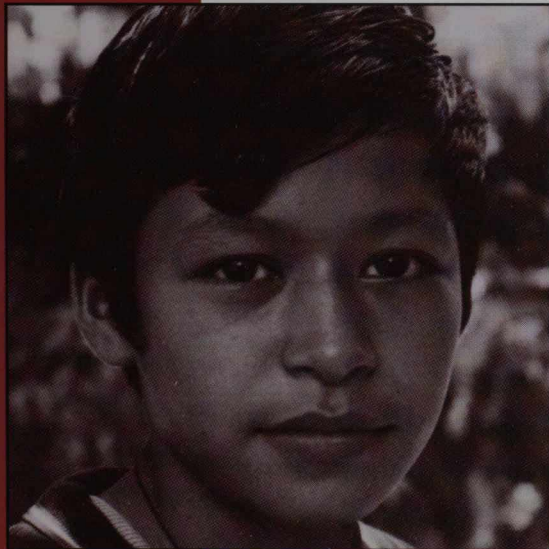


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**LATIN AMERICA &
THE CARIBBEAN**

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TABLE OF CONTENTS

VOLUME 4 — LATIN AMERICA AND THE CARIBBEAN

Antigua and Barbuda	5	Guyana	56
Argentina	5	Haiti	57
Bahamas	7	Honduras	62
Barbados	7	Jamaica	64
Belize	8	Mexico	64
Bolivia	8	Nicaragua	75
Brazil	12	Panama	76
Chile	16	Paraguay	78
Colombia	18	Peru	79
Costa Rica	31	Saint Kitts and Nevis	88
Cuba	32	Saint Lucia	88
Dominica	38	Saint Vincent and the Grenadines	88
Dominican Republic	39	Suriname	89
Ecuador	41	Trinidad and Tobago	89
El Salvador	45	Uruguay	90
Grenada	47	Venezuela	92
Guatemala	47	Appendix	95

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)
ICC	International Criminal Court
ICJ	International Court of Justice
OHCHR	Office of the High Commissioner for Human Rights
SC	Security Council
S-G	Secretary-General
SR	Special Rapporteur
SRep	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

ANTIGUA AND BARBUDA

Date of admission to UN: 11 November 1981.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Racial Discrimination

Succeeded: 25 October 1988.

Antigua and Barbuda's initial and second through fifth periodic reports were due 24 November 1989, 1991, 1993, 1995 and 1997 respectively.

Reservations and Declarations: Article 4.

Discrimination against Women

Acceded: 1 August 1989.

Antigua and Barbuda's fourth periodic report is due 31 August 2002.

Torture

Acceded: 19 July 1993.

Antigua and Barbuda's initial and second periodic reports were due 18 August 1994 and 1998 respectively.

Rights of the Child

Signed: 12 March 1991; ratified: 5 October 1993.

Antigua and Barbuda's initial and second periodic reports were due 3 November 1995 and 1997 respectively.



ARGENTINA

Date of admission to UN: 24 October 1945.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Argentina has submitted a core document (HRI/CORE/1/Add.74) for use by the treaty bodies. The report prepared by the government includes demographic data and information on socio-economic indicators, Argentina's political organization, the structure of government and the legal framework for the protection of human rights.

Under the Constitution treaties are the supreme law and, since 1992, have taken precedence over national legislation. The legal framework for the protection of human rights is established by laws and supplemented by administrative arrangements including the Office of the Under-Secretary for Human Rights within the Ministry of the Interior, the Government Procurator for the Prison System (to protect the human rights of inmates in the federal prison system) and the National Institute to

Combat Discrimination, Xenophobia and Racism. There is also a Commission on Human Rights Guarantees (established by the Chamber of Deputies and the Senate) and the Ombudsman (Defensor del Pueblo). Remedies for violations include amparo, habeas corpus, extraordinary appeal and administrative appeals.

Economic, Social and Cultural Rights

Signed: 19 February 1968; ratified: 8 August 1986.

Argentina's second periodic report (E/1990/6/Add.6) has been submitted and is scheduled for consideration at the Committee's November/December 1999 session; Argentina's third periodic report is due 30 June 2001.

Civil and Political Rights

Signed: 19 February 1968; ratified: 8 August 1986.

Argentina's third periodic report has been submitted but has not yet been scheduled for consideration by the Committee; the fourth periodic report is due 11 July 2002.

Reservations and Declarations: Paragraph 2 of article 15; declaration under article 41.

Optional Protocol: Acceded: 8 August 1986.

Racial Discrimination

Signed: 13 July 1967; ratified: 2 October 1968.

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

Discrimination against Women

Signed: 17 July 1980; ratified: 15 July 1985.

Argentina's fourth periodic report is due 14 August 1998.

Reservations and Declarations: Paragraph 1 of article 29.

Torture

Signed: 4 February 1985; ratified: 24 September 1986.

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

Reservations and Declarations: Declarations under articles 21 and 22.

Rights of the Child

Signed: 29 June 1990; ratified: 4 December 1990.

Argentina's second periodic report was due 2 January 1998.

Reservations and Declarations: Article 1; paragraphs (b), (c), (d) and (e) of article 21; paragraph (f) of article 24.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 13, 24, 25, 27, 43, 48, 57, 92-101)

The report addresses the question of compensation for victims, and notes that an Argentine law — No. 24,411, adopted in January 1995 — pertains to compensation for victims of enforced disappearance or death caused by the action of the armed forces, the security forces, or paramilitary groups, prior to the return of democracy. Act No.

24,321, adopted in 1995, established the concept of "absence through enforced disappearance". In terms of exhumations, the report notes that they are affected by judicial order, and at the express request of the relatives. The procedure is not a precondition for eligibility for the granting of compensation. As of 2 September 1997, applications had been received in connection with 5,000 cases of disappearances. Favourable decisions had been passed in 1,200 cases, and payments were scheduled to be made.

The report notes that no new cases of disappearance were transmitted to the government, and one case had been clarified on the basis of information provided by the source, in which it was reported that the person concerned had been killed by the military in 1976. The vast majority of the 3,453 reported cases of disappearance in Argentina occurred between 1975 and 1978 under the military government in the context of its campaign against left-wing guerrillas and their sympathizers. Reference is made to a number of NGOs that have continued to address themselves to the Working Group (WG) with regard to their ongoing quest to have the fate of the persons who disappeared resolved. In particular, the NGOs are demanding that the state present any documentation and other information in its possession on the human consequences of the "war against subversion", especially the consequences of such operations with regard to the whereabouts and/or fate of disappeared persons.

The WG noted that there are a number of cases before the courts and, in 1997, the WG was advised that the judge in these ongoing proceedings initiated an order that the state turn over the information in its possession, but this had reportedly yet to be done. Other information indicated that NGOs had filed a criminal action for child abduction, falsification of identity, and other serious offences against children, charging that senior members of the former military government, in the course of their political and military functions, jointly practised the systematic abduction of children and took measures intended to ensure their own impunity for such offences. The report notes that in March 1997 the Federal Prosecutor reportedly requested the judge in the case to open an investigation into the matter, stating that the amnesty acts decreed by the government were not applicable to offences of this kind and that there was no statute of limitation in these cases. The federal judge is said to have ordered the opening of a trial and the initiation of an investigation which would involve both a search for documentation from non-Argentine sources on the enforced disappearance of persons in Argentina, and the testimony of witnesses.

The WG also received information related to a trial in Spain on the disappearance in Argentina of Spanish citizens or those of Spanish heritage, and a trial in Italy pertaining to Italian citizens who disappeared in Argentina was continuing.

The WG welcomed the steps taken by the government to put in force a policy of compensation to benefit the relatives of disappeared persons, and acknowledged the difficulties involved in gathering the information necessary

to determine the whereabouts of victims of enforced disappearances which occurred some 20 years ago. The WG nonetheless expressed its serious concern that there are still more than 3,000 outstanding cases, and reminded the government of its obligation under the Declaration to continue to conduct investigations for as long as the whereabouts of the victims of enforced disappearance remain unclarified.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 14, 29, 30, 39, 57, 65, 68, 69, 70; E/CN.4/1998/68/Add.1, paras. 19–21)

The report notes that urgent appeals were transmitted to the government related to: threats against a human rights lawyer and journalist and a member of the non-governmental Coordinating Organization against Police and Institutional Repression (CORREPI), who was representing the families of victims of police brutality, including alleged extrajudicial, summary, or arbitrary executions; a radio and television journalist, who was told she was "next", apparently in connection with the death of a staff photographer for the magazine *Noticias*, whose body was found inside a burned-out car in January 1997; and threats against a journalist on the staff of *Página 12*, from men identifying themselves as members of the Buenos Aires police force, who warned him to stop writing articles about the death of the *Noticias* photographer. The report notes that the Special Rapporteur (SR) had also asked the government to take steps to protect the physical integrity and right to life of the sister, who had received threats, of a journalist on Canal 13 who was covering the death of the *Noticias* photographer. The government had not responded to the communications by the time the SR's report was prepared.

Freedom of opinion and expression, Special Rapporteur on: (E/CN.4/1998/40, paras. 67–68)

The report refers to threats against journalists who were involved in covering stories related to the death of a photographer for the magazine *Noticias*. The Special Rapporteur urged the government to ensure that complaints of death threats, attacks and harassment of journalists — especially those calling for clarification of the circumstances of the murder of the photographer — are investigated, and provide for an environment where journalists can operate free from attack.

