interim report to the General Assembly refers to the practice of "subcontracting" the expulsion of undocumented aliens and the French firm Budd which, according to information received, maintains an office in Côte d'Ivoire and receives and disperses Africans deported to Abidjan rather than their country of origin. The report cites information indicating that the Netherlands police had received offers from Budd via the Côte d'Ivoire immigration department to handle the cases of deportations from the Netherlands.

Sale of children, child prostitution, child pornography, Special Rapporteur on the: (E/CN.4/1997/95, paras. 56, 58)

The report notes that women and girls trafficked from East to West are often sent to the Netherlands. It notes further that the trade and trafficking in children has resulted in young boys from Russia working in the Netherlands following "sex re-profiling", through which young boys are taught and forced to "work" as girls with clients.

The Special Rapporteur's interim report to the 1997 General Assembly (A/52/482, paras. 38, 104-105) notes that, in the Netherlands, for the first time, a citizen was tried for sexual abuse of minors abroad on the basis of extraterritorial jurisdiction. The case involved the sexual abuse of minors in the Philippines and the defendant was given a sentence of five years' imprisonment after returning to the Netherlands. Referring to the Internet, the report notes the Hotline for

Child Pornography on the Internet. The Hotline asks Internet users to report any child pornography found. Once a site is reported, the Web Site provider requests that the issuer of the material remove it from the Internet and, if the issuer fails to do so, reports the person to the police. The report notes that the Hotline has also tried to raise awareness of the risks of spreading child pornography, including the fact that the penalty in the Netherlands is four years' imprisonment. The report states that the intent of the Hotline is not to be a censor but rather an initiative against censorship by indirectly targeting the person or persons who post illegal child pornography rather than entire areas of information and communication.

Toxic wastes and products, Special Rapporteur on: (E/CN.4/1997/19, paras. 54-55)

The report refers to export of waste to Bahrat Zinc Ltd. India for zinc recovery processing. Reference is also made to Royal Dutch Shell and its operations in southern Nigeria where the Ogoni people live. The report notes that, since 1994, the area has been occupied by police to facilitate business ventures by non-indigenous residents. Sporadic and discretionary enforcement of environmental regulations in the area have reportedly led to the use of unlined toxic waste pits that allow pollution to seep into drinking water supplies. The report notes that calls for compensation from the oil companies are often met with claims of sabotage or payment of compensation to the government with little of the damages paid actually reaching the local villagers.

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

The report notes that trafficking in women has involved the movement of Colombian women to markets in the Netherlands, where there are legal mechanisms to encourage women to report trafficking or slavery-like practices associated with prostitution to the police. The report refers to initiatives taken by the government to combat trafficking in women, including a 1988 amendment to the Dutch Aliens Law to provide protection to victims of trafficking willing to pursue prosecution, allow a woman time to consider pressing charges, and permit any woman who has pressed charges to remain in the Netherlands until the juridical process has been completed. As of 1993, the same protection against deportation was extended to witnesses willing to testify for the prosecution in trafficking cases. The Netherlands has also created special police task forces in larger cities to monitor the prostitution circuit. In Amsterdam, a specific task force, comprised of two detectives from the vice squad, two officers from the aliens office, one assistant detective, one officer from criminal intelligence and one district officer, was established in 1993 specifically to address prostitution and trafficking. In terms of these task forces, the report notes that in light of reports of widespread abuse of prostitutes by the police, more information is needed before an assessment of the success of these mechanisms can be made.

Other Reports

Conscientious objection to military service, Report of the S-G to the CHR: (E/CN.4/1997/99, para. 36)

The report of the Secretary-General notes that conscription has been abolished in the Netherlands.

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

The report of the Secretary-General takes note of the hostage-taking in Irian Jaya province, Indonesia, on 8 January 1996 by separatist rebels of the Free Papua Movement. Two Dutch nationals, one of whom was working with UNESCO at the time, were among the hostages. The hostages were freed in May 1996 following actions by the Indonesian military.

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NEW ZEALAND

Date of admission to UN: 24 October 1945.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: New Zealand has submitted a core document (HRI/CORE/1/Add.33) for use by the treaty bodies. The report prepared by the government includes demographic data and information on the history of New Zealand, the economy, religion, language, the structure of government, the legal framework for the protection of human rights and the status of international treaties in domestic law.

The legal and institutional framework for the protection of human rights includes the Bill of Rights, the Human Rights Commission and laws related to, for example, mediation on administrative decisions or actions affecting human rights, access to information, privacy, complaints against the police, race relations, and the functioning of an industrial tribunal. The provisions of international human rights treaties are not automatically incorporated into domestic law but gain effect following changes to laws dealing with the areas addressed in each instrument. The Cook Islands and Niue have the authority to ratify international human rights treaties in their own right and are responsible for preparing their own periodic reports for the relevant treaty bodies with New Zealand's assistance if requested.

Economic, Social and Cultural Rights

Signed: 12 November 1968; ratified: 28 December 1978. New Zealand's second periodic report was due 30 June 1995.

Reservations and Declarations: Article 8 and paragraph 2 of article 10.

Civil and Political Rights

Signed: 12 November 1968; ratified: 28 December 1978. New Zealand's fourth periodic report was due 27 March 1995.

Reservations and Declarations: Paragraphs 2 (b) and 3 of article 10; paragraph 6 of article 14; articles 20 and 22; declaration under article 41.

Optional Protocol: Acceded: 26 May 1989.

Second Optional Protocol: Signed: 22 February 1990; ratified: 22 February 1990.

Racial Discrimination

Signed: 25 October 1966; ratified: 10 December 1971. New Zealand's 12th periodic report was due 22 December 1995.

Discrimination against Women

Signed: 17 July 1980; ratified: 10 January 1985. New Zealand's third periodic report was due 9 February 1994.

Torture

Signed: 14 January 1986; ratified: 10 December 1989. New Zealand's second report (CAT/C/29/Add.4) is scheduled for consideration at the Committee's May 1998 session; the third periodic report is due 8 January 1999.

Rights of the Child

Signed: 1 October 1990; ratified: 6 April 1993. New Zealand's second periodic report is due 5 May 2000. *Reservations and Declarations:* General reservation; paragraph 1 of article 32; paragraph (c) of article 37.

New Zealand's initial report (CRC/C/28/Add.3) was considered by the Committee at its January 1997 session. The report prepared by the government includes information on, inter alia: measures taken to harmonize national law and policy with the provisions of the Convention; the general principles of non-discrimination, the best interests of the child, the right to life, survival and development and respect for the views of the child; name and nationality; expression and information; freedom of thought, conscience and belief, association and peaceful assembly; the protection of privacy; parental guidance and responsibilities; separation from parents and family reunification; adoption, illicit transfer and non-return; abuse and neglect, physical and psychological recovery and social reintegration; basic health and welfare; children with disabilities; social security and standard of living; education, vocational training and guidance; special protection measures; and children belonging to a minority or indigenous group.

The Committee's concluding observations (CRC/C/15/Add.71) welcomed: the adoption of the Domestic Protection Act 1995 which provides greater protection to the victims of domestic violence than previous legislation and extends protection to children; the increasing emphasis on monitoring and evaluation of the impact on children of proposed legislation and policies affecting children; the wide range of support services that are available to assist children with disabilities to enhance their development and maximize their potential; the application of the age discrimination provisions of the Human Rights Act 1993 to include coverage of young persons aged 16 years and older, and the fact that the Human Rights Commission can receive complaints from children; and, the convening of a "Youth Parliament" as a means of realising an important dimension of article 12 (freedom of expression and the right to be heard) of the Convention.

The principal subjects of concern identified by the Committee were: the broad nature of the reservations made to the Convention by New Zealand; the failure to extend the full protections in the Convention to the territory of Tokelau (a non-self governing territory); the somewhat fragmented approach to the rights of the child; the lack of a global policy or plan of action incorporating the principles and provisions of the Convention and encompassing all areas covered by it; the lack of conformity of relevant domestic laws with the definition of the child under the Convention, especially with regard to the minimum age for charging a child with serious

offences and the minimum age of access to employment; the appearance of a wide range of age cutoffs which do not appear to be necessarily consistent under legislation administered by various government entities for eligibility for different types of government support; the extensive delegation to non-governmental organizations of delivery of certain support services to children and their families, noting that the ultimate responsibility for the quality of such government supported services rests with the government and the need for careful monitoring and evaluation; the fact that the public funding of such non-governmental organizations may raise questions as to their independence; the insufficient measures adopted to ensure effective coordination between different governmental departments competent in areas covered by the Convention as well as between the central and local authorities; the insufficiency of measures to collect disaggregated statistical data, including in relation to the registration of complaints from children, and other information on the situation of children, especially those belonging to the most vulnerable groups; the effect of the extensive economic reform process undertaken since the mid-1980s on the availability of budgetary resources for support services for children and their families; the failure to undertake all necessary measures to ensure the enjoyment by children of their economic, social and cultural rights to the maximum extent of the state's resources; and, the rise in the number of single-parent families and the lack of a concerted strategy to address the needs of children affected by this trend.

The Committee also expressed concern over: the authorization provided by Section 59 of the Crimes Act to use physical force against children as punishment within the family, provided that the force is reasonable in the circumstances; the insufficient measures taken to address the issue of ill-treatment and abuse, including sexual abuse, within the family, as well as the issues of physical and psychological recovery and social reintegration of child victims of such ill-treatment or abuse; the high rate of youth suicide in New Zealand; the fact that the Maori population lags significantly behind the non-Maori population in most statistics of well-being, reflecting that insufficient measures have been taken to protect and promote the enjoyment of the rights of the Maori and, in particular, Maori children; the absence of a comprehensive policy to deal with the issue of child labour and a basic minimum age of admission to employment, or range of minimum ages for different types of work and working conditions; and, the fact that government support services to refugees and asylum seekers, including children, appear to be differentiated according to whether people are admitted as refugees under agreement with the UNHCR or are present in the country as the result of an individual's application for asylum.

The Committee recommended that the government:

- ▶ withdraw reservations to the Convention and extend the application of the Convention to the territory of Tokelau;
- ▶ prepare and adopt a comprehensive policy statement with respect to the rights of the child, incorporating the principles and provisions of the Convention, to provide guidance to all those involved in support services delivered or funded by the government;
- ▶ continue the process of bringing existing legislation into line with the principles and provisions of the Convention;

- ▶ review as a matter of priority the minimum age for being charged with very serious criminal offences and for access to employment;
- ▶ conduct a specific review on all aspects of government policy, administrative practice and legislation having an impact on children;
- ▶ strengthen the office of Commissioner for Children and consider further measures which would give the office increased independence and make it accountable directly to Parliament;
- ▶ conduct a further review of the system of data collection, giving priority attention to the identification of appropriate disaggregated indicators, including in the field of complaints' registration, with a view to addressing all areas covered by the Convention and all groups of children, particularly the most disadvantaged;
- ▶ allocate budgetary resources and give priority to the realization of the economic, social and cultural rights of children, and pay particular attention to children belonging to the most disadvantaged groups;
- ▶ undertake a study on the impact on children and their families of the economic reform process that has been ongoing during the last several years in terms of its impact on government budgetary resources available for support services, as well as on the impact of unemployment and changed conditions of employment on children, young persons and their families;
- ▶ conduct a study on the projected needs of single-parent families in light of this increasing trend, and take measures to supplement those already in place to avoid potential negative consequences for these children and their parents in the future;
- ▶ continue to give priority to studying the possible causes of youth suicide and the characteristics of those who appear to be most at risk and take steps as soon as practicable to put in place additional support and intervention programmes, be it in the fields of mental health, education, employment or another;
- ▶ review legislation with regard to corporal punishment of children within the family in order to put in place an effective ban on all forms of physical or mental violence, injury or abuse;
- ▶ establish appropriate mechanisms to ensure the physical and psychological recovery and social reintegration of child victims of such ill-treatment and abuse;
- ▶ pursue and strengthen programmes and activities in the areas of health, education and welfare with regard to the Maori population;
- ▶ review the policy and law in relation to child labour and consider ratifying ILO Convention No. 138 on minimum age for admission to employment; and,
- ▶ provide to all refugee children, including asylum-seekers coming to New Zealand outside UNHCR organized schemes, the benefit of introduction assistance and government-delivered or funded support services.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Sale of children, child prostitution, child pornography, Special Rapporteur on: (E/CN.4/1997/95, paras. 22, 24)

The report notes that the Evidence Amendment Act 1989 underlines that the specific procedures followed in child sexual abuse cases do not diminish the inquisitorial powers of the judge. The report further notes that the law in New Zealand provides for sanctions of criminal acts committed by New Zealand citizens against children abroad, as well as the promotion and organization of child sex tours in the country.

The Special Rapporteur's interim report to the General Assembly (A/52/482, para. 109) notes that, in December 1996, the Internet Society of New Zealand and the Internal Affairs Department set up a joint working group to address the problem of pornography on the Internet. The decision to establish the working group followed several high-profile raids and monitoring exercises by the authorities. The report notes that the Society is also developing a code of practice for Internet service providers.

Toxic wastes and products, Special Rapporteur on: (E/CN.4/1997/19, para. 41)

The report refers to practices in the first half of 1993 in which waste traders from a number of countries, including New Zealand, shipped more than 16,000 tonnes of battery scrap to the Philippines. The report states that the practice violated the Filipino Republic Act No. 6969 banning such toxic waste imports. The New Zealand government responded to the report of the Special Rapporteur (SR), noting that the exports were neither "illicit traffic" nor "dumping" which form the two key elements of the mandate of the SR. The government further observed that violations of Filipino law are matters for the government of the Philippines to take up and not that of New Zealand. The government stated that delivery of battery scrap to the Philippines was a commercial transaction and not "dumping" in either the trade or wastes contexts because the scrap was not intended for disposal but recycling. And, finally, the government questioned whether issues related to industrial processing fall within the mandate of the SR. [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 III.D)

In the section dealing with rape and sexual violence against women, the report notes that the Victims of Offences Act of 1987 in New Zealand instructs prosecutors, judicial officers, counsel and others working with victims to treat them with courtesy, compassion and respect for their personal dignity and privacy.

Other Reports

HIV/AIDS, Report of the Secretary-General to the CHR: (E/CN.4/1997/37, Appendix)

The report of the Secretary-General on the Second International Consultation on HIV/AIDS and Human Rights (Geneva, September 1996) notes that law reform in New Zealand has led to the development of general anti-discrimination legislation at national and local levels which defines disability

broadly and sensitively enough to explicitly include HIV/AIDS.

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 New Zealand has contributed to the Voluntary Fund for the Decade.

National institutions, Report of the S-G to the CHR: (E/CN.4/1997/41, paras. 15-16, 38)

The report of the Secretary-General summarizes the views of New Zealand related to the manner and means of participation by national institutions in the work of the Commission on Human Rights. The government stated that the promotion of national institutions in meetings of the Commission on Human Rights and its subsidiary bodies was an important way of translating international human rights commitments into practical implementation at the domestic level, and national institutions were well placed to contribute to the consideration by states of the ratification of human rights instruments and to support the process of country reporting. For these and other reasons, the government supported continuing efforts to facilitate the participation of national institutions in the work of the Commission. The government suggested regularizing the current ad hoc practice of allowing national institutions to speak from country desks in their own right while continuing discussions on a permanent arrangement and ensuring that participation by national institutions was achieved in a way that enhanced the overall effective functioning of these meetings. The report noted that New Zealand is a member of the Coordinating Committee of National Institutions.

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NORWAY

Date of admission to UN: 27 November 1945.

TREATIES AND REPORTS TO TREATY BODIES

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

Economic, Social and Cultural Rights

Signed: 20 March 1968; ratified: 13 September 1972.

Norway's fourth periodic report is due 30 June 1999.

Reservations and Declarations: Paragraph 1 (d) of article 8.

Civil and Political Rights

Signed: 20 March 1968; ratified: 13 September 1972.

Norway's fourth periodic report (CCPR/C/115/Add.2) has been submitted but is not yet scheduled for consideration by the Committee; the fifth periodic report is due 1 August 2001.

Reservations and Declarations: Paragraphs 2 (b) and 3 of article 10; paragraphs 5 and 7 of article 14; paragraph 1 of article 20; declaration under article 41.

Optional Protocol: Signed: 20 March 1968; ratified: 13 September 1972.

Reservations and Declarations: Paragraph 2 of article 5.

Second Optional Protocol: Signed: 13 February 1990; ratified: 5 September 1991.

Racial Discrimination

Signed: 21 November 1966; ratified: 6 August 1970.

Norway's 15th periodic report is due 5 September 1999.

Norway's 12th, 13th and 14th periodic reports (CERD/C/281/Add.2; CERD/C/320/Add.1) were considered by the Committee at its August 1997 session. Taken together, the reports prepared by the government provide detailed information on policies and measures aimed at the elimination of racial discrimination and reference is made to an amendment to the Constitution related to the incorporation of certain international human rights conventions into domestic legislation. The reports cover a wide range of issues and subjects, including but not limited to: the Plan of Action to Combat Racism and Ethnic Discrimination; the report of the Plan of Action to Tackle Acute Situations of Racial Violence and Harassment in a Local Community (Brununddal Plan of Action); immigration policy and law; training for law enforcement, prison service and armed forces personnel; the Liaison Committee between Immigrants and Norwegian Authorities (KIM); the Sami people, the Finno-ethnic minority and the Roma; immigrant women and children; provisions in the Penal Code related to racial discrimination; the code of ethics of the Norwegian Press Association; measures to eliminate discrimination in areas such as housing, employment, social services, health, education and teaching; the Youth Campaign against Racism, Intolerance and Xenophobia; the White Paper on Immigration and a Multicultural Norway; legal aid to victims of discrimination; and, the activities of the Interdisciplinary Advisory Group on Community Relations and Anti-Racist Work.

The Committee's concluding observations and comments (CERD/C/304/Add.40) welcomed: the overall efforts and measures taken to prevent and combat all forms of racial discrimination; the establishment of a working group mandated to improve the legal aid available to victims of racial discrimination; consideration of the possibility of including resident foreigners on juries; adoption of the "Plan of Action to Tackle Acute Situations of Racial Violence and Harassment in a Local Community"; efforts to protect the culture, language and way of life of minorities; the establishment and work of the Sami Assembly; the policy framework provided by the White Paper on Immigration and a Multicultural Norway (February 1997); the right of foreigners to participate in local and regional elections; the work undertaken by the Interdisciplinary Advisory Group on Community Relations; the addition of racial motivation to the Penal Code as an aggravating circumstance in acts of vandalism; the provision of training in multiculturalism to police, journalists, teachers, customs officers and health and social workers; efforts to give immigrant and minority groups access to education in appropriate languages; and, efforts to translate, when necessary, public information into languages spoken by minority members and immigrants.

The principal subjects of concern addressed by the Committee were: lack of clarity on the extent to which the Convention is self-executing in domestic law; failure to undertake a study to determine the reasons for the recent trend of a decrease in racially motivated offences; the reluctance of

police to institute criminal proceedings in some cases involving racial discrimination; the absence of a sufficiently complete official record of incidents of a racial character; failure to take all appropriate measures to prohibit organizations from promoting and inciting racial discrimination; the fact that a Norwegian political party promotes racial discrimination, for example by stating that the Sami Parliament should be dissolved; the publications of anti-immigrant racist organizations; systematic dissemination of ideas of racial superiority by a radio station; the possibility that foreigners and persons belonging to minorities may not be sufficiently protected, particularly in the areas of labour and housing; statements by the state's health services that immigrants of African descent disproportionately test positive for HIV and that Africans have been obliged to undergo tests for HIV simply because they are Africans; and, reports indicating the unjustified deportation of foreign nationals, including in some cases asylum-seekers and unaccompanied children.