Torture, Special Rapporteur on: (E/CN.4/1998/38, para. 19; E/CN.4/1998/38/Add.1, para. 9)

The reports refer to information indicating that in January 1996 a group of detainees in a yard at the Córdoba remand centre had attempted to escape in a refuse truck. The attempt failed, but led to disturbances in several prison blocks. A large number of the inmates, including those not involved in the attempted escape, were reportedly stripped and made to lie for hours face down in the yard, where they were allegedly sprayed with water and beaten and shot at with rubber bullets. The incident left about 200 injured and three dead. The information indicated that the lawyer who reported the facts

to the relevant prosecutor's office had received threats, and a cameraman who had taken pictures of the inmates being ill treated was also reportedly subjected to repeated threats and harassment.



BAHAMAS

Date of admission to UN: 18 September 1973.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Racial Discrimination

Succeeded: 5 August 1975.

The fifth through 12th (1984–1998) periodic reports of Bahamas have not been submitted; the 12th periodic report was due 4 September 1998.

Reservations and Declarations: Article 4.

Discrimination against Women

Acceded: 6 October 1993.

Bahamas' initial report was due 5 November 1994.

Reservations and Declarations: Paragraph (a) of article 2; paragraph 2 of article 9; paragraph (h) of article 16; paragraph 1 of article 29.

Rights of the Child

Signed: 30 October 1990; ratified: 20 February 1991.

Bahamas' initial and second reports were due 21 March 1993 and 1998 respectively.

Reservations and Declarations: Article 2.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 27, 86, 90; E/CN.4/1998/68/Add.1, paras. 23–24)

An urgent appeal was sent to the government related to the death penalty and failure to respect the right to appeal and/or to seek pardon or commutation of the sentence. The case involved an individual who was reportedly scheduled to be executed on 29 July 1997. Information received indicated that the execution had been approved despite the fact that not all avenues of appeal had been exhausted, and the condemned man had reportedly not been able to apply for leave to appeal to the Judicial Committee of the Privy Council in London, the final court of appeal for the Bahamas. It was also reported that the Court of Appeal in the Bahamas had not yet given the reasons for rejecting the appeal. The government's reply stated that the laws do not provide for a

period within which applications to the Privy Council for special leave to appeal must be filed, and that the Governor General's Administrative Rules require merely an intimation to the Governor General that the convict intends to appeal to the Judicial Committee of the Privy Council for special leave to appeal, whereupon the execution will be postponed. The government stated that the reasons for decisions made by the Court of Appeal are not a necessary precondition for the filing of an application for special leave to appeal; therefore, the authorities concluded that sufficient time had been available for the sentenced man to give the necessary intimation to the Governor General of his intention to apply to the Privy Council for special leave to appeal.

The Special Rapporteur (SR) also recalled commentary in previous reports referring to the 1993 judgement of the Privy Council of the United Kingdom in which it was held that awaiting the execution of a death sentence for five years after it had been handed down constituted in itself cruel and inhuman punishment. The report notes that, in October 1996, the Privy Council ruled that, in the Bahamas, it may be considered cruel or inhuman to execute a prisoner who has been on death row for more than three and a half years. According to the information received, the Privy Council was of the view that the five-year ruling was not to be regarded as a fixed limit applicable in all cases, but as a norm from which decisions may depart if circumstances require. The SR expressed concern that such decisions might encourage governments to carry out death sentences more speedily which, in turn, might affect the defendants' rights to full appeal procedures. He reiterated that solving the problem of the anguish of awaiting execution on death row by executing persons faster is unacceptable.



BARBADOS

Date of admission to UN: 9 December 1966.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Barbados submitted a core document (HRI/CORE/1/Add.64) for use by the treaty bodies. The report prepared by the government contains demographic and statistical data as well as an overview of the political history and structure of government. The Constitution contains a bill of rights comparatively similar to the Universal Declaration and guarantees a number of basic freedoms, including: the rights to life and personal liberty; protection from slavery and forced labour; protection from inhuman treatment; protection from deprivation of property; protection against arbitrary search or entry; the rights to freedom of conscience, expression, assembly and association; the right to freedom of movement; protection from discrimination on grounds of race, place of origin, political opinions,

colour or creed; and the right to a fair trial and the presumption of innocence. The Constitution states that any person alleging the violation of these rights may apply to the High Court for redress, thus making the High Court the effective domestic guardian of human rights in Barbados.

The Ombudsman Act (1981) established the office of Ombudsman, whose function is to investigate and report upon allegations of improper, unreasonable or inadequate administrative conduct. Any complaints made to the Ombudsman must be made in writing and cannot be anonymous. Normally the Office cannot investigate a case where the complainant has other legal means of redress. With some exceptions the Ombudsman has the power to request any minister or officer of a government department or any other person to supply information considered necessary. The Bureau of Women's Affairs is responsible for policy elaboration and research in the area of women's rights and is responsible to the Minister for Community Development.

Economic, Social and Cultural Rights

Acceded: 5 January 1973.

Barbados's second and third periodic reports were due 30 June 1991 and 1996 respectively.

Reservations and Declarations: Paragraph (a) (i) of article 7; paragraph (2) of article 10; paragraph (2) (a) of article 13.

Civil and Political Rights

Acceded: 5 January 1973.

Barbados's third and fourth periodic reports were due 11 April 1991 and 1996 respectively.

Reservations and Declarations: Paragraph 3 (d) of article 14.

Optional Protocol: Acceded: 5 January 1973.

Racial Discrimination

Acceded: 8 November 1972.

Barbados's eighth through 13th periodic reports (covering the period 1987-1997) have not been submitted; the 13th periodic report was due 8 December 1997.

Reservations and Declarations: Article 4.

Discrimination against Women

Signed: 24 July 1980; ratified: 16 October 1980.

Barbados's fourth and fifth periodic reports were due 3 September 1994 and 1998 respectively.

Rights of the Child

Signed: 19 April 1990; ratified: 9 October 1990.

Barbados's initial report (CRC/C/3/Add.45) has been submitted and is pending for consideration at the Committee's January 1999 session; the second periodic report was due 7 November 1997.



BELIZE

Date of admission to UN: 25 September 1981.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Civil and Political Rights

Acceded: 10 June 1996.

Belize's initial report was due 9 September 1997.

Reservations and Declarations: Paragraph 2 of article 12; paragraphs 3 (d) and 6 of article 14.

Discrimination against Women

Signed: 7 March 1990; ratified: 16 May 1990.

Belize's initial and second periodic reports were submitted as one document (CEDAW/C/BLZ/1-2) which is scheduled for consideration at the Committee's June 1999 session; the third periodic report is due 15 June 1999.

Torture

Acceded: 17 March 1986.

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

Rights of the Child

Signed: 2 March 1990; ratified: 2 May 1990.

Belize's initial report, (CRC/C/3/Add.46) has been submitted and is pending for the Committee's January 1999 session; the second periodic report was due 1 September 1997.



BOLIVIA

Date of admission to UN: 14 November 1945.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Bolivia has submitted a core document (HRI/CORE/1/Add.54/Rev.1) for use by the treaty bodies. The report prepared by the government contains demographic and statistical data as well as information on the historical background, the political structure, the general legal framework for the protection of human rights and principal problems of justice related to human rights.

The legal framework related to human rights is established by the Constitution which covers the full range of rights set out in the two International Covenants. The international human rights treaties to which Bolivia is a

state party rank as law and may be invoked before any national court. The report acknowledges that there remain serious obstacles to the practical application of international standards which prevent the benefits of the Constitution from being fully and generally enjoyed by all citizens. These obstacles are mainly attributable to structural poverty, cultural differences and the continuing slow process of democratization. Specific problems are identified in the report as, *inter alia*: shortcomings in the administration of justice, including delays in settling disputes, corruption, excessive judicial workload, shortage of defence counsel, and lack of access to justice for economic reasons or because of marginalization and ethno-cultural domination; the incompatibility between provisions in the Constitution and special legislation to combat drug trafficking; and, interference in the administration of justice by the international community through drug interdiction and drug eradication programmes. The report cites a number of laws intended to strengthen the promotion and protections of human rights, including but not limited to the Minors' Code 1992, the Judicial Organization Act 1993 and the Environmental Act 1992. The report also notes the establishment, under the Minors' Act, of the National Organization for Children, Women and Family.

Economic, Social and Cultural Rights

Acceded: 12 August 1982.

Bolivia's initial and second periodic reports were due 30 June 1990 and 1995 respectively.

Civil and Political Rights

Acceded: 12 August 1982.

Bolivia's third periodic report is due 31 December 1999.

Optional Protocol: Acceded: 12 August 1982.

Racial Discrimination

Signed: 7 June 1966; ratified: 22 September 1970.

Bolivia's 14th periodic report was due 21 October 1997.

Discrimination against Women

Signed: 30 May 1980; ratified: 8 June 1990.

Bolivia's second periodic report was due 8 July 1995.

Torture

Signed: 4 February 1985.

Rights of the Child

Signed: 8 March 1990; ratified: 26 June 1990

Bolivia's second periodic report (CRC/C/65/Add.1) was considered at the Committee's September 1998 session; the third periodic report is due 2 September 2002.