The Committee recommended that the government:

- ▶ clarify in its next report the status of the Convention in domestic law;
- ▶ provide in the next report examples, if any, of court decisions illustrating how the Convention is applied in domestic law;
- ▶ maintain a comprehensive record of all racist acts or incidents;
- ▶ take the necessary measures to facilitate and ensure criminal proceedings related to racist acts and incidents;
- ▶ take all appropriate measures to prohibit all racist organizations;
- ▶ take the necessary measures to prohibit all dissemination of racist propaganda;
- ▶ strengthen efforts to promote understanding and tolerance with regard to immigrants in Norway; and,
- ▶ take all appropriate measures to ensure access to work and housing on a non-discriminatory basis.

Discrimination against Women

Signed: 17 July 1980; ratified: 21 May 1981.

Norway's fifth periodic report is due 3 September 1998.

Torture

Signed: 4 February 1985; ratified: 9 July 1986.

Norway's third periodic report (CAT/C/34/Add.8) has been submitted and is scheduled for consideration by the Committee at its May 1998 session; the fourth periodic report is due 25 June 2000.

Declarations and Reservations: Declarations under articles 21 and 22.

Rights of the Child

Signed: 26 January 1990; ratified: 8 January 1991.

Norway's second periodic report was due 6 February 1998.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Sale of children, child prostitution, child pornography, Special Rapporteur on the: (E/CN.4/1997/95, para. 40)

The report notes that the Norwegian branch of Save the Children established a programme in 1996 to monitor child

pornography on the Internet and is encouraging Internet users to send information to the organization so that it can be handed on to the police.

The Special Rapporteur's interim report to the General Assembly (A/52/482, para. 110) expands on comments in the report to the CHR and notes that the project, jointly undertaken by the Ombudsman for Children and Save the Children Norway, is aimed at identifying paedophile networks: systems, methods, codes and ways of communication used by criminals in the sexual exploitation of children. The report notes that extensive investigation by professional computer hackers revealed organized trading in child pornography on the Internet and special sites containing information on sex tours and meetings. In one chat group, hard-core amateur child pornography was found showing girls and boys between the ages of 8 and 12 being repeatedly raped by adults of both sexes.

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

In the section dealing with trafficking in women and forced prostitution, the report notes that prostitution is not a crime but the solicitation of clients is prohibited to the extent that Norwegian law proscribes "indecent behaviour".

Other Reports

International Decade of the World's Indigenous People, Report of the HCHR to the CHR: (E/CN.4/1997/101, para. 9)

The report of the High Commissioner for Human Rights notes that Norway has contributed to the Voluntary Fund for the Decade.

Minimum humanitarian standards, Report of the S-G to the CHR: (E/CN.4/1997/77, Section I, Norway)

The report of the Secretary-General included observations submitted by Norway on behalf of Denmark, Iceland, Finland, Sweden and South Africa. The statement expressed grave concern at the large number of situations where internal violence causes extensive suffering and breaches of the principles of humanity and where it undermines the protection of human rights. It recognized the need to address principles applicable to situations of internal violence and disturbance of all kinds in a manner consistent with international law and the UN Charter.

The statement notes that South Africa hosted a workshop in Cape Town from 27 to 29 September 1996 in order to address minimum humanitarian standards applicable in all situations. The workshop was organized by the five Nordic countries and South Africa in close cooperation with the International Committee of the Red Cross (ICRC) and was attended by representatives of 29 governments from all regions of the world as well as representatives of a number of United Nations bodies, international, intergovernmental and non-governmental organizations. The workshop agreed that:

- ▶ the Commission on Human Rights should request the Secretary-General to undertake, in coordination with the ICRC, an analytical study of the issues addressed at the Cape Town Workshop on Minimum Humanitarian Standards;

- ▶ the analytical study should be guided by the urgent need to protect those who are exposed to extreme suffering resulting from the lack of sufficient protection;
- ▶ the study should, in the light of the prevailing experience during recent years and from the perspective of the various actors, assess the need for a UN document setting out and promoting minimum humanitarian standards or standards of humanity applicable in all circumstances;
- ▶ consideration should be given to the options for making use of the study within the United Nations system including, for example, at an open-ended UN seminar under the aegis of the Commission on Human Rights;
- ▶ governments, international and regional organizations as well as non-governmental organizations and civil society should promote a debate on the need for and use of minimum humanitarian standards or standards of humanity applicable in all circumstances as well as on practical measures aimed at the improvement of the situation of those affected.

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PORTUGAL

Date of admission to UN: 14 December 1955.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Portugal has submitted a core document (HRI/CORE/1/Add.73) for use by the treaty bodies. The report prepared by the government includes demographic data as well as information on the general political structure, the courts, the legal framework for the protection of human rights, the Office of the Ombudsman and the Women's Equality and Rights Commission.

In Portugal human rights are protected by the Constitution, which consistently upholds the principles of equality before the law and non-discrimination, and ordinary legislation. Under article 8 of the Constitution international law is fully incorporated into domestic law and both the Constitution and laws are interpreted and implemented in harmony with the Universal Declaration. Any legislation that contravenes the Declaration is prohibited. The status of treaty law, however, is considered to be below the Constitution but above ordinary legislation. National institutions for ensuring respect for human rights include the Office of the Provedor de Justiça (Ombudsman), the Women's Equality and Rights Commission, the Attorney-General's Department, the Bureau for Documentation and Comparative Law, and the Commission on the Promotion of Human Rights and the Prevention of Educational Inequalities. For a number of years systematic training in the prevention of human rights violations has been carried out at the National College of Magistrates and the Bar, and for police forces, the prison service and the medical profession. The Ministry of Justice has also launched a programme entitled "the citizen and justice" which is aimed at bringing transparency to the administration of justice and making access to justice easier by setting up reception, information and legal advice offices.

Economic, Social and Cultural Rights

Signed: 7 October 1976; ratified: 31 July 1978.

Portugal's third periodic report was due 30 June 1996.

Civil and Political Rights

Signed: 7 October 1976; ratified: 15 June 1978.

Portugal's fourth periodic report was due 31 July 1996.

Portugal's third periodic report (CCPR/C/70/Add.9), dealing with Macau, was considered by the Human Rights Committee at its March/April 1997 session. The report prepared contains information on the provisions and protections of the rights set out in articles 1 through 27. Commentary is included on subjects such as: states of emergency; the prohibition on slavery and forced labour; freedom and security of person; remand in custody; conditions of detention and imprisonment; freedom of movement and choice of residence; the administration of justice; the right to recognition as a person before the law; the rights to privacy, religion, conscience, worship, expression, assembly and association; freedom of the press; marriage and the family; equality and non-discrimination; children's rights; economic development; and, constitutional and legal provisions related to the electoral process.

The Committee's concluding observations and comments (CCPR/C/79/Add.77) review provisions in the Sino-Portuguese Joint Declaration and Exchange of Memoranda of 13 April 1987. They note that article 40 of the Basic Law of the Macau Special Administrative Region of the People's Republic of China, adopted by the People's Congress on 31 March 1993, states that the provisions of the Covenant will remain in force after 19 December 1999 and will be implemented through the law of the Macau Special Administrative Region. The Committee stated that, in consequence of the Memorandum of Understanding and the Basic Law, the reporting requirements under the Covenant will continue to apply to Macau after 19 December 1999.

The Committee welcomed: the abolition of the death penalty in Macau, including for military crimes; the interpretation of domestic law by the Superior Court of Justice prohibiting extradition to a country where the person concerned may be sentenced to death; the safeguards in place with regard to a declaration of a state of siege or state of emergency; provisions holding state agencies and public bodies liable for actions or omissions that result in human rights violations; and, the establishment of new institutions and offices — e.g., the Public Information and Assistance Centre and the High Commission against Corruption and Administrative Illegality — to protect human rights.

The areas of concern addressed by the Committee included: use of Portuguese only on official charge forms and sheets, as well as documents and decisions, despite the fact that the majority of the population is Chinese-speaking; discrimination against women in the workplace and the resulting de facto inequalities in their situation and remuneration; the extent of trafficking in women in and to Macau for the purpose of prostitution; inaction by the authorities to prevent and penalize the exploitation of these women; the failure of immigration and police officials to take effective measures to protect these women; the low percentage of locally born residents holding senior positions in the public administration;

the lack of firm arrangements between Portugal and China with regard to the nationality of residents of Macau after 19 December 1999; the lack of encouragement for non-governmental organizations in Macau to participate in programmes for the promotion and protection of human rights; and, the failure to solicit the cooperation of non-governmental organizations in terms of implementation of human rights.

The Committee recommended that the government:

- ▶ accelerate efforts to introduce the use of the Chinese language in the courts at all levels and particularly with regard to court documents and decisions;
- ▶ make a determined effort to ensure a substantial increase in the percentage of locally born residents holding senior posts in the public administration and judiciary;
- ▶ initiate or strengthen programmes aimed at providing assistance to women in difficult circumstances and particularly those trafficked to Macau for the purpose of prostitution;
- ▶ take strong measures to prevent trafficking in women and impose sanctions on those who exploit women in this way;
- ▶ extend protection to women who are victims of this kind of trafficking, including a place to stay and an opportunity to remain in order to give evidence against the person responsible in criminal or civil proceedings;
- ▶ repeal provisions in law related to the entry and departure of persons and expulsion of foreigners from the Territory; and,
- ▶ extend human rights education to members of the police and security forces, the legal profession and others involved in the administration of justice with the view of making it a part of regular training.

Optional Protocol: Signed: 1 August 1978; ratified: 3 May 1983.

Second Optional Protocol: Signed: 13 February 1990; ratified: 17 October 1990.

Racial Discrimination

Acceded: 24 August 1982.

Portugal's fifth, sixth and seventh periodic reports were due 23 September 1991, 1993 and 1995 respectively.

Discrimination against Women

Signed: 24 April 1980; ratified: 30 July 1980.

Portugal's fourth periodic report was due 3 September 1994.

Torture

Signed: 4 February 1985; ratified: 9 February 1989.

Portugal's third periodic report was due 10 March 1998.

Portugal's second periodic report (CAT/C/25/Add.10) was considered at the Committee's November 1997 session. The report prepared by the government includes information on: the incorporation of a definition of torture into the new Penal Code; constitutional provisions related to moral and physical integrity; extradition, deportation, asylum and aliens; child victims of violence; removal of organs from dead or living persons; clinical experimentation on human beings; the status of NGOs for cooperation for development; remand in

custody; pre-trial detention; training of police officials and prison personnel; the office of the Ombudsman; the right of petition; conditions of detention or imprisonment; use of force; the liability of the authorities; civil liability deriving from a crime; compensation; and, admissibility of evidence.

The Committee's concluding observations and comments (CAT/C/POR) welcomed, *inter alia*: the adoption of a new Penal Code containing a definition of torture; the steps taken to ensure that the courts of first instance provide emergency service on weekends and during public holidays; adoption of a professional code of ethics for physicians; development of sanctions against authorities who, being aware of acts of torture, do not report them within a three-day period; adoption of the rule "aut dedere, aut iudicare" whereby the state must prosecute anyone for whom extradition is not allowed; education programmes on human rights generally and efforts to combat torture specifically; provisions related to compensation; the prohibition on use of evidence gained through torture; and, abolition of military courts as special jurisdictions.

The principal subjects of concern identified by the Committee were: recent cases of ill-treatment, torture and death under suspicious circumstances attributed to the security and police forces; the apparent absence of an appropriate response from the competent authorities to these cases; and, weaknesses in the system of justice related to extradition and involuntary repatriation.

The Committee stated that there were no factors or difficulties hindering implementation of the Convention and recommended that the government:

- ▶ take steps to reduce and even eliminate the gap between provisions and application of law related to the protection of rights and freedoms;
- ▶ give priority attention to reports of violence attributed to the public authorities, undertake investigations and, where warranted, impose sanctions; and
- ▶ clarify legislation to ensure immediate and systematic investigations into all cases where there is reason to believe that an act of torture has been committed.

Rights of the Child

Signed: 26 January 1990; ratified: 21 September 1990
Portugal's second periodic report was due 20 October 1997.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Religious intolerance, Special Rapporteur on: (A/52/477, paras. 21, 25, 33, 37)

The report refers to communications transmitted to the government related to conscientious objection to military service and the fact that the duration of alternative service is such as to make it appear a form of punishment.

Torture, Special Rapporteur on: (E/CN.4/1997/7, Sections II & III; E/CN.4/1997/7/Add.1, paras. 394-399)

The reports refer to cases transmitted by the Special Rapporteur (SR) related to incidents in which the victims had argued with police and were subsequently beaten, kicked and punched. The government replied to two such cases, informing the SR that charges had been brought against the police

officer in one case and proceedings had begun in the other. The government also responded to two other cases that had been previously transmitted indicating that, in the first, some injuries had been incurred while the suspect was resisting arrest and, in the other, a lack of corroborative evidence had resulted in the case being filed.

Other Reports

Minimum humanitarian standards: (E/CN.4/1997/77, Section I and para. 7)

The report of the Secretary-General includes information provided by the government indicating that Portugal endorses the principles in the Declaration on Minimum Humanitarian Standards, abolished the death penalty more than a century ago and had ratified the Second Optional Protocol to the ICCPR. The government's response also indicates that it has previously submitted to the Commission on Human Rights detailed information on the national legal framework for the declaration of states of emergency and its impact on the enjoyment of human rights. The government also stated its view that children aged under 18 years should not take part in hostilities either directly or indirectly, including through enlistment in the armed forces or armed groups, and therefore supports the work being done for the adoption of an optional protocol to the Convention on the Rights of the Child.

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 Director of the UN Information Centre Lisbon (UNIC) attended the launch of a multilingual version of the Universal Declaration of Human Rights booklet, and the opening of an exhibition on human rights, organized by the Portuguese branch of Amnesty International and the Loures Town Council.

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SAN MARINO

Date of admission to UN: 2 March 1992.

TREATIES AND REPORTS TO TREATY BODIES

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

Economic, Social and Cultural Rights

Acceded: 18 October 1985.

San Marino's initial and second reports were due 30 June 1990 and 1995 respectively.

Civil and Political Rights

Acceded: 18 October 1985.

San Marino's second periodic report was due 17 January 1992; the third periodic report was due 17 January 1997.

Optional Protocol: Acceded: 18 October 1985.

Rights of the Child

Acceded: 25 November 1991.

San Marino's initial report was due 24 December 1993.

THEMATIC REPORTS

Terrorism, Note by the S-G: (E/CN.4/1997/39, Section I)

The note by the Secretary-General refers to information provided by the government which states that San Marino does not have internal legislation specifically aimed at combatting terrorism and no incident of a terrorist nature has taken place on its national soil.

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SPAIN

Date of admission to UN: 14 December 1955.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Spain has submitted a core document (HRI/CORE/1/Add.2/Rev.2) for use by the treaty bodies. The report prepared by the government contains information on the main demographic, economic and social indicators as well as the general political structure — the King, the legislative, executive and judicial powers — and the general legal framework for the protection of human rights.

The civil and political rights recognized internationally through the International Covenant on Civil and Political Rights are mirrored in the Constitution. Rights are subject to legislative guarantee, judicial protection and Congressional action. The latter is provided through the Congressional Standing Constitutional Committee and the Standing Petitions Committee which may examine individual or collective petitions received by Congress. The Standing Petitions Committee may decide to refer a petition to the People's Advocate, the Congressional committee dealing with the issue concerned and/or the Senate; it may also refer a case to Government, the courts, the Office of the Public Prosecutor or the relevant public administration. The International Covenant on Civil and Political Rights has been fully incorporated into internal legislation. Spain has also ratified the European Convention on Human Rights as well as the European Convention against Torture.

Economic, Social and Cultural Rights

Signed: 28 September 1976; ratified: 27 April 1977.
Spain's fourth periodic report is due 30 June 1999.

Civil and Political Rights

Signed: 28 September 1976; ratified: 27 April 1977.
Spain's fifth periodic report is due 28 April 1999.
Reservations and Declarations: Declaration under article 41.

Optional Protocol: Acceded: 25 January 1985.

Reservations and Declarations: Paragraph 2 of article 5.

Second Optional Protocol: Signed: 23 February 1990; ratified: 11 April 1991.

Reservations and Declarations: Article 2.

Racial Discrimination

Acceded: 13 September 1968.
Spain's 14th periodic report was due 4 January 1996.
Reservations and Declarations: Article 22.

Discrimination against Women

Signed: 17 July 1980; ratified: 5 July 1984.
Spain's third periodic report (CEDAW/C/ESP/3) has been submitted and is pending for consideration at the Committee's January 1999 session; the fourth periodic report was due 4 February 1997.
Reservations and Declarations: General reservation.

Torture

Signed: 4 February 1985; ratified: 21 October 1987.
Spain's fourth periodic report is due 19 November 2000.
Reservations and Declarations: Declaration under articles 21 and 22.

Spain's third periodic report (CAT/C/34/Add.7) was considered by the Committee at its November 1997 session. The report prepared by the government notes that the scope of the definition of torture contained in article 1 of the Convention is reflected in the new Penal Code which was enacted in November 1995. The report contains information related to: a visit to Spain in 1991 by the European Committee for the Prevention of Torture (CPT) and the report subsequently issued; legislative and judicial measures related to prevention; abolition of the death penalty; asylum and refugee status; education regarding human rights and the prohibition of torture; the development of a detention register; conduct of investigations into allegations of torture; admissibility of evidence in courts; and, judicial proceedings concerning torture.

The Committee's concluding observations and comments (CAT/C/SP) were not available in English when this report went to press.

Rights of the Child

Signed: 26 January 1990; ratified: 6 December 1990.
Spain's second periodic report was due 4 January 1998.
Reservations and Declarations: Paragraph (d) of article 21; paragraphs 2 and 3 of article 38.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1997/60, para. 79)

In comments on the death penalty, the Special Rapporteur welcomed the fact that, on 28 November 1995, the government removed the death penalty from the Military Penal Code.

Sale of children, child prostitution, child pornography, Special Rapporteur on the: (E/CN.4/1997/95, para. 49)

The report refers to information provided by the government stating that in recent years there have been some prosecutions of child prostitution and that networks involved in the corruption of minors have been dismantled.

Torture, Special Rapporteur on: (E/CN.4/1997/7, Section III; E/CN.4/1997/7/Add.1, paras. 447-453)

The main report refers to information received indicating that the way in which forensic physicians carried out examinations of detainees was sometimes irregular. It was reported that these examinations were frequently superficial, did not take due account of the individual's physical and mental condition, and were not always carried out in private, that is, without the presence of police officers. The information also stated that cases had occurred in which these physicians' reports had contradicted reports prepared by other physicians whom the detainees had consulted on their own initiative.

Two new cases were transmitted to the government. The first concerned a Portuguese citizen of Mozambican origin residing legally in Spain, who was reportedly arrested in

November 1994 by two officers of the national police while walking down the street in a normal manner. The information received indicated that, while being searched, he was kicked and his head struck repeatedly against a wall. He was released the next day with no charges having been filed. The government reported that the man had categorically refused to produce his identity papers, insulted the police officers who had requested them, and resisted arrest. The government stated that the police were obliged to use the minimum force necessary to subdue him. An investigation had found no evidence of responsibility on the part of the police officers. The second case referred to a complaint, following arrest, of beatings and having the head covered with a plastic bag, resulting in unconsciousness. The National High Court ordered the complainant to be examined by a forensic physician. The report from the examination stated that the detainee had failed to respond when asked what treatment he had received. The Special Rapporteur notes that it was not clear whether an investigation had been carried out or whether a complaint had been lodged for ill-treatment.

The government responded to four cases previously transmitted, related to: two cases of arrest and torture by the Civil Guard in January 1992 and June 1994; and two cases of arrest and torture by police officers in March 1994. In the first two cases, investigations had been carried and the claims of torture not substantiated. In the other two cases the government replied that the proceedings were still pending in anticipation of the filing of charges by the Office of the Prosecutor, which would take place in the near future.

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 traffickers in Colombia have been providing Colombian women for the market in Spain.