REPORTS TO TREATY BODIES

Committee on the Rights of the Child

Bolivia's second periodic report (CRC/C/65/Add.1, August 1997; CRC/C/Q/BOL.2) was considered by the Committee at its September 1998 session. According to

the government of Bolivia, the report reflects an effort to go beyond a limited vision of government administration and to give an objective account of the realities of the situation of Bolivian children and adolescents, the progress made since consideration of the initial report, and the challenges which remain before the Convention can become a genuine reality. Within that framework, the report provides information on, *inter alia*: the socio-economic context and the continuing problem of poverty; the mandate and functions of the Inter-institutional Commission for Childhood and Adolescence, established in 1997; the Ten-Year Plan of Action for Women and Children, introduced in 1992, as well as other sectoral national plans; education and obstacles to implementation of national policy; reorientation of the health care system; Strategic Action and Human Development Programme (PAE – Social), approved in 1996; the Juvenile Code 1992, and the harmonization of domestic legislation with provisions of the Convention; and programmes and continuing problems related to infant mortality, under-nourishment, maternal mortality, water and sanitation, access to education, children in difficult circumstances (e.g., street children, working children). Information is also provided on: the mandate and functions of the National Organization for Children, Women and the Family (ONAMFA); links to, and cooperation with, civil society (NGOs) working on behalf of children; the definition of the child and minimum age levels; legislative measures to implement the principle of non-discrimination; measures taken in support of the best interests of the child; civil rights and freedoms; family environment and alternative care; abuse and neglect, the Law against Family or Domestic Violence, the establishment of the National Committee Against the Maltreatment of Children; basic health and welfare, children with disabilities; the administration of juvenile justice and protection against exploitation; the situation of children belonging to minority groups; and the draft Children and Adolescents Code.

The Committee's concluding observations and comments (CRC/C/15/Add.95) welcomed, *inter alia*: the establishment of a Vice-Ministry for Human Rights and of the Office of the Human Rights' Ombudsperson (Defensor del Pueblo); the enactment of the Popular Participation Act (1994), establishing the principle of equal distribution per inhabitant of the joint resources from taxation allocated and transferred to regions, and seeking to correct the historical disparities between urban and rural areas; the establishment, within the decentralization programme, of the municipal defence system for children; the process of reform of the Code of Minors; the adoption of the National Mother and Child Insurance (1996), providing free health care for all mothers and children up to five years of age; the enactment of the Educational Reform Act (1994); and accession to the ILO Convention No. 138 regarding the minimum age for access to work.

Factors that continue to hinder implementation of the Convention were noted as including the persistence of large disparities in income distribution, long term hardcore poverty, and severe economic constraints, due in

particular to structural adjustment programmes and external debt.

The principal subjects of concern identified by the Committee included, *inter alia*: some discrepancies between domestic legislation and the provisions of the Convention, as well as the slow pace of the current process of reform; lack of measures taken to disseminate information on the provisions of the Convention; that the stringent budgetary measures and external debt, as well as the persistence of widespread poverty and uneven income distribution, are still having a negative impact on the situation of children; the disparities in domestic legislation, especially concerning the minimum legal ages for access to work and for marriage, and the use of the biological criterion of puberty to set different ages of maturity between girls and boys; the growing disparities between rural and urban areas as well as the growing number of persons living in urban poor and marginalized areas; and the predominance of discrimination on the basis of ethnic origin, gender, social status, and disabilities.

The Committee expressed concern over: the insufficient measures taken in the area of birth registration, and the lack of awareness and understanding on registration procedures, especially in rural areas; the persistent practice of ill treatment of children; the insufficient awareness and lack of information, research, statistics and data on ill treatment and abuse, including sexual abuse, both within and outside the family; the insufficient legal protection measures and appropriate resources, both financial and human, as well as at the lack of adequately trained personnel to prevent and combat such forms of abuse; the insufficiency of rehabilitation measures for such children and their limited access to justice; and the insufficient protection measures regarding intercountry adoption.

Concerns were raised with regard to: the situation of children living in institutions, as well as the situation of children living in penitentiary centres with one of their parents; the lack of follow-up measures and a monitoring and evaluation system on the development of these groups of children; the persistence of a high infant mortality rate, limited access of children to basic health services, the persistence of common childhood diseases, the increase of malnutrition in children under 5 years, and increasing adolescent health-related problems such as teenage pregnancy, smoking and alcohol consumption; the lack of specific provisions in domestic legislation concerning the rights of asylum-seeking and refugee children and the right to family reunification; and, the situation of children living in the region of Chapare, who are constantly exposed to the side effects of anti-narcotics interventions and live in a violent environment; the situation of children living in towns on the border with Chile, whose lives are threatened by landmines planted in that region.

The Committee noted its concern over: economic exploitation which remains one of the major problems affecting children in Bolivia; the situation of children

living and working on the street; the absence of data and a comprehensive study on the issue of sexual exploitation of children; the conditions of children living in special institutions, the use of violence by law enforcement officials, the fact that deprivation of liberty is not systematically used only as a measure of last resort, and that children are detained together with adults.

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

- ♦ take all necessary steps to accelerate the current process of reform of domestic legislation to incorporate the provisions of the Convention;
- ♦ continue efforts related to the provision of sensitization programmes and training to all professional groups working with and for children;
- ♦ continue undertaking all appropriate measures to the maximum extent of its available resources, including international cooperation, to continue ensuring that sufficient budgetary allocation is provided to social services for children; pay particular attention to the protection of children belonging to vulnerable and marginalized groups; take into consideration the children's rights component in designing social policies and programmes; continue efforts to reduce the burden of its external debt, including the measures taken within the framework of the World Bank/International Monetary Fund's initiative "Highly Indebted Poor Countries (HIPC)";
- ♦ introduce adequate reforms to the Draft Code of Children and Adolescents, and raise the minimum legal ages for work and marriage;
- ♦ increase measures to reduce economic and social disparities, including between rural and urban areas, and to prevent discrimination against the most disadvantaged groups of children;
- ♦ make further efforts to ensure the implementation of the principles of "best interests of the child" and "respect for the views of the child" — especially children's rights to participate in the family, at school, within other institutions, and in society in general — and reflect these principles in all policies and programmes relating to children;
- ♦ take all available measures to ensure the immediate registration of the birth of all children, and ensure that birth registration procedures are widely known by the population at large;
- ♦ take all appropriate measures to prevent and combat ill treatment and sexual abuse of children within the family, schools and society at large; set up social programmes to prevent all types of child abuse, and ensure the rehabilitation of child victims; strengthen law enforcement with respect to such crimes; develop adequate procedures and mechanisms to deal with complaints of child abuse;

- ♦ consider the possibility of undertaking educational campaigns related to corporal punishment to change societal attitudes towards the use of physical punishment within the family, at schools and in institutions;
- ♦ consider accession to the Hague Convention of 1993 on Protection of Children and Cooperation in Respect of Intercountry Adoption;
- ♦ adopt the necessary steps for establishing alternative measures to the institutionalization of children (e.g., foster families), especially for those living with one of their parents in penitentiary centres; undertake follow-up measures and a monitoring and evaluation system to ensure the adequate development of these groups of children;
- ♦ take all appropriate measures, including international cooperation, to ensure access to basic health care and services for all children; develop adolescent health policies and programmes, including prevention, care and rehabilitation measures; make a more concerted effort to combat malnutrition and ensure the adoption and implementation of a national nutritional policy for children;
- ♦ adopt legislation to protect all the rights of asylum-seeking and refugee children;
- ♦ take appropriate measures to ensure the protection of children living in the region of Chapare; take all necessary measures — including awareness raising programmes on landmines and training for the population at large — for the protection of children living in the border towns with Chile, and consider seeking international cooperation as well as conducting bilateral consultations for the clearance of landmines;
- ♦ not lower the minimum age for access to work; continue to give attention to the situation of children involved in hazardous labour, including domestic labour and prostitution; undertake research on the issue of children living and/or working on the streets as a basis to adopt appropriate programmes and policies for their protection and rehabilitation and the prevention of this phenomenon;
- ♦ reinforce its legislative framework to protect children fully from all forms of sexual abuse or exploitation, including within the family; and
- ♦ ensure the improvement of the conditions of children living in special institutions; ensure that violence is not used by law enforcement officials, that deprivation of liberty is only used as a measure of last resort, and that children are not detained together with adults; consider ratifying the Convention Against Torture; and conduct training programmes on the relevant international standards for all professionals involved with the juvenile justice system.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on: (E/CN.4/1998/44, paras. 4, 7, Annex III)

The report notes that one case was transmitted to the government but no details are provided.

Opinion No. 16/1997 was adopted at the Working Group's (WG) November/December 1997 session and related to the arrest of one person, in April 1992, by eight armed personnel of the CEIP (Police Intelligence). Information indicated that: during the eight days when the detainee was on police premises he was tortured and had no access to counsel; the individual faces 12 charges of rebellion and sedition, although in fact the only real accusation relates to his alleged militancy in a group known as the Ejército Guerrillero Tupaj Katari (EGTK); and, that the individual had been deprived of liberty for five and a half years although the case has not gone beyond the investigation stage, basically because relevant documents were transferred successively, owing to problems of competence, to the Second, Third and Fourth Courts. The WG noted that: the government has not reported any act of violence attributed to the person named, nor has it denied that, after five and a half years of deprivation of liberty, he has not yet been brought to trial; the fact of torture was corroborated by a report of the Commission on Human Rights of the Bolivian Chamber of Deputies, apparently with the aim of obtaining self-incrimination. The WG decided that the deprivation of liberty in this case was arbitrary.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 105–107)

No new cases of disappearance were transmitted to the government. The report notes that the majority of the 48 cases of disappearance reported to the Working Group occurred between 1980 and 1982, in the context of measures taken by the authorities following two military coups d'état. Twenty of those cases have been clarified and the others remain on the books.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 14, 15, 17, 29, 30, 36, 38, 57, 65, 68, 70; E/CN.4/1998/68/Add.1, paras. 30–35)

The report notes that communications were sent to the government related to death threats — from both state officials and private individuals cooperating with or tolerated by the authorities — and excessive use of force. Some of the urgent appeals were sent on behalf of women and children.