Mechanisms and Reports of the Sub-Commission

Traditional practices affecting the health of women and children, Special Rapporteur: (E/CN.4/Sub.2/1997/10, para. 50-54)

The report refers to information provided by the government, noting: the Institute for Women is actively working to enhance the health of women through programmes aimed at developing preventive measures in the areas of prenatal mortality, family planning and reduction of prenatal mortality; efforts have been made to improve the education of women through teaching materials, the training of professionals and women's associations dealing with subjects such as pregnancy, maternity and paternity, transmission of sexual diseases, AIDS and gynaecological consultations; the creation of "Youth family-planning and sexuality centres" has contributed to health education because these centres deal with the problems of sectors of the community which, although needing help, do not turn to health centres; and the Institute for Women also promotes health care among groups of disadvantaged women such as prisoners. The report also refers to the third Plan for Equality of Opportunity. The most important objectives of the Plan are to support preventive and prenatal programmes, conduct ever-more sweeping health education campaigns aimed at women, cooperate with the

national AIDS plan in developing prevention programmes, and participate in developing Act No. 31/1995 on the prevention of work-related risks in order to promote the improvement of the health and safety of pregnant or nursing women.

Other Reports

Children and juveniles in detention, report of the S-G to the CHR: (E/CN.4/1997/26, para. 2, Section I)

The report of the Secretary-General refers to information provided by the government noting: establishment, in 1985, of the Juvenile Courts as specialized judicial bodies within the ordinary system of courts; the launching of special training for counsel on the legal aid list for the defence of juvenile delinquents; provisions in the new Penal Code 1995 raising the age of majority from 16 to 18 years, establishing that, if minors of that age commit an offence, they may be held responsible under the terms of a law regulating the criminal responsibility of minors; a February 1991 ruling by the Constitutional Court declaring the 1948 legislation on juvenile courts unconstitutional under the procedure which was followed in those courts; amendments to the Act governing the Competence and Procedure of the Juvenile Courts, which follows the criteria of the Convention on the Rights of the Child; introduction of the principle of discretion throughout the procedure of the juvenile courts, in part related to alternative measures including a warning or detention for one to three weekends; probation; fosterage by another person or by a family; deprivation of the right to drive motorcycles or motor vehicles; provision of community services; outpatient treatment or admission to a treatment centre; and admission to an open, semi-open or custodial establishment.

Women's human rights, Report of the S-G to the CHR:
(E/CN.4/1997/40, para. 59)

The report of the Secretary-General on the integration of women's human rights throughout the UN system refers to work done by the treaty bodies and notes that the Committee on Economic, Social and Cultural Rights, when considering Spain's report, expressed concern over: continued discrimination against women with regard to the right to equal treatment at work, the right to equal pay and access to education; the unemployment rate which was extremely high, and particularly so for women; and, the persistence of a worrying rate of illiteracy, especially among women and in certain southern regions. The report notes that the Committee recommended that the authorities should continue their efforts to ensure effective equality between women and men, in particular with regard to access to education and jobs and equal pay for equal work and suggested that the government should retain the integration of women in the labour market as a priority policy.

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SWEDEN

Date of admission to UN: 19 November 1946.

THEMATIC REPORTS

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

Economic, Social and Cultural Rights

Signed: 29 September 1967; ratified: 6 December 1971.

Sweden's fourth periodic report is due 30 June 1999.

Reservations and Declarations: Paragraph (d) of article 7.

Civil and Political Rights

Signed: 29 September 1967; ratified: 6 December 1971.

Sweden's fifth periodic report is due 27 October 1999.

Reservations and Declarations: Paragraph 3 of article 10; paragraph 7 of article 14; paragraph 1 of article 20; declaration under article 41.

Optional Protocol: Signed: 29 September 1967; ratified: 6 December 1971.

Reservations and Declarations: Paragraph 2 of article 5.

Second Optional Protocol: Signed: 13 February 1990; ratified: 11 May 1990.

Racial Discrimination

Signed: 5 May 1966; ratified: 6 December 1971.

Sweden's 13th periodic report was due 4 January 1997.

Sweden's 12th periodic report (CERD/C/280/Add.4) was considered by the Committee at its August 1997 session. The report prepared by the government contains information on, *inter alia*: provisions in the Instrument of Government related to non-discrimination and protection of rights; the Parliamentary commissions to review Swedish immigration and refugee policies and policies related to the long-term integration of immigrants and refugees in Sweden; freedom of expression; criminal liability of the media; criminal offences related to speech; penal legislation related to racist speech and actions; the National Council for Crime Prevention; the Act against Ethnic Discrimination and the Ombudsman against Ethnic Discrimination; the rights of the Sami people and the functioning of the Sami Parliament; the Code of Judicial Procedure; the right to participate in the electoral process; the labour market, access to education and measures related to compensation in cases of discrimination; training for police in the area of racism and xenophobia; and, measures taken to eliminate racism and xenophobia.

The Committee's concluding observations and comments (CERD/C/304/Add.37) noted that the recession in Sweden had serious consequences generally and led to severe setbacks for refugees and immigrants, in particular. The Committee stated that the consequences of the recession were most felt in the labour market situation of refugees and immigrants, who were found to be worse off than Swedes in most areas of society and, further, that the gap was widening.

The Committee welcomed: the fact that Sweden is one of a limited number of states parties to make a declaration under article 14 recognizing the competence of the Committee to receive and consider communications from groups and individuals; the intention of the government to review the Act against Ethnic Discrimination of 1994 because it is not having the desired effect; the adoption of new legislation which broadens the definition of "refugee"; the activities of various governmental institutions concerned with integration policies and combatting racism and xenophobia, as well as the active participation of Sweden in international efforts to combat racism; the establishment of the Sami Parliament; the fact that non-nationals have the right to vote and stand for election at

the municipal level; and the establishment of a system of education for refugees and immigrants.

The principal subjects of concern identified by the Committee were, *inter alia*: the finding of a research project conducted by the National Council for Crime Prevention that crimes with racial motives have increased since 1980; the social position of Roma, particularly in such areas as education and employment, which is less favourable than that of the rest of the population and has led to their dependency on social welfare benefits; the failure of existing legislation to implement fully article 4 related to racist organizations, speech and actions; the low and declining participation by non-nationals in local elections; and, the activities based on ideas or theories of racial superiority of various organizations and individuals and the increasing dissemination of recorded music, with lyrics promoting hatred against ethnic minorities.

The Committee recommended that the government:

- ▶ while reviewing legislation, pay particular attention to full implementation of the provisions of the Convention, in particular article 4;
- ▶ provide in its next report information on the number of complaints, judicial decisions and compensation awards concerning acts of racism in all their forms;
- ▶ take further measures in order to ensure the use by Sami of their own language;
- ▶ reinforce the policy of promoting equal opportunity in economic and social life for immigrants, refugees and ethnic minorities by appropriate legislative, administrative and other measures; and,
- ▶ take further action to ensure that the provisions of the Convention are more widely disseminated among the Roma, the Sami and "Tornedal Finns", immigrant associations, and other ethnic groups, as well as among government officials, employers and trade unions.

Discrimination against Women

Signed: 7 March 1980; ratified: 2 July 1980.

Sweden's fourth periodic report (CEDAW/C/SWE/4) has been submitted but is not yet scheduled for consideration by the Committee; the fifth periodic report is due 3 September 1998.

Torture

Signed: 4 February 1985; ratified: 8 January 1986.

Sweden's fourth periodic report is due 25 June 2000.

Reservations and Declarations: Declarations under articles 21 and 22.

Sweden's third periodic report (CAT/C/34/Add.4) was considered by the Committee at its April/May 1997 session. The report prepared by the government contains information on measures related to articles 3 through 5, 8, 10 and 16 of the Convention. The subjects considered include: the policy of non-refoulement, extradition and expulsion; the Swedish Immigration Board and the Aliens Appeals Board; changes in law resulting from incorporation of the European Convention on Human Rights into legislation; provisions in the Penal Code; the Personnel Responsibility Committee of the National Police Board; changes in the Penal Code to include acts by foreign contingents of the armed forces during service

abroad; training and educational programmes for police and the prison service; limitations on the detention of foreign children under the age of 16; the Act on Disciplinary Liability within the Total Defence System 1994; and, cases against police and prison staff arising from complaints of assault.

The Committee's concluding observations and comments (CAT/C/XVIII/CRP.1/Add.4, paras. 90-102) viewed positively revisions to the law relating to refugees as well as the way in which the Swedish government now offers protection to many displaced persons who would not technically be identified as refugees under the Refugee Convention. The Committee also acknowledged Sweden's contribution of both material and political support for the rehabilitation of the victims of torture both within the country and internationally.

The Committee noted that Sweden's dual approach to the incorporation of international treaty norms into its domestic law required enabling legislation before the provisions of the Convention against Torture can become part of Swedish domestic law. This provision was seen by the Committee as an obstacle to the full implementation of the Convention.

The principal areas of concern identified by the Committee included: the continued failure of the government to incorporate the Convention's definition of torture into its domestic law; the use of "restrictions", which in some cases lead to solitary confinement for a prolonged period of time, for persons held in pre-trial detention centres and prisons; isolated cases of ill-treatment by the police; and, certain methods used by police in dealing with detainees or with public demonstrations, such as, in the latter case, crowd control by using dogs.

The Committee recommended that the government:

- ▶ incorporate the provisions of the Convention against Torture into Swedish law, as it has already done with regard to the European Convention of Human Rights;
- ▶ incorporate into its domestic legislation the definition of torture as contained in article 1 of the Convention;
- ▶ abolish the institution of solitary confinement, particularly during the period of pretrial detention, other than in exceptional cases, for example, when the security or the well-being of persons or property are in danger, and the measure is applied, in accordance with the law and under judicial control; and,
- ▶ reconsider the methods used by the police with regard to crowd control.

Rights of the Child

Signed: 26 January 1990; ratified: 29 June 1990.

Sweden's second periodic report (CRC/C/65/Add.3) has been submitted but is not yet scheduled for consideration by the Committee; the third periodic report is due 1 September 2002.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Torture, Special Rapporteur on: (E/CN.4/1997/7, Section III; E/CN.4/1997/7, para. 473)

The Special Rapporteur transmitted an urgent appeal on behalf of a Turkish national whose application for asylum in

Sweden had been rejected. The Swedish Centre for Torture and Trauma Survivors had confirmed that the man had been tortured in Turkey and was in need of psychiatric care. Concern was expressed that, if deported back to Turkey, he might be subjected to torture again.

Mechanisms and Reports of the Sub-Commission

Traditional practices affecting the health of women and girls, Special Rapporteur on: (E/CN.4/Sub.2/1997/10, paras. 43-49)

The report notes that Sweden declared female genital mutilation illegal in 1982, and refers to a number of activities undertaken in opposition to the practice. These included a pilot project implemented by the Immigration Services to organize preventive work to stop girl refugees from Africa who were living in Sweden from being mutilated, and to provide medical, psychological and sexual assistance to women, during pregnancy and delivery, who had already been mutilated. The project involved training for the professionals concerned, the elaboration of directives for medical staff and social workers, measures to make the mass media more aware of the problem, and the compilation and translation into Swedish of educational material.

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 includes information provided by the government noting that: in Sweden, the age of criminal responsibility is 15; there are no offences under Swedish legislation which may be exclusively committed by juveniles or adults; the aim is to make criminalization a last resort in coping with problems; inducing a juvenile to be an accomplice to a crime by means of coercion, deceit or misuse of youth, lack of comprehension or dependent status is considered an aggravating circumstance and taken into account in determining the penalty for an offence; in cases where juveniles have been induced into being accomplices to crimes they are given a milder sentence and, if the offence was petty, no liability is imposed.

The information also notes that special rules for legal proceedings against juveniles suspected of offences are contained in the Care of Young Persons (Special Provisions) Act and are aimed at a more rapid and qualitatively improved processing of cases and matters in which persons under 18 are suspected of offences. The special rules for instituting legal proceedings against juvenile offenders are outlined as: preliminary investigations into an offence are, where possible, led by a prosecutor or policeman specially suited for dealing with juvenile cases; the parents of the juvenile or others who are responsible for the care and upbringing of the young person must be informed of the situation and be summoned to police questioning of the juvenile; the municipal social welfare committee is to be informed when juveniles are suspected of offences and given an opportunity to attend police questioning, unless their presence could be detrimental to the investigation; preliminary investigations into offences for which the sentence is imprisonment for longer than six months shall always be led by a prosecutor if the suspect is under 18; in principle, a statement shall always be obtained, at the preliminary investigation, from social services concerning

the circumstances of the juvenile; juveniles have access to public defence counsel under a special provision; in forming the judgement the prosecutor shall take into consideration whether the juvenile is receiving care under the auspices of the social services or in some other way, whether the offence was committed out of mischief or rashness, and whether the juvenile showed a desire to compensate for the damage caused by the offence; the possibility to forego prosecution is limited in the case of a relapse into crime; the main hearing in a juvenile case shall be held within two weeks of the date on which the prosecution was instituted; when a person under 21 is prosecuted, hearings may be held behind closed doors if in the best interest of the defendant; and, judgements in cases against persons under 21 are normally given at the main hearing.

The government also stated that there is no absolute prohibition against mixing prisoners under 18 with other prisoners. The government also reported that there is an average of between five and 15 prisoners under 18 in custody in Sweden at any given time, but that attempts are made to avoid sentencing persons under 18 to penalties involving deprivation of liberty. Special provisions in the Care of Young Persons (Special Provisions) Act stipulate that juveniles may not be kept for questioning or apprehended for longer than three hours unless a longer period is required to enable police to hand the child over to the custody of parents or some other adult.

The government also noted that: capital punishment is prohibited; persons under the age of 21 at the time the offence was committed may not be sentenced to life imprisonment; only a very small number of juveniles are sentenced to imprisonment and chiefly for extremely serious crimes; juveniles are also sentenced to pay fines for offences; under the Social Services Act juveniles may be committed for care administered by social services; in some cases a conditional sentence and probation are used as alternatives to imprisonment; and, electronic surveillance has been introduced as another alternative to imprisonment.

Conscientious objection to military service, Report of the S-G to the CHR: (E/CN.4/1997/99, paras. 6, 14)

The report of the Secretary-General notes that conscription exists in Sweden. Under the Total Defence Duties Act, all Swedish citizens between the ages of 16 and 70 are liable for total defence duty. A corresponding obligation applies to aliens residing in Sweden. Service may be undertaken as compulsory military service, compulsory civilian service or compulsory national service, the latter of which refers to duty to serve only during times of alert. The Total Defence Duties Act also stipulates that every Swedish man is liable to attend military inspection and complete compulsory military service or compulsory civilian service with long basic training. The report notes that weapon-free service is no longer regulated as an alternative to compulsory military service but as one of several alternative forms of service within the framework of the total defence duty. Women may voluntarily take an examination for enlistment in compulsory military service or in compulsory civilian service with long basic training.

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SWITZERLAND

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

TREATIES AND REPORTS TO TREATY BODIES

Land and People: Switzerland has submitted a core document for use by the treaty bodies. The report prepared by the government (HRI/CORE/1/Add.29) includes demographic data, and historical background and information on the government structure and the legal framework for the protection of human rights.

Switzerland does not have one single system of justice but rather 26 different systems functioning at the cantonal level. Remedy for violations of human rights exists through administrative law as well as through an application for a "public law remedy" filed with the Federal Tribunal. The Federal Judicial Organization Act stipulates that an action may be applied for in the Federal Tribunal against a cantonal decision or judgement, once cantonal remedies have been exhausted, for a violation of the constitutional rights of citizens, international treaties (in some cases), the right of citizens to vote and the rights relating to cantonal elections and voting, and violations of directly applicable provisions of multilateral human rights conventions. The Constitution provides for, among other rights: equality before the law, the abolition of privileges, equality between women and men, right of ownership, freedom of trade and industry, the political rights of citizens, freedom of conscience and belief, freedom of the press, freedom of association, due process, the prohibition of special courts, the prohibition of corporal punishment and the abolition of the death penalty. The Federal Tribunal has interpreted the Constitution in such a way as to establish, as well, the rights to freedom of expression, freedom of person, freedom of language and freedom of assembly. Each canton also has its own constitution so that rights are elaborated at the cantonal level. Federal and cantonal constitutional provisions are supplemented by the European Convention on Human Rights. International human rights treaties form a part of federal law from the time they enter into force for Switzerland without need of adoption of special laws. The provisions of international treaties, however, are not directly applicable by national courts and are not, therefore, self-executing.

Economic, Social and Cultural Rights

Acceded: 18 June 1992.

Switzerland's initial report (E/1990/5/Add.33) has been submitted and is scheduled for consideration at the Committee's November/December 1998 session; the second periodic report is due 30 June 1999.

Civil and Political Rights

Acceded: 18 June 1992.

Switzerland's second periodic report is due 17 September 1998.

Reservations and Declarations: Paragraph 2 (b) of article 10; paragraph 1 of article 12; paragraph 1, 3 (d) and (f) and 5 of article 14; paragraph 1 of article 20; paragraph (b) of article 25; article 26; declaration under article 41.

Second Optional Protocol: Acceded: 16 June 1994.

Racial Discrimination

Acceded: 29 November 1994.

Switzerland's initial report (CERD/C/270/Add.1) has been submitted but is not yet scheduled for consideration by the Committee; the second periodic report was due 29 December 1997.

Reservations and Declarations: Article 4; paragraph 1 (a) of article 2.

Discrimination against Women

Signed: 23 January 1987; ratified: 27 March 1997.

Switzerland's initial report is due 26 April 1998.

Reservations and Declarations: Paragraph (b) of article 7; paragraph 1 (g) of article 16; paragraph 2 of article 15; paragraph 1 (h) of article 16.

Torture

Signed: 4 February 1985; ratified: 2 December 1986.

Switzerland's fourth periodic report is due 26 June 2000.

Switzerland's third periodic report (CAT/C/34/Add.6) was considered by the Committee at its November 1997 session. The government's report contains information on legal provisions related to physical integrity, psychological pressure, abuse of authority, and sexual integrity. Other legal information deals with subjects such as extradition, asylum, expulsion, applications filed with the European Commission of Human Rights, cases referred to the Committee against Torture, changes to the Criminal Code related to racial discrimination, cooperation with the ad hoc tribunals on the former Yugoslavia and Rwanda, the right of the defence and people held in pre-trial detention, basic training for prison personnel, conditions of and in prisons, and complaints filed in local or national courts concerning alleged violations of the Convention.

The Committee's concluding observations and comments (CAT/C/SWI) noted positively the prohibition in law of racial discrimination, the cooperation extended by the government and Parliament to the International Tribunals, changes in law to strengthen the rights of the defence and those held in preventive detention, and the establishment of a police medical centre, run by the University Institute of Forensic Medicine in Geneva, which assists police when necessary to take evidence of injuries to individuals under arrest or to police officers. The Committee also welcomed Switzerland's contributions to the UN Voluntary Fund for Victims of Torture.

The principal subjects of concern identified by the Committee were: frequent allegations of ill-treatment during arrest or in police custody, particularly by foreigners; the absence of independent mechanisms in all of the cantons to register and follow-up on complaints of ill-treatment; in some cantons, the absence of legal guarantees related to contact with a family member or lawyer on arrest, an examination by an independent physician during police custody or from the moment of appearance before a judge; the failure to provide and ensure a suspect's right to remain silent; and, the participation of physicians in facilitating the deportation or involuntary return of some foreigners.

The Committee recommended that the government:

- ▶ ensure the establishment of independent mechanisms in all cantons to receive complaints of ill-treatment during arrest, police custody and/or interrogation;

- ▶ harmonize the different laws in the cantons related to the penal procedure to ensure fundamental guarantees during police custody and incommunicado detention;
- ▶ ensure the right of suspects to have contact with defence counsel or a family member and to be examined by an independent doctor at the time of arrest, after each interrogation and prior to appearance before a judge or release from custody;
- ▶ include in the penal code the definition of torture set out in the Convention;
- ▶ investigate complaints of ill-treatment by public authorities, identify those responsible and apply appropriate sanctions;
- ▶ adopt legislative measures to guarantee the right to remain silent; and,
- ▶ investigate the allegations concerning the role doctors have played in cases of involuntary return.

Rights of the Child

Signed: 1 May 1991; ratified: 24 February 1997.

Switzerland's initial report is due 23 March 1999.

Reservations and Declarations: Articles 5 and 7; paragraph 1 of article 10; paragraph (c) of article 37; article 40.

THEMATIC REPORTS*Mechanisms of the Commission on Human Rights*

Religious intolerance, Special Rapporteur: (A/52/477, paras. 21, 25, 30, 38, 44)

The Special Rapporteur's interim report to the General Assembly notes that communications were sent to the government related to reports that in certain public schools in some cantons courses on the Church of Scientology describe the faith as a sect and that parents belonging to the Church have been refused permission to establish a private school. The government replied to concerns and provided information indicating that members of the Church of Scientology were not treated in a discriminatory way in comparison with other religious communities, particularly in the area of public and private education. The government's response also stated that representatives of the Church of Scientology had been able to secure enforcement of the rights they were claiming through legal means at the federal and cantonal levels.

Torture, Special Rapporteur on: (E/CN.4/1997/7, Section III; E/CN.4/1997/7/Add.1, paras. 474-476)

The report notes that three newly reported cases were transmitted to the government. Two of the cases related to Turkish Kurds who had been granted political refugee status and were arrested by police. Medical reports indicated both had been injured. The third case related to a Gambian national who was expelled and information indicating that the expulsion had followed arrest and ill-treatment while in custody. The reply from the government on these cases was received too late to be included in the addendum to the main report.

An urgent appeal was sent, in conjunction with the Special Rapporteur on the Sudan, on behalf of a Sudanese national who was refused political asylum and feared arrest and torture if returned to Sudan. The government indicated

that the Swiss authorities had found no evidence to substantiate the fears, the Swiss embassy in Khartoum would observe whether the return took place without incident and the person concerned was free to contact the embassy at any time.

Other Reports

Economic, social and cultural rights, Report of the S-G to the CHR: (E/CN.4/1997/17, para. 2, Section I)

The report of the Secretary-General cites information provided by the Swiss government, noting a bill adopted by Parliament on, *inter alia*, debt cancellation and measures to help alleviate the harmful social and ecological consequences of the economic crisis affecting many countries. The government pointed out that, in principle, contributions by Switzerland to debt-reduction are linked to the conditions: (a) measures must focus, in particular, on the least-developed countries (LDCs) and on countries where Switzerland is actively involved in cooperation for development; (b) the recipient country must be engaged on a medium-term economic reform programme which encourages broad participation by the population in development; (c) the country must possess a debt-management system; (d) the debt to be written off as a result of Switzerland's contribution and those by other countries must be sufficiently large for it to have a marked impact on the growth and development of the country concerned; and, (e) in debt buy-back, debt-conversion and similar operations, private creditors must be involved.

The government also referred to the fact that Switzerland is one of the major contributors to the World Bank's debt-reduction facility, which has made it possible to cancel almost 100 per cent of the commercial debt of eligible countries. Switzerland also participates in international operations to fund the arrears and current obligations of the poorest countries to multilateral institutions. The government noted that the Debt Initiative of the World Bank and IMF is aimed at the sustainable reduction of the debt of the most indebted LDCs.

International Decade of the World's Indigenous People: (E/CN.4/1997/101, para. 9)

The report of the High Commissioner for Human Rights notes that Switzerland has contributed to the Voluntary Fund for the Decade.

Minimum humanitarian standards: (E/CN.4/1997/77/Add.1, paras. 2, Section I)

The report of the Secretary-General refers to information provided by the government, referring to the Organization for Security and Cooperation in Europe (OSCE) and the fact that Switzerland, as the State presiding over OSCE in 1996, convened an informal open-ended ad hoc OSCE meeting on minimum standards of humanity in Vienna in February 1996. The need to prepare a declaration on minimum standards of humanity, on relations between such standards and international law, and on relations between international humanitarian law and the international law of human rights in the framework of such a declaration; and, on the content and recipients of the declaration. The government also noted that the purpose of the workshop (organized in Cape Town in September 1996 by the Nordic countries and South Africa in cooperation with the ICRC), was to raise awareness of the very serious violations of human rights and humanitarian law

which are committed by government authorities, armed groups or individuals in situations of internal disturbances, crises and tensions, including latent or low-intensity conflicts. The government expressed the view that, in light of such violations, there is an urgent need to promote the universal adoption of a political declaration concerning minimum standards of humanity applicable in all circumstances and at all times. The government expressed the hope that the UN Commission on Human Rights would mandate the Office of the High Commissioner for Human Rights to undertake an analytical study, jointly with the ICRC, of all matters related to minimum standards of humanity and that the study would be discussed at an open seminar, under the aegis of the Commission on Human Rights.

The government provided information on Swiss laws related to situations of public emergency or crises.

World Public Information Campaign on Human Rights (E/CN.4/1997/36, paras. 98)

The report of the Secretary-General notes that, in the context of activities for the Decade of the World's Indigenous People, in 1995, UNIS Geneva organized a round table discussion on the theme "UN 50 and the world's indigenous people" and, in 1996, in cooperation with the Centre for Human Rights, organized a screening of the film "The gene hunters", followed by a round table discussion on the issue of health and indigenous people.

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TURKEY

Date of admission to UN: 24 October 1945.

TREATIES AND REPORTS TO TREATY BODIES

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

Racial Discrimination

Signed: 13 October 1972.

Discrimination against Women

Acceded: 20 December 1985.

Turkey's fourth periodic report is due 19 January 1999.

Reservations and Declarations: Paragraphs 2 and 4 of article 15; paragraphs 1 (c) (d) (f) and (g) of article 16; paragraph 1, article 29; paragraph 1 of article 9.

Turkey's second and third periodic reports were submitted as one document (CEDAW/C/TUR/2-3) which was considered by the Committee at its January 1997 session. The Committee's concluding observations (CEDAW/C/1997/L.1/Add.5) welcomed Turkey's support for the adoption of an optional protocol to the Convention.

The Committee viewed positively a number of developments in Turkey, including: the draft law to amend the various articles of the Civil Code pertaining to family law, which will allow Turkey to withdraw its reservations; the government's intention to revise the Citizenship Law; the decision of the government to conclude bilateral agreements with other countries that would permit Turkish citizens, women and men alike, to keep their citizenship upon marriage to a foreign national; the legal guarantees of the equal right of

girls and boys to free education and training; the recommendation of the 15th National Council of Education to increase the compulsory and uninterrupted primary education to eight years; its decision to develop curricula and revise textbooks and teaching methods so that they are free of sex-based stereotypes and that gender-based prejudices are eliminated from educational programmes; the fact that women are entitled to the same employment opportunities as men; the participation of women in the labour force in different economic activities; the microcredit scheme and its impact in promoting women entrepreneurs; and, the commitments made by the government at the Fourth World Conference on Women that by the year 2000 it would: (a) reduce infant and maternal mortality rates by 50 per cent, (b) raise compulsory education to eight years, (c) eradicate female illiteracy; and, (d) withdraw the reservations to the Convention.

The Committee acknowledged factors and difficulties hindering full implementation of the Convention, including the reservations to articles 15 and 16, and difficulties arising from globalization, modernization and deeply rooted traditionalism which interplay strongly in the context of the status of women in Turkey. The Committee noted that Turkey is a secular country with a predominantly Muslim population under pressure from various political groups, and recognized the serious impact these pressures have on the condition of women, and the extent to which they serve to perpetuate the existing inequality between women and men and hamper the *de jure* and *de facto* implementation of the Convention.

The principal subjects of concern identified by the Committee were: the reservations to articles 15 and 16 of the Convention; the prolonged discussions and the resistance to the reform of the Civil Code; the fact that the General Directorate on the Status and Problems of women has no corresponding bodies at regional and local levels; the lack of an integrated and systematic approach by the national machinery and the relevant ministries to all areas covered by the Convention, in particular with regard to women in rural areas, vulnerable groups such as ethnic minorities, young women and women in prisons; and, the fact that various articles of the Penal Code, including those related to the abduction of single and married women and to adultery contradict paragraph (f), article 2 (laws constituting discrimination against women).

The Committee also expressed concern over: the fact that greater penalties are imposed for the rape of a woman who is a virgin; the practice of forced gynaecological examinations of women in the investigation of allegations of sexual assault, including of women prisoners while in custody; the provisions of the Penal Code that allow less rigorous sanctions or penalties for "honour killings"; the lack of special temporary measures to redress the situation of Kurdish women, who suffer double discrimination; the pervasive violence, in all its forms, perpetrated against women and girls and the inadequacy of legal and educational measures to combat this violence; the failure to take into consideration the Committee's general recommendation No.19 on violence against women and the UN Declaration on the Elimination of Violence against Women; the law which categorizes violence as a "crime against public decency and public order", noting that it contradicts the spirit of the Convention and contravenes the dignity of the person; the ineffectiveness of juridical and

educational measures to address violence within the family; the failure to take sufficient appropriate measures to prevent and combat the acceptance of male dominance and violence against women in rural as well as in urban areas, to beat women and to require silent obedience from them; and, the lack of concrete measures to prevent the high number of suicides among women victims of violence.

Concern was also expressed over: the fact that spousal consent is required for abortion; the existence of brothels regulated by law and the lack of information and statistical data about the phenomenon; the fact that Turkish political parties, trade unions and other public institutions are not sufficiently sensitive to the importance of the implementation of article 7 (participation in public life); the need for representation in decision-making bodies, including Parliament and the government, where the number of women is still very low; and, provisions in the Turkish Citizenship Law, stipulating that a Turkish woman who decides to assume the nationality of her foreign husband will lose her Turkish nationality.

Additional areas of concern included: the high level of illiteracy among women and girls, especially in the rural areas, the drop-out rates of girls in schools owing to family practices, early marriages and the prioritization of boys in school enrolment and other gender discriminatory practices in education; the clustering of women in higher education in areas regarded as "suitable for women"; the very low minimum age for employment, which contravenes relevant ILO Conventions; the high level of unemployment of migrant urban female workers, the lack of measures to integrate them in the labour markets and the persistent occupational segregation in lower paid jobs, impeding their upward mobility and further reinforcing discrimination against women in the labour market; the lack of legal literacy programmes to raise the awareness of rural women regarding their rights; and the high number of women in rural areas who work in family enterprises, meaning that their work is not recognized in the formal economy, they do not receive social security benefits and their access to health services is limited.

The Committee recommended that the government:

- ▶ review the Civil Code, particularly with regard to family law, with a view to removing the reservations to the Convention;
- ▶ review related provisions of the Penal Code in order to ensure women the full protection of the law on equal terms with men;
- ▶ educate women and men so that they share the obligations and responsibilities of family work and the rearing of children;
- ▶ establish programmes of information and training directed at both sexes to stop the perpetuation of traditional attitudinal and behavioural patterns and create awareness of women's rights as expressed in the Convention;
- ▶ exert serious efforts to address violence against women, especially domestic violence, through legislation and through comprehensive gender-sensitive awareness-raising and education for the public in general, and law enforcement agencies, such as judges, lawyers and police, in particular;

- ▶ establish battered women's shelters and provide them with adequate financial and human resources;
- ▶ address appropriately through law the practice of so-called "honour killings", based on customs and traditions;
- ▶ review critically the practice of virginity examinations in cases of alleged rape;
- ▶ investigate whether coerced virginity examinations have been carried out on women in the investigation of sexual attacks or abuses or in any other circumstances;
- ▶ review of the requirement of spousal consent to abortion;
- ▶ mobilize the media in support of advancing the status and the rights of women, including through non-sexist and non-stereotypical portrayal of women in the media and through programmes to address violence against women;
- ▶ make an effort to increase the number of women in the media, particularly in decision-making positions;
- ▶ monitor on an urgent basis the situation of minority women and make a systematic effort to ensure for them their full legal rights guaranteed by the Convention;
- ▶ initiate temporary special measures with numerical goals and timetables to accelerate de facto equality between women and men, in particular in the political sphere and the public sector;
- ▶ revise the Citizenship Law in order to give women equal rights with men in all areas of nationality law;
- ▶ continue support to female students in order to increase the rate of female university graduates and their participation in "non-traditional" fields;
- ▶ take adequate measures to provide skills training, retraining and credit facilities or other support services that would provide employment opportunities or self-employment for urban migrant workers;
- ▶ take adequate measures to correct occupational segregation through concrete measures and to provide the necessary protection to working girls to ensure their safety and healthy conditions of work;
- ▶ establish concrete training programmes aimed at increasing opportunities for women to avail themselves of microcredit programmes;
- ▶ take measures to recognize rural women's work in family enterprises for the purposes of pension entitlement;
- ▶ disseminate information related to rural women's rights that are contained in the Convention; and,
- ▶ compile current data and statistics on family planning methods, the use of such methods by men and women, and access to contraception disaggregated by age and sex.

Torture

Signed: 25 January 1988; ratified: 2 August 1988.
 Turkey's second periodic report was due 31 August 1993;
 the third periodic report was due 31 August 1997.
Reservations and Declarations: Declarations under articles 21 and articles 22.

Rights of the Child

Signed: 14 September 1990; ratified: 4 April 1995.

Turkey's initial report was due 3 May 1997.

Reservations and Declarations: Articles 17, 29 and 30.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on: (E/CN.4/1997/4, paras. 4, 5, 6, 8, 13, 14, 15, 17, 21; E/CN.4/1997/4/Add.1, Decisions 12, 27, 28, 40)

The main report notes that the Working Group transmitted to the government four urgent appeals on behalf of six individuals and two cases. The government responded to all the information and stated that the persons named in the urgent appeals had been released. The report notes that the government also responded to cases previously transmitted as well as to two decisions taken earlier by the WG. The government stated that the four people named in those two decisions had been released.

Decision 12 involved three cases: (1) the general president of Hava-Is trade union, arrested in May 1995 and convicted under Article 8 of the Anti-Terror Law (Law 3713) on the basis that he had expressed opposition to those working against the independence of the Kurdish people and thus demonstrated support for the PKK; (2) a female lawyer and executive board member of TOHAV (Foundation for Legal and Social Research) and secretary of the Istanbul Human Rights Association (HRA) branch, arrested without a warrant, and charged in March 1995 under Article 8 of the Anti-Terror Law of spreading "separatist propaganda" on the basis of an article she had written in September 1994; and (3) an employee of the local council and a board member of the Tunceli Human Rights Association (HRA), detained in March 1995, following an order to report to the police headquarters in Tunceli to give a statement, and held without charges.

The Working Group (WG) declared that, on the basis of the information received, the three individuals and the conviction and imprisonment of two of them, was the result of the fact that, as non-violent members of human rights associations, they had peacefully exercised their right to freedom of expression. The WG declared the detentions to be arbitrary.

Decision 27 concerned one individual who had been detained and was provisionally released on 17 November 1995. The WG therefore filed the case but reserved the right to re-open it should the person be detained again.

Decision 28 concerned a former deputy and chairman of the Party for Democracy and Renewal who was arrested in October 1995 and detained in Ankara Central Prison. He was charged with having disseminated propaganda against the indivisibility of the state in a speech made in May 1991 at the party congress of the Popular Workers' Party (HEP), convicted, and given a cumulative prison sentence of four years and eight months. The WG declared the detention to be arbitrary because it contravened articles 9 and 11 of the Universal Declaration.

Decision 40 arose from an initial review of the cases of six people which had been held pending until additional information on areas in which the trial of these individuals had not conformed with international norms regarding fair trial, and

in particular the rights of the defence and the principle of the independence of the judiciary. The report therefore notes additional information provided by the source asserting: the lawyers of the defendants received power of attorney only at the end of the inquiry and were therefore unable to follow the preliminary investigation and to examine the files prior to the trial; the principle of adversarial proceedings was not observed at the trial before the State Security Court, thereby preventing the defence from challenging the evidence presented by the prosecution and not having the right to produce evidence in favour of the defendants or to examine witnesses; the State Security Court does not offer sufficient guarantees of independence or, even more, of impartiality, because (a) its members are appointed by a restricted committee presided over by the Minister of Justice or his Counsellor, (b) under the Court's statutes judges have a mandate of four years but one of the judges, who is a member of the armed forces, has been serving on the bench since 1987 and, (c) the judicial inquiry is carried out by the Public Prosecutor's Office and by the Police, and not by an independent judge; and, on account of the above the State Security Court depends on the Executive and administers justice in a partial manner, in accordance with the government's interests. The WG considered that the shortcomings indicated by the source related to the right to a fair trial and constituted a violation of articles 10 and 11 of the Universal Declaration and of article 14 (1) and (2) of the ICCPR and were so grave as to confer on the deprivation of freedom an arbitrary character. The WG therefore declared the detention of the six individuals to be arbitrary.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1997/34, paras. 11, 12, 348-358)

The Working Group (WG) transmitted 12 newly reported cases of disappearance to the government, half of which were reported to have occurred during 1996. Seventy-eight cases remain to be clarified. Of all the cases handled by the WG, the majority occurred in south-east Turkey, where a state of emergency is in force, particularly in the context of clashes between Kurdish Workers' Party (PKK) guerrillas and government security forces. The report notes that the victims of the newly reported cases were all males, ranging in age from 18 to 62, and included members of political parties, villagers, a shop owner and a veterinary student. In most cases, the individuals had been detained while in their houses or in public places, forced into a police or military vehicle and were never seen again. In response to inquiries by family members or lawyers, the authorities denied that the person had ever been detained.

The report also notes that, in addition to the individual cases of disappearance, the WG continued to receive information indicating that as part of the effort to fight the PKK, harassment and attacks against civilians suspected of having links with the PKK were being committed and that there was a strong possibility that in the conflict between the government and the PKK, civilians not directly involved in the combat were becoming targets of both the Turkish security forces and the PKK guerrillas. In this context, the report notes that information has also been received about abuses committed by the PKK.

In the report the existence of a state of emergency is seen to be a major obstacle to the implementation of the Declaration on the Protection of All Persons from Enforced Disappearance since it has led to the excessive concentration of power in the hands of the authorities. Impunity is also noted as a contributing factor in the continuation of violations of human rights in Turkey and the report observes that although members of the security forces are mentioned as being responsible for most enforced disappearances, they are never brought to trial or prosecuted. Information has also indicated that: procedures set out in the Turkish Code of Criminal Procedure for the prompt and appropriate registration of detainees and notification of their families are disregarded in the south-eastern provinces; long detention periods are permitted under Turkish laws; under the Anti-Terror Law, suspects in the provinces under a state of emergency can be held in custody without access to their family, friends or lawyer for 30 days; an amendment to the Code of Criminal Procedure in 1992 which introduced the right of a defendant to have access to a lawyer at any stage of the proceedings, including custody, excluded terrorist offences from this provision.

The report summarizes the response of the government to the cases transmitted, stating that in five people had been released, in four other cases there were no records of the detention or arrest, two people appeared to have fled the country and one person had managed to avoid arrest.

The Working Group acknowledged that states may derogate from some human rights responsibilities in times of public emergencies but also stated that under article 7 of the Declaration, no circumstances whatsoever may be invoked to justify enforced disappearances.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1997/60, paras. 15, 16, 17, 18, 19, 22, 32, 33, 35, 46, 51, 52, 57, 64, 67, 68, 96; E/CN.4/1997/60/Add.1, paras. 478-502)

The report notes that the Special Rapporteur (SR) continued to receive allegations about violations of the right to life in Turkey and that half of them concerned violations of the right to life in the south-east part of Turkey. Victims included Kurdish villagers, students, journalists and members of political parties and the largest number of casualties reported appeared to be a result of killings during raids and military operations conducted against the Kurdish Workers Party (PKK). The report cites information indicating that, since the conflict started, thousands of Kurdish villages have been burned down and their inhabitants forcibly evicted, and more than 3,000 civilians have been killed. Information referring to links between persistent impunity in the country and the existence of a state of emergency also continues to be received and the report notes that the establishment of a state of emergency, in force in 10 provinces in south-east Turkey, has led to the excessive concentration of power in the hands of the authorities as illustrated by the fact that: decrees issued under the State of Emergency Law are immune from judicial challenge; some of the decrees have provided extensive powers to the regional governor of areas where a state of emergency is in force; Decree 430 of 16 December 1990 declares that no criminal, financial or legal responsibility may be claimed against such regional governors and no application shall be

made to any judicial authority; and, Decree 285 modifies the Anti-Terror Law in areas where a state of emergency is in force, stating that the decision to prosecute members of the security forces is not the competence of the public prosecutor but of local administrative councils, which are made up of civil servants with no legal education and under the influence of the regional or provincial governor who is also the head of the security forces.