The cases involved, *inter alia*: a lawyer, the President of the Permanent Human Rights Assembly of Bolivia (APDHB), who was detained by eight police officers and threatened with death, possibly in connection with public statements he made concerning a clash between miners and the police in the Department of Potosí which left nine

dead; the Chairman of the Human Rights Committee of the Chamber of Deputies, also a lawyer, possibly in connection with his public condemnation of the abduction/detention of the above-mentioned President of the APDHB; killings by members of the police and military when peasants and miners, demanding their rights in a confrontation with exploitative mining companies, occupied the Amayapampa and Chiquita Capacirca mines in Potosí; and killings during an operation aimed at eradicating coca production by members of the Mobile Rural Patrol Unit (UMOPAR), the environmental police, and the Coca Conversion Department (DIRECO).

The government response stated, *inter alia*, that: the President of the APDHB was free and the reasons for his temporary detention were being investigated by the Committee on the Constitution and Judicial Police of the National Congress; the President of the Inter American Commission on Human Rights had been asked to investigate and determine responsibility for the incidents leading to the killings of miners and peasants; and, pursuant to Supreme Decree No. 24793 of 4 August 1997, a compensation fund had been established for the relatives of persons killed or injured in incidents caused by the actions of state officials.

The Special Rapporteur welcomed the establishment of the compensation fund and urged the authorities to ensure that law enforcement officials receive comprehensive training in human rights questions and, above all, concerning limitations on the use of force and firearms in the performance of their duties.

Independence of judges and lawyers, Special Rapporteur on the: (E/CN.4/1998/39, paras. 16, 40–41)

The report refers to the case of the President of the non-governmental Permanent Human Rights Assembly of Bolivia (see information under “Extrajudicial, summary or arbitrary execution”).

Torture, Special Rapporteur on: (E/CN.4/1998/38, paras. 27–28; E/CN.4/1998/38/Add.1, para. 30)

The Special Rapporteur recalled the recommendation of the Human Rights Committee that the government should institute investigations into human rights violations “to bring to justice the perpetrators and to provide proper compensation to the victims, particularly with respect to continuing occurrences of torture and ill-treatment by the police and security forces” (A/52/40, para. 218). An urgent appeal was sent to the government in the case of the President of the Permanent Human Rights Assembly (see information under “Extrajudicial, summary or arbitrary execution”).



BRAZIL

Date of admission to UN: 24 October 1945.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Brazil has submitted a core document (HRI/CORE/1/Add.53) for use by the treaty bodies. The report prepared by the government contains economic, demographic and statistical data as well as a political history and information on the general political structure and legal framework for the protection of human rights. The Constitution of 1988 reflects the efforts of lawmakers to consolidate and expand fundamental rights and guarantees included in its preamble which were confirmed in the Fundamental Principles – citizenship, dignity of the human being, prevalence of human rights, no discrimination on the basis of origin, race, sex, colour or age, and granting of political asylum. The Constitution details, in five chapters: individual and collective rights and duties; social rights; nationality; political rights; and political parties. There are six principal remedies for the defence of threatened rights: *habeas corpus*, *habeas data*, writ of *mandamus*, collective writ of *mandamus*, writ of injunction, popular action, and public civil action. International instruments may be invoked and applied directly by the court and competent authorities.

The Council for the Defence of the Rights of the Human Person (CDDPH) is one organ which receives complaints and accusations of human rights violations from affected parties or third parties and proposes and recommends the adoption of corrective measures. The Council is not an executive body and has no coercive power over administrative or judicial authorities. In cooperation with the Public Ministry and government and non-governmental bodies, the CDDPH monitors how the competent authorities deal with cases of human rights violations.

Economic, Social and Cultural Rights

Acceded: 24 January 1992.

Brazil's initial report was due 30 June 1994.

Civil and Political Rights

Acceded: 24 January 1992.

Brazil's second periodic report was due 23 April 1998.

Racial Discrimination

Signed: 7 March 1966; ratified: 27 March 1968.

Brazil's 14th and 15th periodic reports were due 4 January 1996 and 1998 respectively.

Discrimination against Women

Signed: 31 March 1981; ratified: 1 February 1984.

Brazil's initial and second through fourth periodic reports were due 2 March 1985, 1989, 1993 and 1997 respectively.

Reservations and Declarations: Paragraph 1 of article 29.

Torture

Signed: 23 September 1985; ratified: 28 September 1989. Brazil's initial and second and third periodic reports were due 27 October 1990, 1994 and 1998 respectively.

Rights of the Child

Signed: 26 January 1990; ratified: 24 September 1990. Brazil's initial and second periodic reports were due 23 October 1992 and 1997 respectively.

THEMATIC REPORTS**Mechanisms of the Commission on Human Rights****Disappearances, Working Group on enforced or involuntary:** (E/CN.4/1998/43, paras. 13, 108–110)

No new cases of disappearance were transmitted by the Working Group (WG) to the government and one case was clarified when the relatives acknowledged that their missing family member was dead and a death certificate was issued. The report notes that the relatives received compensation.

Most of the 56 cases of disappearance transmitted by the WG occurred between 1969 and 1975 under the military government, in particular during the guerrilla warfare in the Aerugo region. The majority of those cases were clarified by the Working Group in 1996 on the basis of law No. 9.140/95 which recognized as dead persons missing in connection with their political activities in the period 1961–1979. The law provides that: the relatives of these victims are entitled to obtain death certificates and to receive compensation from the state; the right to request death certificates is guaranteed, but it is up to each family to decide whether or not to exercise this right; and the compensation is automatically due from the state once the death of the disappeared victim is acknowledged.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 13, 14, 15, 17, 29, 30, 32, 36, 39, 52, 61, 70, 71; E/CN.4/1998/68/Add.1, paras. 36–49)

Information was transmitted to the government concerning reports of death threats from state officials and/or paramilitary groups, deaths in custody, excessive use of force by law enforcement officials and attacks or killings by security forces, paramilitary groups or private forces cooperating with or tolerated by the state. Allegations relating to situations of impunity were also transmitted, as were cases of children killed by police officers.

Information received by the Special Rapporteur (SR) pointed to an increase in violence against children and adolescents, mainly in the state of Rio de Janeiro, with more children and adolescents killed or injured in drug related violence and clashes between groups and with police officers than in death squad activities. The report notes that the lack of detailed investigations into these deaths makes it difficult to determine who is responsible for them. Further, the SR notes that, in its National

Human Rights Programme which began in May 1996, the government made a commitment to establish a system for gathering and producing accurate statistics on human rights violations against children and adolescents.

The SR referred to the fact that, in November 1995, the state of Rio de Janeiro promulgated Decree No. 21,753, stipulating that police officers performing acts of bravery would be decorated and receive a pay raise of 50 to 150 per cent. Between November 1995 and April 1996, 257 decorations of this type were reportedly issued. Concerns were expressed to the SR that the Decree would encourage the police to use more force in operations in which they were involved in order to qualify as an "act of bravery" and receive a pay raise.

The report referred to information of a general nature related to allegations that in Maceio, the capital of Alagoas, members of the civil police were harassing, ill treating and even violating the right to life of homosexual prostitutes. According to the information received, at least seven homosexual prostitutes had been killed, but a judicial investigation had been opened in only one of those cases.

Four urgent appeals were sent to the government on behalf of: members of the Guarani Kaiowá indigenous community, who were evicted from the land they occupied in Sucuriy, Maracajú municipality, by armed civilians threatening violence, during clashes over land between indigenous people and local landowners; witnesses to the events surrounding the death of five members of a death squad, in a reported clash with members of the civil police of the Robbery and Theft Department in the Alta Sao Sebastiao district of Cavaleiro; witnesses to the massacre at Nova Natal, Natal, Rio Grande do Norte in January 1993, who had begun testifying against four police officers charged with the massacre — three witnesses had been receiving intimidating visits in their homes from the accused and other members of the police; and a lawyer representing the family of an individual who was murdered, noting that members of a police association, Scuderie Detetive le Cocq (SDLC) were allegedly involved.

Individual cases involved: children killed by private security agents, military police officers and civil police officers; deaths during or shortly after arrest, sometimes as a result of ill treatment or shooting; and, deaths arising from a raid conducted by more than 100 police officers on a shanty town in Salvador who were looking for members of a criminal gang.

The response of the government to a case transmitted in 1996 stated that investigations were being conducted by the Federal Police to ensure that proceedings were as impartial as possible and that, in order to avoid interference with the investigations, the Deputy Secretary of State for Public Security had been removed from office because of suspected involvement with the group known as Meninos de Ouro. In connection with the urgent appeal transmitted on behalf of the Guarani Kaiowá indigenous community, the government said that demar-

cation of the indigenous land had begun and that, when the conflict had broken out between the indigenous group and members of the Maracajú Rural Trade Union, the regional administration of the National Indian Foundation (FUNAI) in Amambaí, together with the government Attorney in Mato Grosso do Sul, had immediately called in the Campo Grande/MS federal police in order to protect the indigenous persons' physical integrity. The government stated that the indigenous persons were camped along the highway awaiting a judicial decision authorizing the immediate reoccupation of their land. In the case of the killing of the members of a death squad, the government informed the SR that an investigation had been opened and a district police chief assigned to conduct it; the district police chief and the five police officers involved in the case were dismissed. With regard to threats against witnesses, the government noted that a witness protection programme, known as "Pro Vita", was operating and assisted anyone under threat who explicitly requests protection. The witnesses named in the SR's communication had not requested protection.

The report notes that the government agreed with most of the observations concerning Brazil in the report to the 1997 session of the Commission on Human Rights (E/CN.4/1997/60/Add.1) but did not agree with commentary on the new procedures for the demarcation of indigenous land introduced by Decree No. 1775/96. The SR had stated that the uncertainty created by this decree could lead to violent incursions onto indigenous lands and to human rights abuses. The government asserted that such fears were unjustified, since the purpose of the decree was precisely to strengthen the legal bases for the land demarcation process and thus reduce uncertainty and the risk of violence against indigenous people.