The SR transmitted one urgent appeal to the government on behalf of some 200 prisoners in 16 Turkish prisons, all of them reportedly accused or convicted of politically motivated offences, after being informed that they had been on hunger strike for more than 57 days demanding better prison conditions and, in particular, requesting that ill-treatment and obstruction of medical treatment be stopped. Allegations were also transmitted regarding violations of the right to life of 37 identified individuals and 5 unidentified persons. The report notes that most of the extrajudicial, summary or arbitrary executions allegedly occurred in 1995 and 1996.

In response to the urgent appeal, the government replied that the hunger strike had been started by inmates detained for terrorist offences and that it was they who had denied access to the medical personnel trying to assist those in need of medical treatment. The government stated that, in the list of the strikers, 38 demands were elements that had nothing to do with prison conditions, such as the ending of security operations against terrorism, the right to receive prohibited printed material, and to have prisoner-of-war status. The government also responded to 42 cases that had previously been sent by the SR, variously indicating that: the individuals had died during clashes with security forces and that the allegations transmitted did not correspond to reality; the deaths had occurred during an exchange of fire with police and that police officers involved in the incident were awaiting trial; the allegations of violations of the right to life were factually incorrect and that the cases were under investigation; the police had no record of the people named and that no cross-border operations had been conducted on the date in question; judicial proceedings were under way against suspected assailants; the person named was serving a prison sentence for having provided shelter and assistance to members of the PKK; the person named had died during a clash but the investigation had concluded that the security forces were not responsible; the persons named had not been taken into custody on the dates mentioned; allegations were factually incorrect; the person named was killed while trying to escape; the persons named had died not as the result of the use of a chemical agent as alleged but during a clash with security forces; and, the case was still under investigation.

The report notes that the substantial difference between the information provided by sources and the replies of the government made it impossible for the SR to draw any conclusions as to the merits of the allegations. The report also notes that in 1995 the government agreed in principle to a visit by the SR but that a formal invitation had not yet been issued.

The SR concludes by: expressing concern about violations of the right to life committed by Turkish security forces against civilians in the attempt to fight the PKK guerrillas; acknowledging the difficulties faced by the government to

control violence caused by the PKK; recognizing that human rights abuses are also being committed by members of the PKK; reiterating that the right to life is absolute and must be respected even under exceptional circumstances; and, stating that governments must respect the right to life of all persons, including members of armed groups, even when they demonstrate total disregard for the lives of others.

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

The report notes that the Special Rapporteur (SR) visited Turkey from 20 to 25 September 1996. The report of that visit (E/CN.4/1997/31/Add.1) summarizes cases used by the SR as a basis for discussions with the Turkish government and shows that they generally involved parliamentarians, writers, publishers, journalists, editors and others working in fields related to human rights, such as the rehabilitation of victims of torture. In most cases the actions of the government derived from application of article 8 of the Anti-Terror Law and related to publications, statements and/or activities interpreted by the government as, for example, propaganda for an illegal organization, incitement to violence, threats to the security of the state and dissemination of separatist propaganda.

In the section dealing with national laws, the report notes that provisions of the 1991 Anti-Terror Law are susceptible to broad interpretation and therefore can and have been used to criminalize activities the state has characterized, without regard to intention or the ideas behind them, as aimed at damaging the indivisible unity of the state and at changing the characteristics of the Republic as defined by the Constitution (a unitary state). Concerns over the application of this law are balanced by recognition that the government has taken some steps toward the protection of the rights to opinion, expression, information, association and assembly. Among the measures noted are: establishment in 1990 of a parliamentary commission on human rights; organization of human rights courses and seminars for prison staff, police and civil servants; and repeal of laws banning the expression of communist ideas, religious propaganda and publishing in languages other than Turkish.

The report further notes the government's intention, announced in July 1996, to take measures to lift the state of emergency, eliminate obstacles to the right to seek justice, and implement measures to promote freedom of thought and expression. The report cites a government statement referring to the media in which the authorities declared that legislative arrangements to solve issues of the media will be worked out through consultation with voluntary organizations of the sector and will enable citizens to exercise their right to receive information fully. The government also asserted that any infringements on individual rights will be definitely prevented and that everything will be done to promote freedom of communication.

A general review of difficulties encountered in exercise of the right to opinion and expression include comments on: ownership of the press and media tending toward monopolization; death threats against persons seeking to participate in public affairs; heavily entrenched ideological positions derived from the divisive nature of the Kurdish question; and lack of freedom to express one's cultural identity. On the

question of cultural identity, the SR observed that the crux of the issue of cultural identity and freedom of expression lies in the adequacy of existing legislative safeguards and the depth of the political support for universally recognized human rights in Turkey. The SR then stated that a distinction should consistently be made between incitement to hatred and the use of violence on the one hand, and non-violent calls for greater liberty in the assertion of a specific cultural identity on the other. The report notes that in Turkey, too often, no attempt is made to distinguish clearly between the two with the result that an opinion that expresses a degree of understanding for terrorist violence or tries to explain reasons for that violence, without simultaneously and expressly condemning it, risks being considered an act in praise of a felony or an incitement to disobey the law.

In the section dealing with conclusions and recommendations, the report acknowledges that the government has taken some steps towards greater protection of the right to opinion and expression. The section also notes, however, continuing concerns and cites credible case information on violations that include: death or torture of press professionals while in police custody; threats and harassment of writers, journalists and human rights advocates and persecution of them for the expression of non-violent opinions; use of disproportionate violence against journalists and protesters during demonstrations; intimidation of human rights advocates and victims of and witnesses to human rights violations; regular occurrence of suspension of media and seizure of newsprint; and, lack of precision in laws and rules of proof used by courts to justify restrictions on the right of opinion and expression.

The recommendations focus on the following areas:

- ▶ further amendments to national laws and revisions to administrative and policy measures to require courts to explain more directly the motivation for any restriction on the rights to freedom of opinion and expression;
- ▶ annulment of convictions of persons solely for the peaceful expression of their opinions;
- ▶ explicit justification in court proceedings for practices such as banning of books, seizure of newsprint, closure of media outlets and punishment of persons considered a threat to national security through the exercise of rights to freedom of opinion and expression;
- ▶ establishment of a national human rights commission, apart from and independent of the parliamentary commission; and
- ▶ translation into Turkish and wide dissemination of the Special Rapporteur's report.

The report concludes by noting that Turkey is a party to the European Convention, the government has agreed to the compulsory jurisdiction of the European Court, and, finally, that some 800 individual complaints have been filed under the European Convention.

Independence of judges and lawyers, Special Rapporteur on the: (E/CN.4/1997/32, paras. 15, 20, 165–169)

The report reviews cases transmitted to the government, including that of the former Chairman of the Balikesir Bar Association who had been charged with "insulting the laws of the Republic" on the basis of an article he had written which

was included in a book published by the Human Rights Foundation of Turkey (HRFT). The report notes that the charge and trial are an unwarranted restriction on the duty of lawyers to take part in public discussions of matters concerning the law. A second case related to a lawyer and board member of the Hakkari branch of the Turkish Human Rights Association (HRA) who was detained without warrant and released after several hours. The report notes that during his detention his house and the offices of the HRA were searched and that information received indicated the actions were taken against him solely because of his activities as a human rights lawyer. The report notes that since his release, the lawyer was reported to have received death threats.

The government's response to the first case asserted that excerpts of the published article showed that it was an open attempt to degrade and insult Turkish law and the Constitution which is an offence and, on that basis, the trial was not aimed at the exercise of the freedom of expression concerning the law, the administration of justice, or the promotion and protection of human rights. The government also stated that the lawyer had not complied with Principle 23 of the Basic Principles on the Role of Lawyers stipulating that lawyers should always conduct themselves in accordance with the law and the recognized standards and ethics of the legal profession. On the second case, the government asserted that grounds for the detention had been found in documentary evidence, gathered during operations previously conducted by the security forces, which indicated that the individual had provided financial assistance to the PKK. The additional searches had not provided more evidence and the person had been released after interrogation.

The SR has requested an invitation from the government to visit Turkey.

Racial Discrimination, Special Rapporteur on: (E/CN.4/1997/71, para. 40)

The report provides the text of information submitted by the government on measures to end manifestations of racism. The government stated that: domestic laws should be harmonized to deter and severely punish offences committed with racist motivations; similar deterrent elements should be put into effect in the administrative domain, such as harsh penalties for government agents who are involved or acquiesce in racist activities or who condone or do not intervene to prevent such activities; training should be provided to government agents, such as the police and customs officials, who frequently have to deal with foreigners, emphasizing racism and other related ills; special assistance should be provided for the redress and rehabilitation of victims of racist attacks; a UN voluntary fund should be established for victims of racism; abhorrence of racism in all its forms and manifestations, with special emphasis on concrete examples from history, must be included in educational curricula in a manner which takes into account the levels, age and specialization of the students; and, similar courses must be incorporated into professional training, particularly for security and customs personnel.

Religious intolerance, Special Rapporteur on: (E/CN.4/1997/91, paras. 9, 17, 20, 23, 25, 51, 58, 66)

The report notes that religious intolerance has been reported in Turkey with regard to Christianity, Islam and

Judaism and has been manifested in various ways, including through bureaucratic obstacles to the acquisition of property by certain religious communities and attempted extortion. The report comments on the situation of the Muslim minority in western Thrace, noting problems related to the way "muf-tis" are appointed, the way religious property is managed, and the status of religious and mother-tongue instruction. The report notes that the status of the Muslim minority in western Thrace is intrinsically both a religious and a political question in which religion is often turned to political ends. The report states the view of those living in the area that the Muslim minority is a hostage to relations between Greece and Turkey in which Turkey regards them as political pawns and Greece pays little heed to the community, which has long been subjected to both visible and latent forms of intolerance. The report states that the fate of the Muslims in Thrace is still bound up with that of the Greek minority and Orthodox Patriarchate in Constantinople, which are said to suffer intolerance and discrimination in Turkey.

The Special Rapporteur's interim report to the General Assembly (A/52/477, paras. 10, 21, 25, 28, 33, 34, 38, 51, 60) notes that communications were sent to the government related to: violations of religious freedom against Christians; the imposition of controls on and interference with the religious activities of all or certain religious groups or communities; and, the expropriation by a municipality of part of a Christian cemetery in order to widen a road despite opposition by the church and the fact that some graves were reported to have been profaned during the operation. The government response to communications previously transmitted is summarized as stating: non-Muslim minorities enjoy the rights guaranteed in the Constitution; investigations were under way into reports of attacks against non-Muslim places of worship; the allegation that properties of the Armenian Church had been confiscated was not confirmed by the authorities; a change in the legal status of the Halki Theological School made it impossible for the academy-level school to continue its activities; and, the allegations of discrimination against the Alawites were baseless.

The SR has requested an invitation to visit Turkey. The request is being considered by the government but an invitation has not yet been issued.

Sale of children, child prostitution, child pornography, Special Rapporteur on the: (E/CN.4/1997/95, para.56)

The report notes that the trafficking in Romanian girls is generally towards countries in southern Europe, including Turkey.

Torture, Special Rapporteur on: (E/CN.4/1997/7, Section III; E/CN.4/1997/7/Add.1, paras. 488-528)

The Special Rapporteur (SR) advised the government of information received indicating that examinations conducted by state-appointed doctors of the Forensic Medicine Institute appeared to be flawed, were often carried out in the presence of soldiers or police officers from the units responsible for the original interrogation under torture and perfunctory and, in a number of cases, resulted in misleading certificates being produced. The report notes that the government characterized the information as being devoid of any element of truth and stated

that the Ministry of Health had taken measures to ensure that medical reports were safely transmitted to the prosecutor and that their contents were withheld from security personnel. The government also asserted that it attached great importance to the prevention of ill-treatment during periods of detention in cases handled by the State Security Courts (SSC) and cited initiatives it had taken to reinforce human rights protection, including a written directive issued by the Prime Ministry stipulating that: under no circumstances may suspects be subjected to ill-treatment; during detention, all time limits and measures prescribed by law shall be strictly observed; interrogation methods should be consistent with those used in European countries and the United States; all medical reports shall be drawn in strict conformity with the circulars issued by the Ministry of Health; suspects shall have access to legal counsel as per relevant laws; police detention centres shall be controlled periodically; all detainees shall be registered; detainees shall be placed in sufficiently large units conforming to health standards; all law enforcement officials who ill-treat detainees shall immediately be subjected to legal action; all governors and security authorities shall constantly supervise their subordinate police departments and inform the Ministry of Interior of the result of their controls so as to ensure strict adherence to these measures.

The report refers to information transmitted to the government by the SR, jointly with the Chairman of the Board of the UN Voluntary Fund for Victims of Torture, about the prosecution of officials of the Human Rights Foundation of Turkey (HRFT), a non-governmental organization operating four torture rehabilitation centres. The charges against those running two of the centres related to operation of a rehabilitation centre without licensing from the Department of Health and failure to notify the judiciary or police magistrate that 167 patients examined by the doctor had claimed to have been subjected to torture and failure to make information about those patients available when requested to do so by the Public Prosecutor. The report also notes that notice was reportedly served upon HRFT by the head of the Department for Annexed and New Foundations that the organization was to be investigated for "collaboration" with various non-governmental and intergovernmental agencies, including the UN Voluntary Fund for Victims of Torture, without having obtained permission from the authorities.

Notwithstanding the government's responses to the information transmitted, the SR expressed continuing concern at the apparently widespread practice of torture in Turkey and referred to a public statement issued at the end of 1996 by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), namely that "resort to torture and other forms of severe ill-treatment remains a common occurrence in police establishments in Turkey. To attempt to characterize the problem as one of isolated acts of the kind which can occur in any country-as some are wont to do-is to fly in the face of the facts".

The report notes that the government has not invited the SR to visit Turkey.

The individual case information provided in the addendum to the main report catalogues forms of torture and ill-treatment including: incommunicado detention, beatings, electric shocks, food deprivation, death threats, soaking with pressurized water, sexual assault, rape, hanging by the arms, sexual assault with a truncheon, constant playing of loud

music and blindfolding. The majority of the case iterations conclude with the statement that reports issued by the Forensic Medicine Institute state that torture and/or ill-treatment had not occurred.

Toxic wastes and products, Special Rapporteur on:
(E/CN.4/1997/19, para. 59)

The report refers to three power plants in Mugla region operated by the Ministry of Energy and TEAS (Turkish Electricity Authority). The report suggests that the installations may be responsible for polluting the whole region with toxic emissions and acid rain and notes practices including the discharge each year of some 700 tons of uranium into open piles of ashes. The report notes information indicating that: in 1993 lawsuits were brought before the Regional (Aydin) Administrative Court in order to stop the environmentally hazardous activities of the three power plants; the Aydin Administrative Court decided to stop them; and, the Turkish Council of Ministers decided to allow the plants to continue to operate despite the decision of the court.

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 a state of emergency is currently in force in 10 provinces in south-east Anatolia.

Other Reports

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

The note by the Secretary-General reproduces information provided by the government in which reference is made to: the resolutions on human rights and terrorism adopted by the General Assembly and the Commission on Human Rights; the weight and responsibility of terrorists in human suffering throughout the world; inclusion by the International Law Commission, in the draft Statute for the International Criminal Court, of terrorism among "crimes against humanity" when manifested as systematic and widespread killings; the statement in article 30 of the Universal Declaration that non-state actors such as groups and persons may indeed violate human rights; in response to the resolution adopted by the Commission, human rights mechanisms operating under the UN have no alternative but to acknowledge the fact that terrorist groups indeed violate human rights; the statement in the Vienna Declaration and Programme of Action (VDPA) recognizing the right of peoples to take "legitimate action" to realize their right to self-determination and the view of the government that terrorism is not a "legitimate" kind of action; and, a second statement in the VDPA declaring that the right to self-determination cannot be invoked to dismember or impair the territorial integrity or political unity of sovereign and independent states in which the government represents the whole people without any distinction.

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

At its 1997 session the Sub-Commission considered a resolution on the situation in Turkey (E/CN.4/Sub.2/1997/L.2). The resolution, *inter alia*: noted the international human rights instruments to which Turkey is a party; welcomed amendments to the Constitution and the Anti-Terror Law of

1991; welcomed adoption of new provisions to reduce periods of pre-trial detention, ensure the right of the detainee to legal assistance during pre-trial questioning, limit the competence of the State Security Courts and establish the Human Rights Coordinating Committee; welcomed the invitation to the Working Group on Enforced or Involuntary Disappearances to visit Turkey by the end of 1997 and to the Special Rapporteur on the question of torture to visit the country by the end of 1998; expressed concern at continuing reports of systematic torture and ill-treatment, extrajudicial executions, forced evictions, the destruction of villages, and arbitrary arrests and imprisonment of individuals exercising their right to freedom of expression; expressed concern that measures in the legal and regulatory framework to combat torture have been ignored in practice and persons responsible apparently enjoy impunity; condemned human rights abuses and violations of humanitarian law by the Kurdish Worker's Party (PKK); stated that such abuses by armed opposition groups and terrorist acts should not provide the occasion or excuse for violations of non-derogable human rights and international humanitarian law; called on the government to ensure thorough and impartial investigations into all allegations of human rights violations and bring the perpetrators to justice, ensure that human rights and health organizations are free and able to perform their professional functions without intimidation, hindrance, harassment, or improper interference, provide access for and cooperate with a recognized humanitarian body in protecting the rights of detainees throughout the country and contributing to the protection of the civilian population in the south-east of the country, invite the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Working Group on arbitrary detention to visit the country and permit independent investigation of reports that the PKK has committed violations of humanitarian law and abuses of human rights; recommended that the CHR consider the situation of human rights in Turkey at its next session; and, decided that if the CHR is unable to take action on the situation in Turkey, to continue consideration of the matter at its 1998 session.

The vote was conducted by secret ballot and the resolution was rejected with 14 votes opposed, 8 in favour and 3 abstentions.

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UNITED KINGDOM

Date of admission to UN: 24 October 1945.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: The reports prepared by the government for the treaty bodies (HRI/CORE/1/Add.5/Rev.1; Overseas Dependent Territories: HRI/CORE/1/Add.62) contain demographic and statistical information, and information on the political and judicial systems.

In terms of human rights and in the absence of a written constitution or Bill of Rights, the assumption is that rights and freedoms are an inherent part of being a member of society. Parliament's role, therefore, is not to confer rights but rather to consider whether they need to be restricted balancing the needs of society against those of the individual. Remedies, compensation and rehabilitation include access to legal aid, compensation for wrongful conviction or detention,

compensation by the offender to the victim and the right to sue through civil courts for damages. International human rights treaties and conventions are not incorporated directly into domestic law but, rather, changes are made to domestic law when needed to ensure that it conforms with and gives effect to the treaties and conventions the U.K. has signed and/or ratified.

Specific institutions for the protection of human rights have been established under the Sex Discrimination Act 1975 (Equal Opportunities Commission), the Race Relations Act 1976 (Commission for Racial Equality), the Data Protection Act 1984 (Data Protection Registrar) and the Police and Criminal Evidence Act 1984 (Police Complaints Authority).

The core document prepared by the U.K. government on its overseas dependent territories and Crown dependencies includes information on Anguilla, Bermuda, British Virgin Islands, Cayman Islands, Falkland Islands, Gibraltar, Montserrat, Pitcairn, St. Helena, Turks and Caicos Islands, Isle of Man, Bailiwick of Jersey, and Bailiwick of Guernsey. In addition to statistical data, each entry summarizes information on the system of government, the law and the general legal framework for the protection of human rights.

Economic, Social and Cultural Rights

Signed: 16 September 1968; ratified: 20 May 1976.

The U.K.'s fourth periodic report is due 30 June 1999.

Reservations and Declarations: Paragraph (a) (i), article 7; paragraph 3, article 2; article 6; paragraph (a) (i), article 7; article 9; paragraph 2, article 10; paragraph 2, article 13; and article 14.

The U.K.'s third periodic report (E/1994/104/Add.11) was considered by the Committee at its November/December 1997 session. The report prepared by the government provides information related to articles 1 through 15, including in areas such as: employment policy; training services and programmes; equal opportunity and discrimination; fair wages and equal remuneration; work safety and health; health and medical services; social security; protection of the family and protection of maternity; children and young persons; food and nutrition; housing and land; education and schools; and environment, science and technology.

The Committee's concluding observations and comments (E/C.12/1/Add.19) welcomed new initiatives by the government, including *inter alia*: "welfare to work" designed to provide enhanced opportunities for sustained employment and to break prolonged dependency on welfare; the proposal to enact the European Convention of Human Rights into domestic legislation; the proposal to introduce a national minimum wage; the commitment to ratify the Treaty of Amsterdam, and the resulting application of the European Social Charter in the U.K.; the proposal for a "new deal" to give positive support through Training and Enterprise Councils, and job subsidies to the private sector to provide additional employment opportunities, with increased targeting of ethnic minorities who suffer from above average rates of unemployment; the establishment of the Disability Rights Commission; and the new policy for a programme of life-long learning to assist, in particular, the functionally illiterate. The Committee also welcomed: the significant progress made to meet the educational needs of the travellers communities and

gypsies and adoption of the Hong Kong Order 1997 which entitles Hong Kong citizens who are not allowed to acquire Chinese nationality to receive British citizenship.

In considering factors and difficulties hindering implementation of the Covenant, the Committee noted that some of the most vulnerable segments of society continue to face economic and social difficulties and that the government's ability to alleviate these difficulties is impaired by its self-imposed budgetary constraints.

The principal subjects of concern identified by the Committee were, *inter alia*: the unacceptable levels of poverty among certain segments of the population, particularly in Northern Ireland; the uneven distribution of the economic benefits of recent gains in prosperity; the fact that the government limits access to free legal aid with respect to a number of economic and social rights; the government's position that, with certain minor exceptions, the provisions of the Covenant constitute principles and programmatic objectives rather than legal obligations and that, as a consequence, the provisions cannot be given legislative effect; the failure to incorporate the right to strike into domestic law; the legally accepted practice of allowing employers to differentiate between union and non-union members by giving pay raises to employees who do not join a union; the significant degree of de facto discrimination against women, blacks and other ethnic minorities; the persistence of a substantially higher rate of unemployment among blacks and other ethnic minorities and their disproportionate numbers in lesser paid jobs; the rate of unemployment among Catholics in Northern Ireland; an increasing incidence of child abuse in foster homes; the serious incidence of domestic violence against women; that waiting lists for surgery can be 18 months or longer; that corporal punishment continues to be practiced in schools which are privately financed and that the government does not intend to eliminate the practice; that homelessness remains a problem and vulnerable groups such as travellers and ethnic minorities do not receive sufficient protection against evictions; that the educational structure in Northern Ireland is heavily segregated between Protestant and Catholic schools despite reports that approximately 80 per cent of parents in Northern Ireland would prefer to send their children to integrated schools; and, the fact that the Irish language in Northern Ireland does not appear to receive the same degree of financial support and status as Gaelic in Scotland and Welsh in Wales.

The Committee recommended that the government:

- ▶ take appropriate steps to introduce into legislation the Covenant on Economic, Social and Cultural Rights, so that the rights set out may be fully implemented;
- ▶ target social assistance more carefully to alleviate poverty among those suffering from long-term unemployment, those whose overall revenue is low and those who are unable to work;
- ▶ make further efforts to extend benefits to the approximately one million persons who qualify and do not apply to receive them;

- ▶ establish in legislation the right to strike and abolish the right of employers to grant financial incentives to employees who do not join unions;
- ▶ take more effective steps to combat de facto discrimination, particularly against blacks and other ethnic minorities, women, and Catholics in Northern Ireland;
- ▶ reconsider the policy and procedures for placing large numbers of children in foster homes, in light of the reported increase of abuse of children as a result of this policy, and examine the feasibility of more use of effectively supervised children's homes if in the best interest of the child;
- ▶ include in the next report information on measures taken to combat the phenomenon of violence against women and update analysis of which measures appear to yield the best results in dealing with this problem;
- ▶ take immediate steps to reduce the waiting time for surgery;
- ▶ take appropriate measures to eliminate corporal punishment in those schools in which this practice is still permitted, i.e. privately-financed schools;
- ▶ consider appropriate measures in Northern Ireland to facilitate the establishment of additional integrated schools in areas where a significant number of parents have indicated their desire to have their children enrolled in such schools;
- ▶ undertake closer monitoring of the incidence of homelessness and forced evictions and provide statistics on this issue in the periodic report;
- ▶ formulate uniform defined criteria for school exclusions and report on what government programmes, if any, exist to facilitate the insertion of excluded young people into alternative training or apprenticeship programmes;
- ▶ accord the same degree of support and status to the Irish language in Northern Ireland as to Gaelic in Scotland and Welsh in Wales; and,
- ▶ consider a requirement that a Human Rights Assessment or Impact Statement be made an integral part of every proposed legislative or policy initiative on a basis analogous to Environmental Impact Assessments or Statements.

Civil and Political Rights

Signed: 16 September 1968; ratified: 20 May 1976.

The U.K.'s fifth periodic is due 18 August 1999.

Reservations and Declarations: Paragraph 3 (d) of article 14; paragraph 4 of article 23; paragraphs (2) (b) and (3) of article 10; paragraph (2) (a) of article 10; article 11; paragraph 1 of article 12; paragraph 4 of article 12; paragraph 3 (d), article 14; article 20; paragraph 3, article 24; declaration under article 41.

Racial Discrimination

Signed: 11 October 1966; ratified: 7 March 1969.

The U.K.'s 15th periodic report is due 6 April 1998.

Reservations and Declarations: Paragraphs (a), (b) and (c), article 4; and articles 6, 20 and 15.

The U.K.'s 14th periodic report (CERD/C/299/Add.9) was considered by the Committee at its March 1997 session. The report prepared by the government provides information related to articles 2 through 7 and article 14 and includes commentary on implementation of the Convention in the Crown Dependencies as well as dependent territories overseas. There are three points of focus in the report: the Asylum and Immigration Act 1996; the introduction of anti-discrimination legislation in Northern Ireland; and information on the development of plans to improve the economic and social conditions of ethnic minority groups throughout the United Kingdom. Commentary is provided on legal and administrative provisions related to racial discrimination, including the Race Relations Act 1976 which makes racial discrimination generally unlawful in the fields of employment, education, housing and the provision of goods and services, and the Asylum and Immigration Act. Commentary is also provided on bodies such as the Commission for Racial Equality, the inter-departmental Racial Attacks Group which was established in 1987 and focusses on ensuring that the response to racially motivated crimes and harassment is as uniform and effective as possible, the Ethnic Minority Advisory Committee, and the Racial Incidents Standing Committee which considers a wide range of racial problems and publishes examples of good practice between and within agencies at a local level. Other areas covered in the report include but are not limited to: the problem of racial disadvantage; attacks on Jewish organizations; police-community relations; deaths in custody; racial incidents; religious discrimination; employment and training, housing, social security and education.

The Committee's concluding observations (CERD/C/304/Add.20) state that the failure to incorporate the full substance of the Convention into domestic law, and restrictive interpretations given to article 4 (hate speech, racist organizations) may impede full implementation of the Convention.

The Committee welcomed measures taken to increase participation of members of ethnic minorities in public and government office and the police. Other measures welcomed included: adoption of the Housing Act 1996 to combat racial discrimination in housing; establishment of programmes for inspection and supervision of detention in police stations by members of local communities; changes to the code of practice regulating police powers and procedures related to stop and search exercises; creation of a Racial Incidents Standing Committee to implement the report of the Racial Attacks Group to combat racially motivated incidents; and, adoption of a 10-point action plan to assist ethnic minority pupils.

Among other measures welcomed by the Committee were: seminars and training programmes for judges, magistrates and law enforcement officials; public information campaigns against racial discrimination; adoption of the Race Relations (Northern Ireland) Order 1997, outlawing racial discrimination in employment, training, education, housing and provision of goods and services; development of draft model legislation in Anguilla, Bermuda, British Virgin Islands, Falkland Islands and Saint Helena to prohibit racial discrimination; adoption of the British Nationality (Hong Kong) Bill, granting the right of ethnic minorities in Hong Kong with no other nationality to be registered as full British citizens; provision of equal status of Chinese and English in Hong Kong courts at all levels; and, in Hong Kong, education

for Vietnamese migrant students up to the secondary level and provision of education free of charge to all Vietnamese children in detention centres.

The Committee reiterated its concern that the provisions of the Convention have not been fully incorporated into domestic law and, thus, that individuals have no protection against discriminatory practices not specifically prohibited by Parliament. With regard to article 4 of the Convention, the view was expressed that the U.K.'s interpretation of provisions is in conflict with its obligations under article 4 (b) to prohibit organizations that promote and incite racial discrimination. The Committee noted that the race relations legislation concerning Northern Ireland contains two exemptions, public order and public safety, in addition to those already stipulated in the Race Relations Act 1976; and, further, that bodies working in the areas of health, education, social services, planning and housing do not have the same positive duty to eliminate discrimination as local authorities in Britain. Also in terms of Northern Ireland, the Committee expressed concern at the failure to incorporate questions on racial or ethnic origin in the census questionnaire on the basis that identification of minority groups and analysis of their status are preconditions for identifying difficulties they encounter, determining whether those difficulties are rooted in racial discrimination and evaluating the need to adopt specific measures, laws and regulations to overcome those difficulties.

The Committee remained concerned at instances of racial discrimination in the areas of employment in both the public and private sectors, particularly with respect to professional promotions, housing and education, the stop and search powers of police, and occurrences of ill-treatment by the police. The Asylum and Immigration Act 1996 was also cited as a concern to the extent that some of its provisions may be detrimental to the protection of asylum seekers against racial discrimination. Two provisions are identified as particularly worrisome. The first relates to the power of authorities to consider *a priori* a claim to be unfounded and the application of this procedure on claimants from countries the U.K. has designated as not giving rise to a serious risk of persecution. The second concerns the lack of a right of appeal in cases where asylum seekers are sent back to certain safe third countries. The Committee allowed the possibility that the Asylum and Immigration Act, in its effect, may be contrary to the Convention.

Having welcomed the decision of some of the Dependent Territories and Crown Dependencies to consider adoption of legislation on racial discrimination, the Committee noted with concern that the authorities in other such Territories and Dependencies had decided that no legislation was required on the ground that racial discrimination does not exist in those territories.

The Committee recommended that the government:

- ▶ consider incorporating all provisions of the Convention into domestic legislation, including article 4;
- ▶ incorporate questions relating to ethnic and racial origin on the census forms in all the territories within its jurisdiction;

- ▶ pay close attention to the issue of deaths in police custody and monitor the conditions and treatment of those detained in police stations;
- ▶ include in its next report a review of the number of cases opened under the Race Relations Act 1976 and their outcomes, and information on the number of prosecutions for offences of a racist character as well as sentences imposed in representative cases; and
- ▶ monitor closely implementation of the Asylum and Immigration Act to avoid discrimination against certain categories of asylum seekers and establish that the Act does not nullify or impair the rights set out in the Convention.

The Committee also recommended that the authorities in Guernsey, Jersey, the Isle of Man, the Cayman Islands, Montserrat, and the Turks and Caicos Islands consider adopting specific legislation prohibiting racial discrimination.

Discrimination against Women

Signed: 22 July 1981; ratified: 7 April 1986.

The U.K.'s fourth periodic report is due 7 May 1999.

Reservations and Declarations: General declaration; paragraph 4 of article 15; article 9; article 11; paragraph 5 of article 15; and, paragraph 1 (f) of article 16.

Torture

Signed: 15 March 1985; ratified: 8 December 1988.

The U.K.'s third periodic report was due 6 January 1998.

Rights of the Child

Signed: 19 April 1990; ratified: 16 December 1991.

The U.K.'s second periodic report is due 14 September 1999.

Reservations and Declarations: General declaration; article 32; and, paragraph (c) of article 37.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Extrajudicial, summary or arbitrary executions, Special Rapporteur on: (E/CN.4/1997/60, paras. 17, 18, 19, 32, 67; E/CN.4/1997/60/Add.1, paras. 523–542)

The Special Rapporteur (SR) acted on information indicating that, in recent years, the number of deaths in police custody and in prison in the U.K. had increased and that, in a number of cases, violence by the police at the time of arrest appeared to have contributed to the death in custody. The information received also indicated that Afro-Caribbean people were markedly over-represented among those who died in custody and, in general, in very few of the cases of death in custody were criminal charges brought or officers disciplined. The report also points out that the coroner's inquest procedure in Northern Ireland is significantly narrower than that in England and Wales. Juries in England and Wales are permitted to reach verdicts such as "unlawful killing", whereas in Northern Ireland they are only allowed to make findings on the identity of the deceased and how, where and when the death occurred.

Nine cases of death in custody were transmitted to the government by the SR and were characterized by: failure of police to notice a serious head injury; failure to provide

proper medical attention to a detainee who had taken an overdose of paracetamol; death in custody from postural asphyxiation; death within an hour of arrest; death of A detainee who had spent nearly 24 hours in a body belt; death from asphyxiation and death from asphyxia following restraint. A case in which the victim was reportedly run over and killed by an armoured personnel carrier operated by the British army during a riot in Londonderry was also referred to the government.

In addition to responding to the specific cases referred to it by the SR, the government replied in detail to general allegations that had been transmitted in 1996. The government stated that deaths in police custody had decreased, but acknowledged that deaths in the custody of the Prison Service had increased. The government informed the SR that, in 1994, the Prison Service had launched a strategy on caring for the suicidal in custody. It denied that many of the deaths in custody could have been prevented by proper medical attention, and that violence at the time of arrest is a contributory factor to deaths in custody. In response to the allegation that there exists a link between ethnic origin and the occurrence of death in custody, the Government informed the SR that the police would start recording the ethnic origin of those who die in police custody as of 1996. In respect to persons who die in Prison Service custody, the Government advanced figures indicating that the deaths of Black and Asian prisoners are proportionate to the numbers of Black and Asian prisoners within the prison system.

The government response to the question of the practice and procedure of inquests in Northern Ireland pointed out that differences with England and Wales are procedural. The government maintained that the procedural differences do not fundamentally affect the function of an inquest, which is to establish the facts surrounding a death and not to express opinions on criminal and civil liability. The government informed the SR that, as of October 1996, there were no plans to change the current system.

The SR welcomed the decision that the police will record the ethnic origin of those who die in police custody in the future. In terms of the question of the way in which inquests function, continuing concern was expressed, noting that, contrary to the government's statement, the power of juries in England and Wales to return a verdict of "unlawful killing" seemed to assume the function of determining criminal or civil liability. The SR also stated that there was no apparent reason for maintaining differing procedures in Northern Ireland, on the one hand, and in England and Wales, on the other.

Independence of judges and lawyers, Special Rapporteur on: (E/CN.4/1997/32, paras. 170–179)

In his 1996 report the Special Rapporteur (SR) had expressed concern over comments by ministers and/or highly placed government personalities on decisions of the courts made on judicial review of administrative decisions of the Home Secretary (E/CN.4/1996/37, para. 226). The 1997 report summarizes points raised during an extended debate in the House of Lords in June 1996 on the relationship between the judiciary, the legislature and the executive. The key focus of the debate was the role of judges in the development of the law, their independence and the extent to which judges should participate in public discussion of developments in the law. The report notes that the SR had not received any specific

allegations that the independence of any particular judge was threatened and his concern related more to the threat to the institutional independence of the judiciary. The SR concluded, on the basis of the debate, that any legislative attempt to restrict judicial review will be strongly resisted, at least in the House of Lords.

The report recalls that the SR's 1996 report also referred to information he had received with regard to difficulties encountered by "high risk" prisoners in obtaining access to legal advice/representation. The 1997 report provides additional information on this issue alleging that there were attempts to restrict lawyers' access to their clients in Northern Ireland police stations and English prisons, the judiciary and government-appointed functionaries had failed to uphold lawyers' rights, and proposals had been made which that would allow clandestine surveillance of lawyers' offices. The Independent Commissioner for the Holding Centre for Northern Ireland replied to the SR's concerns indicating that he might favour an independent investigation into the nature and extent of any intimidation of defence lawyers. The Chairman of the General Council of the Bar of Northern Ireland also responded to the information sent by the SR. In light of the information received from non-governmental sources and the responses from the authorities, the SR noted that consideration is being given to seeking from the government an invitation to visit Northern Ireland for an *in situ* investigation into the allegations he has received.

Mercenaries, Special Rapporteur on the use of: (E/CN.4/1997/24, para. 15)

The Special Rapporteur had requested from the U.K. government details on Executive Outcomes (EO), a British and South African registered security company, and its activities in Sierra Leone. The government's reply covers EO's affiliation with a number of companies (mining, airlines) operating in Sierra Leone and claims that there is no evidence that EO's employees are engaged in activities intended to terrorize the civilian population. The U.K.'s response also notes that the government of Sierra Leone had contracted EO to provide the army with assistance and training and, further, that details of contracts between Sierra Leone's government and foreign companies are a matter between them. The response referred to the fact that, in the U.K., the recruitment of mercenaries is only illegal in certain very limited cases, namely, when British citizens would serve in the forces of another state at war with a foreign state which is at peace with the U.K. On the question of the U.K. capacity to adopt legislation to give effect to the UN Convention on Mercenaries, the government noted that it had been considered but, from a legal point of view, would be very difficult to implement.

Racial Discrimination, Special Rapporteur on: (E/CN.4/1997/71, para. 36)

The report of the Special Rapporteur (SR) on racial discrimination notes that the Draft Race Relations (Northern Ireland) Order 1996 was submitted to the Parliament for consideration. If adopted, the bill will: introduce specific legislation on race relations in Northern Ireland; prohibit racial discrimination in employment, housing and the supply of goods and services; protect "travellers"; and establish a commission on racial equality for Northern Ireland.

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

The report refers to allegations received that violations of religious freedom have occurred in the U.K. with regard to adherents of Islam. In terms of discriminatory practices, the report cites information received related to the publication of articles in the press conveying a negative and discriminatory image of Muslims. On the question of the status of religious schools, the government informed the Special Rapporteur that state subsidies to private schools were granted irrespective of the religious denomination of the establishment and noted that of the three applications for public funding from Muslim schools, one had been withdrawn and the two others did not meet the criteria established by the Secretary of State. Concerning the negative image of the Muslim community in some of the media, the government recalled that freedom of the press could be monitored by the Press Council.

Sale of children, child prostitution, child pornography, Special Rapporteur on the: (E/CN.4/1997/95, paras. 21, 38)

The report notes that the government has increased penalties and police powers with regard to child pornography and paedophilia, including through arrest without warrant and the extradition of paedophiles. Reference is also made to plans to introduce a national register of convicted paedophiles for employers whose staff works with children.

The Special Rapporteur's interim report to the General Assembly (A/52/482, paras. 39, 60, 62-64, 69-70, 77, 114) notes that the Home Office has estimated that 110,000 men have been convicted of offences against children and, further, that 1 in 60 were convicted of a sex crime by the time they were 40 years old and 1 in 90 were convicted for serious sex offences such as rape, incest or gross indecency with a child.