Independence of judges and lawyers, Special Rapporteur on the: (E/CN.4/1998/39, paras. 16, 17, 42–44)

The report refers to an attack and threats against a state prosecutor and his assistant who were investigating a murder in which members of the police organization Scuderie Detective le Cocq (SDLC) were allegedly involved. Information indicated that: the state prosecutor had been investigating the activities of SDLC for some time; members of the police and of the judiciary may be involved in this organization; and the state prosecutor had requested police protection, which was denied because of lack of resources. Information was also sent to the government concerning two lawyers, the first a member of the Permanent Forum Against Violence of Alagoas (FPCV-A1) and member of Amnesty International Brazil Section, and the second President of the Grupo Gay de Alagoas and also a member of the FPCV-A1. Reports indicated that both had received anonymous telephone calls warning them that, unless they dropped their investigations into the June 1996 murders of two homosexuals and a transvestite, they would be killed.

Racism and racial discrimination, Special Rapporteur on: (E/CN.4/1998/79, paras. 121–127)

The report recalls that the Special Rapporteur (SR) visited Brazil in 1995 and that as a result the government has taken measures to combat racial discrimination and inequality of opportunities, particularly with regard to the Black population. The information provided by the government referred to the Inter-ministerial Working Group for the Promotion of the Black Population which had been assigned the task of formulating public policies for the promotion of the rights of Afro-Brazilians and had, *inter alia*: created the National Programme to Combat Sickle-cell Anaemia; secured inclusion of the item race/colour in death and birth certificates as well as in the school census and in all statistical surveys in the field of education; submitted studies and proposals for the implementation of article 68 of the Temporary Constitutional Provisions Act concerning the granting of ownership titles to the occupiers of the remaining Quilombo lands, like the titles already issued in favour of the communities of Pacoval and Agua Fria; proposed programmes on TV Escola — the educational television channel — aimed at the revision of Brazilian history from the point of view of the African contribution to Brazilian social formation; re-evaluated textbooks distributed to students of primary and secondary schools all over the country, resulting in the exclusion of publications containing prejudices and formal errors, as well as discrimination or stereotypes based on race, colour or gender; and, participated in the elaboration of the "National Curriculum Parameters" under the aegis of the Ministry of Education. The government also referred to the elaboration by the Ministry of Justice, through the National Archives and the National Secretariat for Human Rights, of a draft "Guide on the sources for the history of the Black in contemporary society" which will facilitate actions by Black entities in defence of their rights and the activities of the state in establishing public policies directed at the Black population.

Equally important is the effort made by the Ministry of Justice, together with the Centre for Studies on Labour Relations and Inequalities, in the elaboration of a project aimed at the promotion of a wide debate about the possibilities and limits of juridical norms in the struggle against racial discrimination and in ensuring equality of opportunities and treatment. The report notes that the federal government has been supporting the activities of the Working Group for the Elimination of Discrimination in Employment and Occupation, set up in the Ministry of Labour by decree of 20 March 1996 and that the principal actions of the Working Group during its first year included: convening of a tripartite meeting on the subject "Implementation of policies aimed at diversity", with the participation of representatives of various corporations; setting up of a subgroup in charge of extending the pilot experiment of the Ministry of Labour in the fight against discrimination to other organs and sectors of the public administration; giving support to the Ministry of Labour in the development of the programme for the implementation of ILO Convention No. 111 concerning Discrimina-

tion in respect of Employment and Occupation; development of projects for the promotion of citizenship and professional training, financed by the Fund for the Support of the Worker; and support for the dissemination of ILO Convention No. 111 through interventions made during events on discrimination, promotion of equality and human rights organized by different institutions (trade unions, municipalities, non-governmental organizations, Federal and state governments).

With regard to legislation, the report notes that the National Congress has approved, and the President has sanctioned, a law which foresees a penalty of one to three years' imprisonment for those who commit a crime of racism by uttering insults of a racial nature or discriminating on grounds of race, ethnicity, colour, religion or nationality. The principal innovation introduced by this law is to characterize as a crime of racism insults or prejudice in labour or personal relations, thus widening the scope of the previous law which foresaw sanctions only for cases of racism involving the media and restrictions of access to public places on grounds of race. The report also notes that Law No. 9.455 of 7 April 1997, defining the crime of torture, contains specific reference to the racial question, stating that the crime of torture is characterized when a person is constrained by violence or grave threat, with the infliction of physical or mental pain, for reason of racial or religious discrimination.

The SR expressed concern about the potentially undesirable effects of including a mention of race on school and birth certificates, as well as other documents, however laudable the original intent of affirmative action. The SR also continued to be concerned about the fate of indigenous peoples.

The Special Rapporteur's interim report to the 1998 General Assembly (A/53/269, para. 33) notes that in November 1997 the Palmares Foundation (Ministry of Culture) granted one of the 5,000 Afro-Brazilian communities that occupy the quilombos title to their land. According to officials, the government and the Palmares Foundation recognized the topographical surveys and legal studies delimiting the 3,158.11 hectares of land occupied by the Afro-Brazilian communities of the Ivaoporunduva quilombo in the municipality of Eldorado in São Paulo state. To guarantee their legal rights, other involved population groups and communities would like similar measures to be taken with respect to their land but through the legislative process, as provided for by the Constitution, and not through decrees.

Sale of children, child prostitution, child pornography, Special Rapporteur on the:
(E/CN.4/1998/101, para. 123)

In the section dealing with education, the report notes that two projects are being implemented in Pernambuco and Bahia to prevent children from entering prostitution by providing them with formal education, vocational training and other activities. The programmes are being implemented by the Confederação Nacional da Indústria (CNI) in cooperation with its member organizations. The

programme includes training courses for local NGOs and local government officials responsible for education, health and law enforcement. In addition, awareness campaigns to put an end to child prostitution are in the process of being conducted through various media such as radio, television, posters and pamphlets. The Centro de Defesa da Criança e do Adolescente da Bahia (CEDECA/Ba) is producing a booklet on child sexual exploitation that is to be used as training material for institutions involved in the fight against child prostitution and trafficking in Brazil.

Torture, Special Rapporteur on: (E/CN.4/1998/38, paras. 29–33; E/CN.4/1998/38/Add.1, paras. 30–34)

The report refers to information indicating that: the forensic medicine services are subordinate to the security forces, which compromises the independence they ought to enjoy; under Brazilian law only a medical examination authorized by a police authority is valid in court, meaning that victims of possible acts of torture or ill treatment will be reluctant to seek such authorization for fear of reprisals and making it difficult to obtain evidence; the Brazilian Forensic Medicine Society and the Brazilian Society of Forensic Criminology Experts had been seeking financial and administrative autonomy from the police since 1989 and had proposed legislative initiatives to this effect, but the government had not attached priority to this matter; to date forensic services have ceased to be subordinate to the police authorities only in the State of Amapá, where they report directly to a secretariat linked to the Governor's Office. Information also indicated that doctors had been asked to identify the physical cause of death in autopsy forms, but they had not been instructed either to include comments on the means which had provoked the death or to submit the kind of information that might be relevant to a legal investigation. As a result, important data were often lost. The Special Rapporteur also referred to information indicating that: the police — both civil and military — and also the federal police, frequently resorted to torture in much of the country; the lack of training and the impunity usually enjoyed by those responsible were contributing factors; and, while the lower house had approved a bill in July 1996 criminalizing torture, it was still pending in the Senate.

Three individual cases were sent to the government. One involved detention by military police, followed by various forms of torture — i.e., beating the detainee on his testicles and trampling on his hands while four policemen pointed guns at his head; the report notes that this case had been brought before the military courts. A second case involved the arrest of a suspect by Federal Police in connection with drug trafficking, followed by the detainee's death in custody the next day. The doctors of the Institute of Forensic Medicine reportedly gave the cause of death as internal haemorrhaging as a result of injury with a blunt object, and found bruising of the victim's chest, thighs and wrists and four broken ribs. The report took note that the case had been referred to the federal investigation service for it to decide on the

prosecution of seven federal police officers allegedly involved. Note was also taken of the decision of the Federal Chamber of Deputies to approve the award of a monthly pension to the victim's family. The third concerned the detention of a person who was intoxicated and tortured which resulted in various injuries including the perforation of the right eye; the police maintained that the injuries were caused by another detainee, an assertion which the victim reportedly denied.



CHILE

Date of admission to UN: 24 October 1945.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Economic, Social and Cultural Rights

Signed: 16 September 1969; ratified: 10 February 1972. Chile's third periodic report was due 30 June 1994.

Civil and Political Rights

Signed: 16 September 1969; ratified: 10 February 1972. Chile's fourth periodic report (CCPR/C/95/Add.11) is scheduled for consideration at the Committee's March 1999 session; the fifth periodic report is due 28 April 1999.

Reservations and Declarations: Declaration under article 41.

Optional Protocol: Acceded: 27 May 1992.

Reservations and Declarations: General declaration.

Racial Discrimination

Signed: 3 October 1966; ratified: 16 March 1971. Chile's 11th through 14th periodic reports were submitted as one document (CERD/C/337/Add.2) which is not yet scheduled for consideration by the Committee; the 15th periodic report was due 19 November 2000.

Reservations and Declarations: Declaration under article 14.

Discrimination against Women

Signed: 17 June 1980; ratified: 7 December 1989. Chile's second periodic report (CEDAW/C/CHI/2) has been submitted and is scheduled for consideration at the Committee's January 1999 session; the third periodic report is due 6 January 1999.

Reservations and Declarations: General declaration.

Torture

Signed: 23 September 1987; ratified: 30 September 1988. Chile's third periodic report was due 29 October 1997. *Reservations and Declarations:* General declaration; paragraph 1 of article 30.