Referring to the media, the report recalls the effect of the press seeking to create sensationalism around cases of child abuse and cites the press's coverage of a trial, in 1996, of a woman and her husband who were accused of committing sexually motivated murders of several young women and girls. The report notes comments related to a drama documentary entitled *No Child of Mine* on the issue of child sexual abuse, which was aired in the U.K. and commended for bringing the subject into the public arena. The documentary raised concerns, however, for the psychological well being of the young actress who portrayed the victim and had to act out graphic scenes of rape. The report also notes a popular television series entitled *Bands of Gold*, about the lives of a group of teenage prostitutes and states that the series influenced a young teenage viewer to become a prostitute because of what she perceived to be a glamorous lifestyle. The report notes that the teenager was subsequently murdered by two male clients.

The report cites information indicating that a well-known television presenter launched Childline through her programme *That's Life*, which had previously appealed to viewers for their help in conducting a survey on child abuse. The telephone helpline set up has, over its 10 years of operation, provided counselling for an estimated 90,000 children and youth each year. The report notes that approximately 20

per cent of the callers receive counselling about sexual or physical abuse. Reference is also made in the report to a campaign leaflet put out by the Children's Society which highlighted child prostitution in the U.K. The leaflet was condemned as "irresponsible" by social services on the basis that it encouraged rather than condemned child prostitution. The leaflet read: "Why travel six thousand miles to have sex with children when you can do it ...?" and named cities in the U.K. The charity defended the leaflet on the ground that it was necessary to use shock tactics.

Referring to the Internet, the report notes that U.K. police were involved in an international investigation of a paedophile ring thought to be using the Internet to distribute graphic pictures of child pornography. The investigation resulted in the arrest of nine British men and the operation identified 37 men worldwide.

Torture, Special Rapporteur on: (E/CN.4/1997/7, Section II; E/CN.4/1997/7/Add.1, paras. 534-538)

The government responded to four cases sent by the Special Rapporteur (SR), involving death in police or Prison Service custody. Each of the cases involved the use of force by police and, in two cases, an inquest jury found that the suspects had been unlawfully killed. In three cases, it was decided that the investigations carried out did not produce sufficient evidence to bring criminal proceedings. One case was still under investigation at the time the government replied to the SR.

Toxic wastes and products, Special Rapporteur on:
(E/CN.4/1997/19, paras. 32, 4, 60-64)

The report of the Special Rapporteur (SR) includes information on the export of battery scrap from the U.K. to the Philippines, reportedly in violation of a law in the Philippines banning such toxic waste imports. Processing of the scrap in lead smelters is reportedly polluting the environment and causing health problems for workers. The report also refers to a toxic waste incinerator in Pontypool, south Wales. The report notes that scientific investigations have reported raised levels of PCBs and dioxins around the plant and indicates that the government has reportedly refused calls for a public inquiry into the plant and ReChem, which runs the incinerator, has stifled public debate.

In terms of Colombia, the SR refers to reports that British Petroleum (BP) appeared to be collaborating with Colombian soldiers involved in serious violations of human rights by allegedly passing on to the Colombia military information about local people protesting oil activities who were then arrested or kidnapped. The report notes information alleging that in the summer of 1996, BP signed an agreement with Colombia's Ministry of Defence to create a battalion of 150 officers and 500 soldiers to monitor construction of a 550-mile-long pipeline and further states that information suggests that all oil companies operating in Colombia have to pay a "war tax" to help fund the war against those who want to nationalize Colombia's oil industry. BP has also been held responsible for environmental damage ranging from devastating a protected forest, polluting a river and damaging bridges and roads that local people use to transport their products to market. The report notes that, in November 1996, BP decided to urge the Colombian government to investigate allegations

concerning its employees who were supposedly collaborating with the army and its paramilitary allies.

In terms of Malaysia, the report addresses the practices of Imperial Chemical Industries (ICI) which is based in the U.K. and manufactures and sells paraquat, a herbicide. ICI has a formulation plant in Malaysia. The rubber and oil plantations, which are heavily dependent on herbicides and use paraquat, employ some 130,000 women, many of them between the ages of 16 and 25, to work as sprayers. Health problems are experienced by these women, including acute poisoning. Information is also included in the report about shipments from the U.K., in the first part of 1993, of more than 700 tonnes of lead acid batteries to Indonesia, where the battery waste is burned. And finally, the Special Rapporteur provides a summary description of the decision of Thor Chemicals, a British corporation, to phase out all mercury-related operations at its Durban plant by the end of 1996, after three Thor executives were charged with culpable homicide and 42 contraventions of safety laws following the death of a worker from suspected mercury poisoning. The report notes that public pressure pushed the government to ban the import of toxic wastes. The ban apparently did not include materials imported for recycling, Thor Chemicals had claimed that the materials in the Durban plant were intended for recycling.

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

The section of the report dealing with rape and sexual violence refers to a sample survey of 1,476 women at universities and polytechnics in the U.K. which found that 19.4 per cent had been the victim of sexual violence. On the issue of sexual harassment the report notes that the Sex Discrimination Act of 1975 has compelled courts to conclude that sexual harassment is discrimination. It is further noted that efforts have been made to ensure that conditions in police stations have been made more friendly and confidence-inspiring in order better to meet the needs of rape victims. In terms of trafficking in women and prostitution, the Special Rapporteur (SR) recalls that prostitution is not a crime but solicitation is prohibited, and the law intends to prevent public nuisance resulting from prostitutes operating on the streets by prohibiting soliciting, loitering and curb crawling. The report observes that the use of laws against loitering and curb crawling increases the danger of violence against prostitutes, since they have less time to assess potential risks and negotiate safe sex and, further, that such policies relegate prostitution to the private sphere where violence and abuse can be officially discounted.

In comments on the situation of women migrant workers, the SR refers to the fact that more than 2,000 cases of ill-treatment and abuse of migrant domestic workers in the United Kingdom have been documented. The abuses have included confiscation of passports, enforced change of contract, withholding of wages, deprivation of food and malnourishment, lack of access to medical and health services, imprisonment in the home of the employer, prohibition on engaging in social contacts, the interception of letters from home, and physical and sexual violence. The dependency of women migrant workers on their employer for legal residency

has meant that, in the U.K., because of a prohibition on a woman migrant worker changing employers, she loses her legal residence the moment she leaves the employer even if because of violent treatment. The SR notes that these kinds of provisions have been described as 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.

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 declaration of public emergency has been in effect since 1974, related to Northern Ireland.

Other Reports

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

Information provided by the government indicates that the Police Code and Criminal Evidence Act 1984 in the U.K. stipulates that every court must take into account the welfare of juveniles brought before it and must deal with them in a language appropriate to their age. Young offenders in custody are subject to the Young Offender Institution Rules 1988 which, to the extent possible, follow the UN Rules for the Protection of Juveniles Deprived of their Liberty.

From the age of 10, juveniles can be held accountable for their criminal actions but government policy holds that parents should take some share of the responsibility when their children offend. Children aged 12 to 14 are always held in special child-care establishments (CCEs). Children aged 15 to 18 are generally held in Prison Service Young Offenders Institutions (YOIs). Offenders aged 18 to 21 are also regarded as young offenders and held in YOIs. Sentenced female juveniles are held in establishments which hold not only female young offenders aged 15 to 21 but also women aged 21 and over. The government adheres to the broad principle that juveniles should only be detained as a measure of last resort and for the shortest period of time. Courts may only order those juveniles to be detained before trial who present a risk of serious harm to the public. A person arrested for an offence can be held for up to 24 hours in police detention before charge. Detention in excess of 36 hours requires the authority of a magistrate. There is a requirement that a detention room for juvenile suspects be located outside the cell corridor. Options to imprisonment for young offenders include providing the offender with the opportunity to make reparation to the victim directly or indirectly. Courts may also order a young person to pay compensation to the victim. The government noted that this order will usually be paid by the parent if the young person is under 16.

Programmes have been established in detention facilities to help young offenders (YOs) tackle their drug addiction, offending behaviour and other behavioural problems. The programmes include education and training to provide young offenders with the knowledge and skills they lack. Juveniles of compulsory school age must receive at least 15 hours of education a week.

Disappearance, Report of the S-G to the CHR:
(E/CN.4/1997/103)

The report of the Secretary-General includes a summary of information provided by the government on measures taken to implement the Declaration on the Protection of All Persons from Enforced Disappearance. Stating that an allegation of disappearance had never been received, the government cited legal safeguards related to the protection provided for individuals in police and prison custody, the right of any detainee to have someone informed of his arrest and to speak to a lawyer, the right to have independent legal advice free of charge, and the right to make an application for habeas corpus.

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

In the report of the Secretary-General, it is noted that the government does not believe that the Commission on Human Rights is the right forum for debate on issues related to environmental protection. The U.K. indicated that international action could take place through the United Nations Environment Programme, the Commission on Sustainable Development and through the Conference of States Parties to the various international environment conventions. The government further asserted that attention and resources devoted to this issue would distract the Commission on Human Rights from its core activity of protecting human rights.

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) notes that law reform in the U.K. has led to adoption of general anti-discrimination legislation at national and local levels which defines disability broadly and sensitively enough to explicitly include HIV/AIDS.

Racial Discrimination: (E/CN.4/1997/68/Add.1, paras. 77, 82-83, 86-90, 106, 110)

In September 1996 the UN held a seminar to assess the implementation of the Convention on the elimination of racial discrimination. The seminar particularly focussed on articles 4 and 6. The government recalled that in the U.K.: racial discrimination is dealt with under the Race Relations Act 1976; the Race Relations Act does not apply to clubs and associations with less than 20 members; the Public Order Act 1986 penalizes conduct that is essentially incitement to racial hatred and includes conduct intended to incite hatred; the Public Order Act could result in prosecution of racist material distributed to avowed racists while racist abuse directed at the members of the hated racial group might not fall under the Act; the expression of views which "merely" insulted or vilified racial groups was not criminalized; the legal justification for restricting racist speech was the prevention of disorder; penalties for offences under the Act included a maximum term of imprisonment of two years and/or a fine; in terms of racial violence, various kinds of conduct often engaged in by racists, including acts encouraging violence, were penalized under the Act as well as in other legislation, but with no mention of a racial motivation; and, the U. K. was not prepared to

adopt specific legislation to prevent incitement to racial violence in order not to introduce a separate class of violent crime of racial motivation which would attract a greater penalty. The government asserted that it had no power to ban individuals or organizations on the grounds that they held extreme racist views, nor did it plan to take such powers. Powers of proscription of organizations in the U.K. are limited to groups involved with terrorism connected with Northern Ireland and no legislation covers the mere fact of membership of such organizations but only the activities of members in cases where criminal offences have been committed.

On the question of avenues of recourse for victims of racism and racial discrimination, the report notes that, in the U.K., protection is based on civil proceedings on the reasoning that the procedure is more straightforward, particularly with regard to the burden of proof. In matters of employment, public- and private-sector housing, education and provision of goods and services, legislation gives injured parties the right of direct recourse to the civil courts and to the industrial tribunals, i.e., special labour courts.

Restitution, compensation and rehabilitation, Report of the S-G to the CHR: (E/CN.4/1997/29, United Kingdom)

Information provided the government indicated that grave violations of human rights are not a distinct category of unlawful act in the U.K. and, therefore, there is no specific provision for the award of compensation in such cases. However, that does not mean that a victim would be unable to obtain compensation.

The government recalled that the report of the Sub-Commission's Special Rapporteur on the issue of restitution, compensation and rehabilitation for victims of grave violations of human rights identified those violations as involving genocide, slavery, summary executions, torture, enforced disappearances, arbitrary and prolonged detention, deportation or forcible transfer of population or systematic discrimination. The government asserted that the U.K. would not tolerate the violation of human rights through any of these acts and noted that all would, in any case, be unlawful and would therefore involve the commission of crimes to which there is attached a civil right to compensation.

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UNITED STATES OF AMERICA

Date of admission to UN: 24 October 1945.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: The U.S. has submitted a core document (HRI/CORE/1/Add.49) for use by the treaty bodies. The report prepared by the government contains demographic and statistical data as well as commentary on the republican form of government, the executive, legislative and judicial branches of government and state governments. The report also includes information on the system of government in the

District of Columbia, American Samoa, Puerto Rico, the United States Virgin Islands, Guam, and the Northern Marianas and notes that other U.S. dependencies include Wake Island (and Wilkes and Peale), Midway Islands, and various uninhabited atolls and islands in the Pacific region.

The section on the general framework for the protection of human rights includes information on the federal and state Constitutions, statutes, derogation and states of emergency, responsible authorities and remedies. In the United States, duly ratified treaties are the supreme law and equal with enacted federal statutes. Provisions of treaties may be displaced by federal law that is subsequently adopted to the extent of any inconsistency between the two.

Economic, Social and Cultural Rights

Signed: 5 October 1977.

Civil and Political Rights

Signed: 5 October 1977; ratified: 8 June 1992.

The second periodic report of the U.S. is due 7 September 1998.

Reservations and Declarations: Articles 7 and 20; 1 of article 15; paragraphs 2 (a) and (b) and 3 and of article 10; paragraph 4 of article 14; paragraph 1 of article 4; paragraph 5 of article 9; paragraphs 3 (b) and (d) and 6 of article 14; paragraph 3 of article 19; article 47; declaration under article 41.

Racial Discrimination

Signed: 28 September 1966; ratified: 21 October 1994.

The initial report of the U.S. was due 20 November 1995.

Reservations and Declarations: Articles 4 and 7; paragraph 1 and subparagraphs (1) (c) and (d) of article 2; subparagraphs (1) (c) and (d) of article 2 and articles 3 and article 5; article 22.

Discrimination against Women

Signed: 17 July 1980.

Torture

Signed: 18 April 1988; ratified: 21 October 1994.

The initial report of the U.S. was due 19 November 1995.

Reservations and Declarations: Articles 1, 3, 10, 11, 12, 13, 14 and 16; paragraph 1 of article 30; paragraph 1 of article 21.

Rights of the Child

Signed: 16 February 1995.

COMMISSION ON HUMAN RIGHTS

At its 1997 session the Commission on Human Rights considered the situation in the United States under the confidential 1503 procedure. The Commission decided to discontinue consideration.

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 two cases were transmitted to the government but no details of the cases were provided.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1997/60, paras. 15, 16, 18, 22, 23, 28, 32, 35, 67, 83, 89, 90, 91; E/CN.4/1997/60/Add.1, paras. 543–551)

The report notes that the government invited the Special Rapporteur (SR) to visit.

As well, it notes that the SR sent 12 urgent appeals to the U.S. government on behalf of 14 people-concerning cases which involved the imposition of the death sentence. The appeals were sent in response to information indicating that the practice of capital punishment in the U.S. does not conform to a number of safeguards and guarantees contained in international instruments relating to the rights of those facing the death penalty. The imposition of the death penalty on mentally retarded persons, the lack of an adequate defence, the absence of obligatory appeals, and racial bias continue to be the main concerns of the SR. Four cases related to deaths reportedly caused by the police were also sent.

The report notes that the government's response to the urgent appeals took the form of a description of the legal safeguards provided to defendants in the United States in criminal cases and, in particular, those specific to death penalty cases. However, no substantive reply was received with respect to any of these cases.

The SR expressed deep concern that death sentences continue to be handed down after trials which are reported to fall short of the international guarantees for a fair trial, including lack of adequate defence during the trials and appeals procedures. An issue of special concern to the SR remain the imposition and application of the death penalty on persons reported to be mentally retarded or mentally ill, cases which were allegedly tainted by racial bias on the part of the judges or prosecution, and the non-mandatory nature of the appeals procedure after conviction in capital cases in some states.

Independence of judges and lawyers, Special Rapporteur on the: (E/CN.4/1997/32, paras. 17, 20, 180–181)

The report refers to the case of a judge of the Federal District Court of Manhattan and information indicating that the President and a U.S. Senator had called for his resignation and impeachment as a result of his ruling to suppress evidence in a drug-trafficking case. The Special Rapporteur (SR) expressed his concern that, if the reports were true, there would be executive intimidation of the independence of the judiciary. In reply, the government stated that at no time had the President called for the resignation of the judge. The President had only indicated that, if the U.S. Attorney did not challenge the judge's ruling, he was prepared to direct the Justice Department to appeal the decision. The SR concurred with the government's statement that the proper way for the Executive to contest judicial decisions with which it disagrees is to challenge them in the appellate courts. Nevertheless, the SR expressed the view that harsh, public criticism of a judicial decision by the Executive, particularly in the context of a politically charged environment — in this case, one in which prominent legislators and politicians were calling for the resignation of a judge who had rendered a controversial decision — can have a chilling effect on the independence and impartiality of the judiciary. The report noted that, when the judge subsequently reversed his decision, this raised concern in legal circles where some felt that the judge may have done a disservice to judicial independence by reversing his own decision under external pressure.

A second case transmitted to the government concerned reports that a Governor had pressured a District-Attorney to seek the death penalty in a murder case in which the victim was a police officer. The Governor then removed the D.A. from the case under a state law that granted him the power to remove district attorneys in specific cases. The report notes that, until this incident, the law had only been used in cases where a prosecutor or his office asked to be excused from a case, or had been suspended for misconduct.

Racial Discrimination, Special Rapporteur on:
(E/CN.4/1997/71, paras. 13–16, 24–26, 85–92)

The report of the Special Rapporteur (SR) on racial discrimination notes that racism and racial discrimination persist in the U.S., structurally, economically, socially and culturally. He referred to fires in black community churches, police brutality, the discriminatory application of the death penalty, and incitements to racial hatred and anti-Semitism on the Internet. Information related to discrimination against Arab Americans is also cited. It is said to indicate a resurgence of anti-Arab sentiment and a tendency in the media to equate Arabs and Muslims with terrorists: this projects an unfavourable image of Arabs and contributes to discriminatory treatment against Arabs and Arab Americans by airlines and security agents at airports and by the police in general, and in the areas of education, employment and housing.

The report also includes information submitted by Mexico on the situation of Mexican workers entering the U.S., citing incidents in which Mexican nationals were beaten and where several died. The Mexican government protested to the U.S. and characterized the incidents as an abuse of authority based on discriminatory attitudes. Mexico emphasized the need for U.S. immigration policies to be applied with strict respect for the dignity and human rights of the immigrants.

The report refers to a federal lawsuit that began in 1986 when Black diplomats charged that they were given backwater assignments, denied the promotions they deserved and were unfairly driven out of the diplomatic corps. The State Department ultimately agreed to pay US \$3.8 million to compensate Black foreign service officers who alleged that they were denied advancement and career opportunities because of their race; as well retroactive promotions were granted to 17 of them. The State Department also agreed to reinstate four Black junior officers who were dismissed after failing to win permanent positions and to pay \$2.1 million in legal fees to lawyers who represented the Black diplomats.

With regard to allegations of poor police conduct in black communities, the report cites statements by a national tribunal which was held in 1995 to give a hearing to victims of police misconduct. The tribunal concluded that there was police violence and corruption on the local, state and federal levels, particularly within communities of colour and poor communities, characterized by: beatings, harassment, physical torture and murder of individuals; frame-ups, calculated efforts to discredit witnesses and complainants, and the destruction of key evidence; racist slurs and taunts, improperly served warrants, illegal "warning" shots and unnecessary invasions of their privacy. It also noted that: police continue to be viewed as an "army of occupation" in many

communities of colour; police deny victims or witnesses access to information needed to press their claims; active-duty police officers, both women and men, who challenge police misconduct are shunned and suffer other forms of harassment; gender is an added dimension of vulnerability to police abuse; people with some mental history are also particularly vulnerable to police abuse; and, there has been inappropriate use of restraining devices by police, including excessive use of pepper spray, shackling the legs of those who are forced to walk, and shackling prisoners in cells in such a manner that they hang from their hands.

The SR's interim report to the General Assembly (A/52/471, paras. 26–27, 32–37) cites a report by Amnesty International on the death penalty in the U.S. This Amnesty report states that racial discrimination in the use of the death penalty continues to be a major concern and highlights the serious consequences of this discriminatory practice by the judiciary, such as miscarriages of justice, which may result in innocent people being put to death. The SR refers to the government's initiative on race entitled "One America in the 21st Century" which will examine the current state of race relations and the common future of the various communities living in the U.S.; it will also promote the adoption of laws and policies that can help ensure that the country remains cohesive, and enlist individuals, communities, businesses and government at all levels in an effort to help Americans understand their differences while appreciating the values that unite them.

Religious intolerance, Special Rapporteur on:
(E/CN.4/1997/91, paras. 9, 17, 23, 25, 66)

The report refers to violations of religious freedom against the Navajos (Dine) and Apaches. It also notes that communications were sent to the government concerning of the restitution of goods and properties to religious communities.

The Special Rapporteur's interim report to the General Assembly (A/52/477, paras. 11, 21, 46) notes that the government has extended an invitation to the SR to visit the U.S. although the dates for the mission had not been set at the time the report was prepared.

Sale of children, child prostitution, child pornography, Special Rapporteur on the: (E/CN.4/1997/95, para. 21, 27, 36, 38, 58, 77, 78)

The Special Rapporteur (SR) reports that, with respect to an initiative to enact tougher sex-crime laws in California, the state was on the verge of adopting a measure requiring "chemical castration" of repeat child molesters. The SR notes that the law is likely to face constitutional challenges. Reference is made to: provisions in the U.S. which allow the use of video-taped testimony of sexually abused children in trials; the fact that police stations now publicly display lists of convicted paedophiles; the fact that, when an offender is released or changes address, local police must inform prospective neighbours; information indicating that convicted paedophiles in prison have secretly compiled, annotated and electronically stored lists of the names of thousands of children and, in one case, the list of names was stored — together with a large amount of child pornography — on a computer

that was used to traffic digital images of nude children and to exchange messages with paedophiles worldwide.

The SR visited the U.S. from 9 to 20 December 1996 to look into the issue of the commercial sexual exploitation of children. The report of that visit (E/CN.4/1997/Add.2) covers a number of areas, including: causes, characteristics, profile of the perpetrator, the legal framework, law enforcement, the courts, cases studies (San Francisco and the U.S.–Mexico border area), and child pornography and the Internet. The reports cites estimates that children as young as 5 to 11 years old are forced into prostitution for survival, money, affection and drugs; that there are more than one million runaway and “throwaway” young people on the streets at any given time; and that over one third of these children leave home because of sexual abuse. Children who are most likely to fall prey to pimps, recruiters and abusers are children from farming families in rural and small-town areas in Mid-Western states, white middle-class teenage girls going to big cities from suburban areas looking for adventure or expanded career opportunities, children in marginalized families or from broken families, and victims of child abuse. The report notes that once children and adolescents have decided to run away from their homes, they become caught in a vicious circle of dependence on older men or protectors who “rescue” them from the streets. The dependence is often exacerbated by dependence on drugs and alcohol, which in turn may lead to their resorting to prostitution and sex for survival. The report notes, however, that many children lured into pornography are simply recruited from their neighbourhoods, nearby schools or acquainted families with children, and that organized criminal rings involved in trafficking per se are not known to exist in the United States. The report notes that, while both girls and boys are caught up in commercial exploitation, boy prostitution differs from girl prostitution in a number of ways: young boys prostitute themselves much less openly on the street, partly because of the social stigma attached to homosexual prostitution, and boy prostitutes are more likely to operate independently of pimps. The SR expressed concern that the type of prostitution, especially that involving girls, is becoming increasingly violent and includes bondage, sadomasochism and spanking.

The strategies defined by the government to eliminate the commercial sexual exploitation of children is based on a multidisciplinary approach, involving social services and mental health workers, interviewing and investigation, special treatment in court settings which are child-friendly and appropriate to age and status, and continuing care in order to address the lingering effects of commercial sexual exploitation. It is intended that measures will be reinforced through education systems which provide children with skills and opportunities as a preventive strategy.

In terms of law enforcement, the report notes that: there is significant reluctance on the part of police officers to deal with boy prostitutes, because of the social stigma attached to homosexuals; law enforcement officials frequently tend to perceive cases of child abuse or exploitation as cases for social workers or child protection cases, not criminal cases; when seeking victims to testify against their recruiter or pimp, police generally cannot offer anything in return for the

testimony and child victims do not want to talk to the police or leave their pimps because for many a return home would simply mean a return to sexual and physical abuse; the criminal justice system is primarily geared to arresting the perpetrator and not to identifying the victim, which makes monitoring victims difficult as it is relatively easy for them to change their identity; there is a lack of financial resources for training prosecutors and sensitizing judges concerning child abuse and exploitation; and, the low number of cases of child abuse brought to court may be due to the lack of appropriate resources and training of officials to deal with the child in court.

On the issue of child pornography and the Internet, the SR states that new technological developments have made existing definitions of pornography in law obsolete; they are also giving rise to controversial debates about constitutional rights, such as the right to freedom of opinion and expression, the human rights of the child, and established societal values. In terms of the definition of child pornography, the report refers to the Child Pornography Act which expanded the definition to include “any depiction of a child, real or imaginary”. Considering the availability of child pornography on the Internet, the report states that it results in the repeated victimization of the child on an unprecedented scale: for example, it notes that many of the child pornographic images on the Internet are actually pictures scanned from child pornography magazines produced in the 1970’s and 1980’s. On the question of the child as a viewer, the report notes that there are conflicting views on how readily and easily accessible child pornography is for the child as a computer user and viewer. The SR commented that frequently children, who are generally more computer-literate than their parents or teachers may spend hours in “chat-rooms” on the Internet where they converse electronically, become friendly, talk about their problems, share secrets and build friendships with other users. What children and their parents are mostly unaware of, however, is that their conversation partners could be paedophiles or child abusers and recruiters who pretend to be teenagers themselves in order to build up a relationship of confidence with the child on-line. The child might then be exposed to pornographic materials in an attempt to “normalize” child pornography and to convince children that there is nothing bad or illegal about viewing or being involved in child pornography.

The SR recommended that the government and non-governmental agencies and bodies:

- ▶ systematically and comprehensively gather information and data on commercial sexual exploitation of children nationwide so that the extent of the problem can be ascertained;
- ▶ target national education and information campaigns at eliminating the social stigmatization and stereotyping associated with child prostitution and child pornography;
- ▶ ratify without delay the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women;
- ▶ publicize successful investigations into commercial sexual exploitation of children in the national media to raise

public awareness of the issue and to act as a deterrent to potential perpetrators;

- ▶ include international observers in the law enforcement training carried out by the Department of Justice and develop a programme for the exchange of national experience and training materials;
- ▶ extend street outreach programmes for youth in danger of sexual abuse and exploitation as a high priority nationwide and develop a training module for parapsychological and social workers, volunteers and street workers;
- ▶ ensure greater involvement of child psychologists and psychiatrists in analysing the effects of sexual exploitation on children and in helping to sensitize all other sectors to the need to combat the phenomenon;
- ▶ cultivate a multidisciplinary approach to child victim cases in courts and among the judiciary;
- ▶ local government should assist street outreach organizations to deliver sex education and health care programmes to marginalized children, particularly those which focus on HIV/AIDS and other sexually transmitted diseases;
- ▶ at the local government level and in cooperation with the private sector, fund programmes which provide alternative avenues, such as job and skills training, for street children;
- ▶ consider further the establishment of a children's ombudsman at the national level;
- ▶ increase coordination between the multitude of children's organizations in the U.S. in order to define more clearly the mandates of the various non-governmental organizations and to avoid overlap on some issues and the neglect of others;
- ▶ develop a nationwide NGO directory on children's rights, specifying the substantive focus of each organization;
- ▶ develop early intervention and prevention programmes in schools with a view to dispelling myths about the glamorous life of "escort girls" and raising awareness of potential recruitment techniques; and,
- ▶ adopt a non-punitive approach to child victims of commercial sexual exploitation in keeping with the rights of the child and taking particular care that judicial procedures do not aggravate the trauma already experienced by the child.

The Special Rapporteur's interim report to the General Assembly (A/52/482, paras. 11, 65, 68, 112–113) notes that a film entitled *Kids* was banned from general release because it graphically depicted under-age sex and drug use, had little purpose or justification, and portrayed a group of unsupervised teenagers leading a destructive lifestyle in a way that would merely desensitize the audience to the serious nature of paedophilia and child sex. The report notes that fears were also expressed that the film would be enjoyed by many paedophiles who would be led to feel that their desires and behaviour were normal and acceptable. Referring to dial-a-porn or phone sex services, the report notes adoption by Congress of a bill to protect children from these services.

Referring to the Internet, the report notes the decision of the Supreme Court ruling that the federal Communications Decency Act of 1996, which was intended to curb indecency on the Internet, was unconstitutional. The report also notes a cooperative effort between American and Danish authorities to identify callers from the U.S. who downloaded child pornography from Danish bulletin boards. The U.S. Customs services raided the homes of several suspected callers and confiscated their computers, floppy disks and other materials. The report notes that several people were prosecuted.

Toxic wastes and products: (E/CN.4/1997/19, paras. 41, 47, 54, 55, 65–73)

In terms of transborder concerns, the report refers to: shipment of battery scrap from the U.S. to the Philippines; the operations of Unocal and Texaco in Burma and a declaration by the Myanmar army of "free-fire zones" to facilitate the construction of a pipeline through the rain forest; the operations of Shell Oil U.S.A in the Ogoni region of Nigeria, an area which has been occupied by the police since May 1994, to allow Shell employees to carry out business ventures without being molested; the export of so-called "waste paper" (i.e., toxic waste) from the U.S. to Argentina; the former operations of Texaco in Ecuador and Peru which contributed to the destruction of rainforest inhabited by indigenous peoples; pollution in Indonesia from Texaco's Caltex operations; and, the operations of Freeport-McMoRan (a New Orleans-based mining company) in Irian Jaya that reportedly included the dumping 120,000 tonnes of toxic waste per day into local rivers.

The report refers to a number of issues and environmental practices in the U.S., including: the prevalence of environmental inequities in the U.S. based on socio-economic and racial factors; the fact that nuclear contaminants and the dumping of PCBs represent a serious problem in many indigenous communities; the presence of *maquilas* (garment assembly plants) along the Texas–Mexico border, which use toxic materials and reportedly are not required to provide information to workers or community residents about emissions or chemicals used or stored; the possibility that under provisions in the North American Free Trade Agreement, WMX Technologies — Chemical Waste Management's parent company — may export hazardous waste from the U.S. to Mexico for disposal there, noting that the company has been accused of dumping toxic waste in communities of colour in the U.S., on Indian lands, and in developing countries; Uniroyal Corporation's sale of the hazardous pesticide, "propargite", to farmers overseas despite the fact that the product has been withdrawn from domestic markets for health and safety reasons; and, the use of hundreds of tons of depleted uranium (DU) bullets in the Persian Gulf during Operation Desert Storm (1991); and the fact that DU munitions are sold in the world arms market, with the U.S. leading in their development, use and commercialization.

Violence against women: (E/CN.4/1997/47, Sections III, IV, V & VI)

In the section dealing with rape, sexual violence and sexual harassment, the Special Rapporteur (SR) notes that, in the U.S., adolescents (who account for less than 10 per cent of the population) are estimated to comprise 20 to 50 per cent of all

reported rape victims. According to one study of 6,000 university students, one in six female students reported that they had been a victim of rape or attempted rape during the previous year, while one in 15 male students stated that they had committed or attempted to commit rape in that year. The report notes that issues of race, ethnicity, class and disability often exacerbate the institutional failures with regard to the state's response to rape and sexual violence. The SR recalled that, in the U.S., rape had been a common method of torture used by slave owners to subdue recalcitrant black women; and the impunity with which white men raped black women in the slave era had contributed to the systematic devaluation of black womanhood.

On sexual harassment, the report notes that it has been legally conceptualized in terms of workplace harassment but that incidents of sexual harassment are often concealed within the private sphere as well. Recent high profile cases have motivated the media to focus on issues of sexual harassment, stimulating increased reporting by breaking down the victim's sense of isolation. The report notes, for example, that as a consequence of the widespread media coverage of the Anita Hill case, complaints to the Equal Employment Opportunity Commission have more than doubled.

In terms of state strategies to combat rape and sexual violence, including sexual harassment, the report notes that training seminars have been carried out in an effort to sensitize police to the realities of violence against women and to educate them about victims' needs. The report further notes that non-profit rape treatment centres provide services to victim-survivors which may include: 24-hour emergency medical care; evidence collection; crisis intervention; advocacy; court accompaniment; legal assistance; and psychotherapy services. Reference is also made to the fact that rape shield laws have been designed as a mechanism of protection for victims of rape from traditionally discriminatory and abusive cross-examination, and limit the admissibility of evidence relating to the victim's past sexual conduct with anyone but the defendant.

On the subjects of trafficking in women and forced prostitution the report notes that, in Colombia, traffickers provide Colombian women for markets in a number of countries in the West, including the United States, and that in the U.S. there exist hundreds of companies feeding the marriage market through which an estimated 2,000 to 5,000 American men have purchased wives.

Referring to religious extremism, the report notes that the growth of Christian fundamentalist sects has created a climate in which violence against certain categories of women is justified and, in this context, notes that the right to have an abortion under certain conditions is interpreted by the Supreme Court as being constitutionally protected. The report states that certain Christian groups are involved in activism which results in justifying violence against those who are exercising a fundamental right under the Constitution and that this activism may include death threats, stalking and arson.

Mechanisms and Reports of the Sub-Commission Administration of justice: (E/CN.4/Sub.2/1997/21, para. 39)

In the section dealing with the privatization of prisons, the report cites information referring to a decision of the U.S. Supreme Court in which the Court ruled that managers of private detention facilities had greater civil responsibility than managers of public detention facilities. It was suggested that this decision could have financial implications that would discourage private companies from managing penitentiary institutions.

International peace and security, Report of the S-G: (E/CN.4/Sub.2/1997/27, paras. 30, 44, 48-49)

The report by the Secretary-General cites information provided by International Educational Development, Inc. related to implications for economic and social rights when millions of dollars are spent on the development, production and stockpiling of illegal weapons. The NGO referred to a study prepared by the New Mexico Institute of Mining and Technology which indicated that it cost \$248,000 to ship 498 fifty-gallon drums of surface soil contaminated with depleted uranium from New Mexico to nearby Nevada; a separate study indicated that it costs the U.S. nearly \$70 million per day to maintain nuclear warfare capability.

Information provided by the International Indian Treaty Council (IITC) related to the NGO's assessment of the problem of nuclear contamination and the human rights of indigenous peoples. This information showed that indigenous peoples have been poisoned by nuclear contamination and that the problem of nuclear contaminants produced as a result of nuclear weapons production, development and testing, is pervasive and serious throughout many indigenous communities in North America and the Pacific. IITC also cited the governments use of indigenous peoples in Alaska as "guinea pigs" in human radiation testing and noted that it was only in 1992, after increasing rates of rare cancers were detected among villagers of Point Hope, that the government admitted that radioactive waste was still buried there. In September 1996, the Indigenous Anti-Nuclear Summit Declaration was adopted at a gathering of indigenous peoples, their representatives and organizations. In the Declaration, indigenous peoples declared their unanimous and total opposition to the nuclear power and weapons chain, citing the devastating impact and deadly effects on their communities.

Traditional practices affecting women and children, Special Rapporteur on: (E/CN.4/Sub.2/1997/10, para. 16)

The report notes that female genital mutilation is a federal crime in the U.S. and refers to questions arising from the arrival of refugees and immigrants from countries where the practice is still accepted. The U.S. Health authorities and social workers agreed that ending genital mutilation practised by a small but growing African population would take more than the simple enactment of a law and that a change of mentalities was also necessary.

Other Reports

Detention of international civil servants, Report of the S-G: (E/CN.4/1997/25, Annex II)

The report of the Secretary-General notes that an American was shot and killed while on posting with the UN Population Fund in Tuzla.

HIV/AIDS, Report of the S-G: (E/CN.4/1997/37, Appendix)

The report of the Secretary-General on the Second International Consultation on HIV/AIDS and Human Rights (Geneva, September 1996) recalls the important connection between the protection of human rights and effective responses to HIV/AIDS. The report refers to civil legislation in the U.S. which defines disability broadly and sensitively enough explicitly to include HIV/AIDS.

Racial Discrimination: (E/CN.4/1997/68/Add.1, para. 59, 63, 64-67, 75, 77, 79, 80, 84, 85)

The report of the UN seminar on the implementation of articles 4 and 6 of the International Convention on the Elimination of All Forms of Racial Discrimination (Geneva, September 1996) refers to extremist group activity on the Internet originating in the U.S. and the fact that the largest number of identifiable white supremacist and neo-Nazi groups were in the United States. Mention is made to prevailing laws and the reliance of extremist groups on the protection offered by the First Amendment of the Constitution as justification for their activities. The report also refers to comments indicating that materials that were illegal in most other democratic countries, including those deemed dangerous, racist or defamatory under the laws of those countries, could be posted on the Internet in the United States and become accessible to virtually everyone around the globe, regardless of national legislation.

The report notes that the U.S. is among the 15 states that entered a reservation to article 4 of the Convention.

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Appendix

Human Rights Treaty Bodies

Draft Schedule 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>	Netherlands	2 nd periodic report	E/1990/6/Add.11
	Netherlands Antilles	2 nd periodic report	E/1990/6/Add.12
	Netherlands: Aruba	2 nd periodic report	E/1990/6/Add.13
<i>19th Session: 16 November-4 December 1998</i>	Canada	3 rd periodic report	E/1994/104/Add.17
	Switzerland	Initial report	E/1990/5/Add.33
	Germany	3 rd periodic report	E/1994/104/Add.14
<i>20th Session: 26 April-14 May 1999</i>	Denmark	3 rd periodic report	E/1994/104/Add.15
	Ireland	Initial report	E/1990/5/Add.34
	Iceland	2 nd periodic report	E/1990/6/Add.15
<i>21st Session: 15 November-3 December 1999</i>	Italy	3 rd periodic report	E/1994/104/Add.19

Human Rights Committee (HRC or CCPR)

<i>62nd Session: 23 March-9 April 1998</i>	Finland	4 th periodic report	CCPR/C/95/Add.6
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Committee on the Elimination of Racial Discrimination (CERD)

<i>52nd Session: 2-20 March 1998</i>	Netherlands	10 th -13 th periodic reports	CERD/C/319/Add.2
	Portugal	Without report	
	Switzerland	Initial report	CERD/C/270/Add.1

Committee on the Elimination of Discrimination against Women (CEDAW)

<i>19th Session: 22 June-10 July 1998</i>	United Kingdom	3 rd periodic report	CEDAW/C/UK/3
<i>20th Session: 19 January-6 February 1999</i>	Austria	3 rd & 4 th periodic reports	CEDAW/C/AUT/3-4
	Finland	3 rd periodic report	CEDAW/C/FIN/3
	Greece	2 nd & 3 rd periodic reports	CEDAW/C/GRC/2-3
	Spain	3 rd periodic report	CEDAW/C/ESP/3

Committee against Torture (CAT)

<i>Scheduled for consideration in 1998</i>	France	2 nd periodic report	CAT/C/17/Add.18
	Germany	2 nd periodic report	CAT/C/29/Add.2
	New Zealand	2 nd periodic report	CAT/C/29/Add.4
	Norway	3 rd periodic report	CAT/C/34/Add.8

Committee on the Rights of the Child (CRC)

<i>17th Session: 5-23 January 1998</i>	Ireland	Initial report	CRC/C/11/Add.12
<i>18th Session: 19 May-5 June 1998</i>	Luxembourg	Initial report	CRC/C/41/Add.2
<i>19th Session: 21 September-9 October 1998</i>	Sweden	Initial report	CRC/C/65/Add.3
<i>20th Session: January 1999</i>	Austria	Initial report	CRC/C/11/Add.14
<i>22nd Session: September/October 1999</i>	Netherlands	Initial report	CRC/C/51/Add.1
<i>23rd Session: January 2000</i>	Malta	Initial report	CRC/C/3/Add.56

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