Rights of the Child

Signed: 26 January 1990; ratified: 2 October 1990. Chile's second periodic report was due 11 September 1997.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 13, 24, 25, 28, 37, 38, 44, 47, 49, 58, 124-129)

The report summarizes information provided by the government on the question of compensation and notes, *inter alia*: law No. 19,123 (February 1992) provides for the granting of compensatory payments to heirs of non-surviving victims of human rights violations, disappearances or executed detainees, whose disappearance occurred between 11 September 1973 and 19 March 1990; certification only by the National Truth and Reconciliation Commission or by the National Compensation and Reconciliation Board is required for compensation to be paid; exhumations have been carried out to determine the identity of persons who have disappeared; in all cases where information has been given concerning places where the remains of disappeared persons are reported to have been buried, the relevant complaint has been lodged with the competent courts, the remains exhumed, and the necessary forensic measures taken to establish the identity of the persons concerned; as of 8 August 1997, the complete remains or fragments of the remains of 267 persons had been exhumed and 231 positively identified; as of 31 December 1996, the government had authorized the payment of compensation to 4,630 relatives of 2,730 persons declared by the National Truth and Reconciliation Commission or by the National Compensation and Reconciliation Board to be non-surviving victims; as of 30 September 1997, the government had paid a total amount of compensation of 35,340,496,000 Chilean pesos (approximately US\$85 million) to relatives, with 133 requests for payment of compensation pending, awaiting the submission of the necessary documentation.

No new cases of disappearance were transmitted by the Working Group (WG) to the government and one case had been clarified when the body of the person concerned was found in the General Cemetery of Santiago. The report notes that the vast majority of the 912 reported cases of disappearance in Chile occurred between 1973 and 1976 under the military government and concerned political opponents of the military dictatorship, from different social strata, most of them

activists in the Chilean leftist parties. Those responsible for the disappearances were members of the army, the air force, the carabinieri and persons acting with the acquiescence of the authorities.

During the period covered by the report, the government provided information on the 847 outstanding cases which had been collected by the National Truth and Reconciliation Commission, by the National Agency for Compensation and Reconciliation, and by the Programme of Follow-up to Act No. 19, 123. The WG was informed that, although the National Agency for Compensation and Reconciliation ceased to function on 31 December 1996 for legal reasons, its Victims' Final Destiny Programme remains in effect. This programme is intended to establish the whereabouts of detained and disappeared persons and the bodies of those whose remains have not been found, despite the existence of an official record of their deaths.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 17, 29, 30, 57, 65; E/CN.4/1998/68/Add.1, paras. 75–76) The report notes that communications were sent to the government arising from death threats from state officials. An urgent appeal was transmitted on behalf of members of the Group of Relatives of Disappeared Detainees after they had received death threats by telephone and were harassed by men in civilian clothes who identified themselves as members of the Police Department. Information indicated that the three women, members of the Group of Relatives, had applied to the Santiago Court of Appeal for protection.

In its reply, the government stated that no member of the Police Department had been involved in the intimidation of the three women, and further, that they had been offered police protection but had declined. The government noted that after the women had submitted an application for protection to the Santiago Court of Appeal, the Court had ordered that a police guard be maintained for 30 days at the office of the Group of Relatives of Disappeared Detainees and for 15 days at the women's homes.

Sale of children, child prostitution, child pornography, Special Rapporteur on the: (E/CN.4/1998/101, para. 117)

In the section dealing with sex education programmes, the report notes that the Catholic Church has not opposed sex education in schools and that such programmes have been conducted.

Torture, Special Rapporteur on: (E/CN.4/1998/38, paras. 46–48; E/CN.4/1998/38/Add.1, paras. 64–66)

The report recalls that the Special Rapporteur (SR) visited Chile in 1995 and addressed a number of recommendations to the government. Information was requested from the government on follow-up to those recommendations on a number of issues, including, *inter alia*: eliminating the "arrest on suspicion" provision from the Code of Criminal Procedure; the introduction of rules to strengthen the protection of civic rights; concerns related

to the draft Code of Criminal Procedure and of the Organization Act relating to the Prosecution Service; the bill submitted by the government in 1996 in order specifically to characterize torture as an offence; and measures taken in 1996 and 1997 to ensure that officers of the forces of law and order had been punished for offences relating to violation of the right to physical integrity of detained persons and details of any cases. The SR stated that in light of information suggesting that torture and ill-treatment continue to be used by the police, it is a matter of concern that the government has not been in a position to elaborate on developments related to follow-up of the recommendations made after the 1995 visit.

During the period under review, 12 cases were transmitted to the government. These involved, *inter alia*: a beating by two motorized police officers (carabineros), following refusal to show identity papers, which resulted in serious injuries; detention followed by punches and kicks resulting in injuries confirmed at the San José de Melipilla hospital; a house search and beating of the putative suspect's mother in a case of mistaken identification during an anti-drugs operation, as well as insults and beatings requiring medical treatment of the wrongfully detained person; various incidents related to the use of force by police during the course of arrests or detentions; the blindfolding, beating and ill treatment, by various fellow servicemen, of an individual who had joined the air force to carry out his compulsory military service and was subsequently accused of having inadequately performed a military manoeuvre; the beating of an individual who had gone to the station to make a statement about having been shot in the leg the previous day by policemen during an operation near his home; the beating of an inmate in a high security prison; and, assault by police officers which resulted in the victim being admitted to hospital as an emergency case.

An urgent appeal was also sent related to the arrest of four 19-year-old conscripts who were accused of involvement in the murder of another conscript, whose body had been found three months after his disappearance. Information indicated that the four had been beaten, deprived of sleep, and threatened by members of the army to force them to confess to having participated in the crime.



COLOMBIA

Date of admission to UN: 5 November 1945.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Colombia has submitted a revised core document (HRI/CORE/1/Add.56/Rev.1) for use by the treaty bodies. The report prepared by the government contains economic, demographic and statistical data as well as information on the system of government and the

structure of the state. Title II of the Constitution contains five chapters and 85 articles relating to the protection, promotion and defence of human rights. These are: fundamental rights, social, economic and cultural rights, collective rights and the environment, the protection and application of rights, and duties and obligations. The Constitution contains a series of special guarantees for indigenous peoples and Afrocolombian and island communities. The competent authorities for the protection of rights include the Office of the Attorney-General and the Office of the People's Advocate.

The National Human Rights Commission was established in 1994 and is chaired by the Minister of the Interior. Since its creation the Commission has been concerned, in particular, with four main questions: peace, international humanitarian law, impunity and protection of human rights. The proposals put forward in the Commission have received a formal governmental response and progress has been made in the search for agreed formulas to build upon the consensus achieved, overcome disagreements and conclude the Commission's work.

Economic, Social and Cultural Rights

Signed: 21 December 1966; ratified: 29 October 1969.
Colombia's fourth periodic report is due 30 June 1999.

Civil and Political Rights

Signed: 21 December 1966; ratified: 29 October 1969.
Colombia's fifth periodic report is due 12 August 2000.

Optional Protocol: Signed: 21 December 1966; ratified: 29 October 1969.

Second Optional Protocol: Acceded: 5 August 1997.

Racial Discrimination

Signed: 23 March 1967; ratified: 2 September 1981.
Colombia's eighth and ninth periodic reports (CERD/C/332/Add.1) were submitted as one document, which has not yet been scheduled for consideration by the Committee; the 10th periodic report is due 2 October 2000.

Discrimination against Women

Signed: 17 July 1980; ratified: 19 January 1982.
Colombia's fourth periodic report (CEDAW/C/COL/4) has been submitted and is scheduled for consideration at the Committee's January 1999 session; the fifth periodic report is due 18 February 1999.

Torture

Signed: 10 April 1985; ratified: 8 December 1987.
Colombia's third periodic report was due 6 January 1997.

Rights of the Child

Signed: 26 January 1990; ratified: 28 January 1991.
Colombia's second periodic report (CRC/C/70/Add.5) has been submitted and is pending for consideration at the Committee's January 2001 session; the third periodic report is due 26 February 2003.
Reservations and Declarations: Paragraphs 2 and 3 of article 38.

COMMISSION ON HUMAN RIGHTS

Office of the High Commissioner for Human Rights

In the Chairman's statement adopted at its 1996 session, the Commission requested the High Commissioner for Human Rights to establish at the earliest possible date a permanent office in Colombia with a mandate to assist the authorities in the promotion and protection of human rights, to observe human rights violations in the country and to provide analytical reports to the High Commissioner be distributed as public documents at subsequent sessions of the Commission.

The report of the High Commissioner for Human Rights to the 1998 Commission (E/CN.4/1998/16) on the activities and findings of the Office in Bogota contains information on, *inter alia*: the constitutional system and international treaties ratified by Colombia; the context of violence and internal armed conflict; the situation in 1997 related to the electoral and peace processes; main violations of human rights and international humanitarian law; specific aspects of international humanitarian law; and economic, social, and cultural rights. Areas of particular concern related to human rights and international humanitarian law are outlined as well as follow-up by the government to international recommendations, and the activities of the OHCHR office in Bogota.

In setting the context, the report states that: the Office had enjoyed the cooperation of state and government institutions and had been able to conduct its activities without any impediment; violations of human rights and breaches of international humanitarian law take place within a broad and complex arena of political and social violence with roots in such historical factors as: peasants' campaigns in response to political, economic, social, and cultural exclusion; a long period of violence between the two traditional parties, the Liberals and the Conservatives; the emergence of a system of alternation and parity between these parties, effectively depriving other political sectors of any share in power; the emergence of a guerrilla movement partly within the context of the polarization and Cold War prevailing in the 1960s; the fact that the state involved groups of armed civilians in its counterinsurgency activities against rebellious movements; and the emergence of drug trafficking in the 1970s, leading to new forms of criminality and corruption.

Referring to the scale of violence in the country, the report notes that: Colombia has one of the highest homicide rates in the world; organizations of drugs dealers are a significant source of crime, including terrorist attacks and the planting of explosives in public places; such organizations appear to support paramilitary groups which sometimes act as private armies for drug cartels; and, the violence and escalation of the armed conflict have seriously damaged the economy, causing disinvestment, unemployment, a drop in the production of basic food-stuffs, marginalization and poverty.

Current elements of debate, discussion, and concern are noted as including, *inter alia*: the electoral process, culminating in June 1998 with the election of a new President, and the broad debate in society on the possibility of a peaceful outcome to the present armed conflict; threats and attacks against candidates during the October 1997 elections for new departmental and municipal authorities; the citizens' initiative known as the "Mandate for Peace", involving more than 400 organizations of civil society, which secured nearly 10 million votes for a peaceful settlement of the conflict and observance of the rules of international humanitarian law; adoption of a series of measures to promote conditions for the opening of a dialogue and the fact that the great majority of presidential candidates declared that they were committed to a policy of peace; indications from the Revolutionary Armed Force of Colombia (FARC) related to the need to develop a process of reconciliation; the response of the National Liberation Army (ELN) to the "Mandate for Peace", expressing its willingness to pursue talks on the movement's aims; the declaration of the paramilitary United Self-Defence Groups of Colombia of their intention to be involved in the process; and the fact that despite promises by parties to the conflict to observe and comply with the rules of international humanitarian law, there was an intensification of the conflict in 1997.

Addressing the conduct and activities of non-state actors, the report recalls that insurgent groups in Colombia can only be responsible for breaches of international humanitarian law and that when human rights violations occur within the context of the armed conflict, the Office takes into account the fact that they also constitute breaches of international humanitarian law. The report notes that complaints about the behaviour of groups of armed insurgents were received from state institutions, non-governmental organizations, private individuals, the armed forces and the national police. The statistics in the report are based on complaints received by the Office directly from government sources, NGOs, and public information available in the country. Seventy-six per cent of violent incidents are attributed to paramilitary groups, 18.6 per cent to guerrillas, and 4.4 per cent to the armed forces and police.

Consideration of civil and political rights includes summary commentary on the right to life and notes a number of points, including that: it was estimated that more than 3,341 people died in violent circumstances, including in massacres, between January and September 1997; violations have been attributed to the armed forces, paramilitary groups and the police; some actions causing these deaths were carried out jointly by military and paramilitary personnel; and violations against members of marginalized groups were still widespread, particularly with regard to ordinary criminals, homeless persons, drug addicts and prostitutes. The report notes that: the UN Special Rapporteur on summary or arbitrary execution sent 24 urgent appeals to the government concerning death threats from members of the armed forces, the police, paramilitary groups or individuals cooperating with them and requesting protection for human rights

activists, priests, trade unionists, municipal representatives and peasants' representatives; civilians were often being threatened by the combatants in the conflict, whether to get them to cooperate with one side or the other, or to dissuade them from doing so; death threats are generally a signal that there are going to be attempts on people's lives and, as a consequence, lead to forced departure and exile; reports indicated that in many cases paramilitary raids on the peasant population were preceded by the passage of army personnel, who recommended that the inhabitants leave the region; and, according to information received, guerrillas have been responsible for the deaths of soldiers and civilians. Commentary notes that guerrilla groups in some cases describe civilians, who are protected by international humanitarian law, as "military objectives", implying that civilians are legitimate targets; and allegations were received that guerrilla groups consider it justified and legitimate to make attempts on the lives of persons accused of being informers for the armed forces or police, or collaborators with the paramilitaries and, in the areas controlled by insurgents, they are said to be responsible for the deaths of ordinary criminals and drug addicts.

Consideration of the right to personal security includes brief narrative on, *inter alia*: enforced disappearances, noting that between 1994 and 1996 there were 1,012 reported cases of enforced disappearances and cases were variously attributed to paramilitary groups, the army, persons unknown and/or paramilitaries acting jointly with the armed forces or police; hostage-taking and abduction, noting the systematic practice of abduction by guerrilla groups for extortion through which to finance their activities, the resort by paramilitary groups to the practice, and the fact that some members of the armed forces and police have also been involved in the practice; and torture and ill-treatment. The report notes the statement by the People's Advocate that: torture statistics do not reflect the actual frequency with which this crime is committed, in part because many of the persons tortured only appear in the lists of victims of enforced disappearance or extrajudicial execution; while in state custody, many victims of torture had to declare in writing that they had been well treated; and many people did not report being tortured out of fear of being executed at a later date.

With regard to the freedoms of thought, expression, association and assembly, the report states that these freedoms are protected by the Constitution but are seriously jeopardized in practice and do not enjoy real safeguards for their free exercise. Commentary is provided on a number of concerns and aspects related to these freedoms, including, *inter alia*: the climate of terror resulting from death threats to trade unionists and associated interference with the conduct of trade-union activities; the fact that there is freedom of expression in the media, including strong criticism of the government, but also that journalists are exposed to all types of attacks in the course of their work, leading to a feeling of insecurity among journalists that results in "self-censorship"; abductions, murders, terrorist acts, attacks and disap-

pearances against candidates, serving mayors and councillors; a high degree of intolerance towards opposition parties and movements; and procedural irregularities and violations of the right to presumption of innocence.

The narrative on aspects of international humanitarian law addresses such issues as the use of civilians as "human shields" by combatants seeking to protect themselves from enemy fire, indiscriminate attacks on populated areas, damage to civilian property, massacres, and the use of landmines by all parties over the course of 30 years of conflict which now pose serious and, at times, lethal dangers to the civilian population.

Referring to attacks on civilian property, the Office acknowledged that not all attacks against civilian property are covered by the humanitarian norms set out in Protocol II Additional to the Geneva Conventions, but expressed its concern at the systematic practice of acts of this nature. The report refers to attacks on oil pipelines by insurgent groups that cause oil spills which seriously damage agricultural areas, sources of drinking water and inhabited areas and cites information provided by the People's Advocate indicating that there were 636 attacks on oil pipelines by guerrilla groups between 1986 and 1996 which, in two cases, resulted in the loss of life.

Commentary is also provided on attacks against public installations such as power stations, attacks against medical professionals and facilities, the extrajudicial execution of civilians who assisted injured guerrilla fighters, and the recruitment of children under 15 years of age by various parties in the armed conflict.

Concerning economic, social, and cultural rights, the report notes that there had not been a capacity in the Office to carry out a detailed follow-up on these rights and that no complaints of violations of these rights were received. The report nonetheless includes observations based on a "joint country evaluation document" prepared by the UN agencies in Colombia, referring to, *inter alia*: the almost complete lack of a tradition of effective social protection and inadequate integration of the social fabric; the lack of a collective awareness of the universal nature of economic, social and cultural rights or of the social obligation to avoid discrimination in the ability to exercise them; the fact that the level of poverty affecting a large part of the population is cause for concern; a lack of effective social protection to guarantee a minimum level of subsistence in such areas as housing, food, education and health care, as well as a healthy environment; the fact that income distribution in Colombia is among the most uneven in Latin America, with the richest 25 per cent of the population earning 30 times more than the poorest 25 per cent; the fact that Colombia is one of the few countries in Latin America where income distribution has worsened in this decade; the fact that the national illiteracy rate is 10 per cent and very unevenly distributed, with the rate being as high as 25 per cent in some regions; and, the fact that, compared with other countries in the region, expenditure on primary and secondary education is proportionally much lower than on higher education.

The report notes: there is a high level of discrimination in the delivery of health care on the basis of the income and employment status of health care users; continuing problems related to access to housing despite the system of housing purchase subsidies; the high rates of interest on housing loans as another restriction on access to housing, as well as the high levels of speculation in the prices of urban land; the fact that basic services such as drinking water and sanitation are scarce, particularly in rural areas, although the hydro network has been expanded; the high rate of unemployment in 1997 (12 per cent); the number of children and young people who work, estimated at nearly 2.5 million children under 18 and nearly 1 million under 14, with long working days and remuneration below the minimum legal wage; the continuing steady deterioration in the environment and the depletion of natural resources; water and air pollution on an enormous scale; a lack of a broad awareness of the need for the protection and rational use of natural resources; and the abandonment of large tracts of farming land because of the violence, affecting access to and availability of food.

The section of the report addressing what are considered "particularly serious aspects" of the situation of human rights and international humanitarian law refers to the paramilitary phenomenon and the "Convivir" associations which were declared illegal in 1989 but for which no provision was made in terms of dismantlement. The report states that during 1997, the action of the paramilitary groups continued to spread throughout the country and to areas under guerrilla control, resulting in terror among a civilian population faced with selective executions and massacres, torture, disappearances, illegal checks on identity or travel, and restriction of access to food and medicine. The report then states that on the basis of the complaints received and observation of the phenomenon in the field, the Office's view was that a considerable number of the acts of violence by the paramilitaries are carried out with the tolerance, if not actual complicity, of public servants, particularly members of the armed forces and the National Police.

The report notes that the problems raised by paramilitary groups and their activities are compounded by the existence of groups of armed civilians who are legally authorized to carry out activities similar to those of the armed forces and police. Special Decree No. 356 of 1994 established "special private security and vigilante services" (Convivir) and authorized them to ensure their own security in high-risk areas and to use combat weapons. The report notes that the "Convivirs" have been stripped of that name but it remains difficult to distinguish between the activities of paramilitary groups and those of certain "Convivir" associations. The report also notes that the Office received reliable information referring to the participation of known paramilitaries in "Convivir" associations, some of whom have arrest warrants outstanding against them. The associations have operated in some places with the exclusive and irregular support of governors of departments or military commanders and criminal investigations into their activities have dealt with

crimes that have included executions, torture, homicide and disappearances.

On the issue of enforced displacement, the report notes that this continued to be one of the most serious consequences of the armed conflict, with some 180,000 people displaced every year. The report refers to the causes and effects of displacement, including that: enforced displacement is being used as a war strategy by the armed forces, police and paramilitary groups; following displacement, any land of strategic economic or military value is repopulated with supporters of the military or paramilitary forces, thereby creating security zones needed to control the land; the guerrillas provoke the displacement of inhabitants whom they consider hostile to their activities or who have infringed the rules of conduct imposed by the insurgent group in the areas under its control; and displacement has also occurred as a result of the convergence between the counter-insurgency strategy and the interests of certain economic sectors which support paramilitary groups with the aim of increasing their hold over natural resources and productive land. The report notes that: peasants have been robbed of their land by paramilitaries in the service of drug traffickers or local landowners, or have been forced to sell their land cheaply before leaving the region under death threats; the displacement of individuals continues to constitute a substantial part of the total number of displacements and, for the most part, involves peasants and social, trade-union and community leaders; these individuals have been forced to move with their families after receiving threats or being attacked or harassed; displacement does not end the persecution, with victims, including organizations of displaced persons, subsequently targeted by political violence in their new place of residence; and the displaced population also suffers from lack of access to basic health, food, housing and education services.

The report notes that a programme of voluntary return was not wholly successful since the security conditions in the areas had proven too unstable to allow a number of returnees to remain in their homes. The report notes that in light of the magnitude of the problem, the government has invited the UN High Commissioner for Refugees to study the possibility of opening a permanent office in Colombia.

With regard to members of minorities and indigenous peoples, the report notes that ethnic minorities in rural areas have been the targets of numerous attacks by all parties in the conflict and that a large number of indigenous communities have declared their neutrality and requested that none of the armed participants — including forces of state — involve them in their actions. Despite these declarations, the report notes that indigenous communities and individuals have continued to be victims of violations of human rights and international humanitarian law.

The report states that not all human rights violations take place in the context of the armed conflict. Because of the polarization of positions resulting from the conflict, per-

sons engaged in legitimate activities are seen as part of the conflict and are in a critical position precisely because of their activities. Thus, opposition political activists, social and trade-union leaders, human rights activists, state officials responsible for ensuring respect for human rights, and journalists have their fundamental rights violated.

The report notes that attacks on human rights activists increased markedly, with more than 20 members and leaders of various human rights organizations murdered in the past year. Others were victims of enforced disappearances or threats and harassment and were forced to move or go into exile. Compounding the problem is the fact that proceedings in regional courts have been initiated, on the basis of denunciations by state intelligence bodies, against human rights activists and lawyers representing individuals who were detained for political offences. Other victims have included persons from economically or socially marginalized sectors and violations have included the practice of extrajudicial executions of beggars, criminals, homosexuals, prostitutes and persons belonging to other impoverished or marginal segments of society, particularly street children. The information received related to such violations implicated members of the "Convivirs", the armed forces and police as perpetrators. The report also notes attacks on women and children that, in the case of violence against women, have included sexual assault in various forms. Women also continue to be victims of sexual discrimination, resulting in a deterioration of their basic human rights.

In commentary on the functioning of justice, the report refers to the problem of impunity, noting that the failure to investigate and try offences which constitute human rights violations and war crimes is one of the factors which has contributed the most to the continuation of many forms of behaviour violating the rights protected by the international instruments. Citing information from the October 1996 report of the Commission on Rationalization of Expenditure and Public Finance, the report notes that the level of impunity was at that time, and has generally remained, greater than 99.5 per cent. Other points noted in the commentary on impunity included that: the great majority of proceedings for human rights violations and war crimes — in which serving members of the armed forces and police appear as defendants — have to date come under the jurisdiction of the military criminal courts; an excessively broad interpretation of the sphere of military jurisdiction has meant that for many years it was assigned punishable acts which had no functional relation of any kind with the normal tasks of the armed forces; proceedings for crimes against humanity have been removed from the jurisdiction of the ordinary courts; military criminal justice in Colombia is harsh in the case of violations of police or military regulations, whereas in respect of offences against the civilian population it is affected by cover-ups, partiality and the pressuring of witnesses; active-duty officers try their own subordinates for human rights offences committed against civilians and consequently lack the necessary independence and impartiality to try

cases in which members of the same body are involved; and despite decision C-358/97 (5 August 1997), restricting the scope of the jurisdiction of the armed forces and police, the latter has continued to protect persons responsible for punishable acts which have no connection with military or police service.

The narrative on the regional justice system, which will remain in place until 30 June 1999, notes that the system was originally established as a public order jurisdiction to cover a wide range of offences including terrorism, conspiring to commit an offence, abduction, extortion, torture, threats, homicide, wounding for terrorist purposes, rebellion and sedition. The report states that the system enables judicial officers and witnesses to act without revealing their identity, practically enabling them to remain anonymous, does away with public hearings, unduly extends the deadlines for the investigation and restricts to the fullest possible extent the grounds for provisional release, to the detriment of the right to a proper trial, the presumption of innocence, and the right of defence.

The report notes that the "faceless" character of proceedings has been justified on the basis that it protects the lives and integrity of judicial officers and witnesses but also states that whatever the degree of security attained it has come at the cost of denying the defence any possibility of examining the impartiality of the prosecutor, judge or magistrate conducting the trial, and hence grounds for challenging the official's right to preside. Irregularities in proceedings are noted as including, *inter alia*: use of a single unidentified deponent, under different codes or keys, thus making it appear that the statements come from several witnesses; the taking of new evidence from an unidentified witness who has already made a statement; and facilitation of the ability of members of the armed forces and police, as "faceless witnesses", to make unsubstantiated accusations against persons whom they regard as subversive. The report notes that in some trials and under the cover of concealed identity, persons belonging to the state intelligence services or recognized informers of the official security bodies have become principal, if not sole, witnesses; and arising from the activities of regional prosecutors and judges, the fundamental rights of many Colombians have been violated because they have become linked to proceedings at an advanced stage of investigation, deprived of an opportunity to defend themselves, subjected to measures of restraint on the basis of confessions obtained under pressure or opportunist denunciation, and found themselves deprived of their freedom for excessive periods, without trial or conviction.

Other problems and conditions cited in the report include: restrictions on the remedy of *habeas corpus*, and prison revolts. Further, the report notes that women prisoners have made repeated complaints concerning the situation of their children, the constant abuses committed by wardens during searches, and the failure to comply with the legal provisions concerning marital visits.

Concerning follow-up by the government to international recommendations, the report notes a number of initiatives that have been taken, including but not limited to: adoption of a law establishing the National Peace Council to end the conflict on a permanent footing and work toward national reconciliation; the decision of the government not to declare a state emergency in 1997; establishment in 1995 of the Commission for Analysis and Advice on the Implementation of the Recommendations of the International Human Rights Bodies; the August 1997 decision of the Constitutional Court against extension of the criminal jurisdiction of the police and armed forces to cover acts going beyond service-related offences; Presidential Directive No. 011, recognizing the legitimacy of the work of human rights NGOs and the contributions these organizations make to the rule of law; establishment within the Ministry of the Interior of a programme of special protection for witnesses and threatened persons; introduction of a bill, which has been criticized as inadequate, characterizing the offence of enforced disappearance of persons; and the approval, in July 1997, of Act No. 387 aimed at responding to the serious problem created by the enforced migration of thousands of Colombians. The report outlines other initiatives such as: the announcement, at the end of 1997, of a series of measures to combat paramilitary activity, including the establishment of a "search corps" composed of various state agencies, whose objective is to hunt down members of such groups; the November 1997 decision of the Constitutional Court declaring enforceable Decree No. 356 of 1994 — which established the "Special vigilante and private security services", viz. "Convivirs" — and ordering that the restricted-use weapons issued to such groups be returned to the General Command of the armed forces; in August 1997, suspension of the licensing of new security associations and decisions either cancelling or not renewing the licences of already-existing associations; approval, with ratification pending, of the Inter-American Convention to Prevent and Punish Torture; introduction in November 1997 of a bill to reform the Juvenile Code; and passage in December 1997 of a law establishing an "alternative sanction" scheme for the prison population with benefits such as conditional release, leave passes and the commutation of prison terms into community service.

The activities of the Office in Bogota are noted as having included, *inter alia*: receiving complaints of violations from NGOs and government and state institutions; visits to various regions of the country to verify the veracity of the complaints; immediate intervention to national bodies and the government upon receipt of serious cases requiring urgent action; advisory work related to draft legislation; advisory work on human rights training programmes for the armed forces and police; and, continuous contact with the International Committee of the Red Cross related to monitoring breaches of international humanitarian law, particularly with regard to the problem of displacement.

The report concludes with 19 recommendations. Among the recommendations are that:

- ♦ all parties to the conflict abide by norms of international humanitarian law;
- ♦ the government conduct independent and exhaustive investigations into all violations of the right to life, bring those responsible to justice and properly compensate victims in order to put an end to the spiral of violence and impunity;
- ♦ the government ensure that the draft legislation characterizing the offence of enforced disappearance conforms fully to the provisions of the UN Declaration on the Protection of All Persons from Enforced Disappearance and ensure that the Penal Military Code reform bill conforms fully to relevant international norms;
- ♦ the authorities carry out an effective policy for permanently disbanding paramilitary groups by apprehending, trying, and punishing those who inspire, organize, lead, belong to, support, and finance them;
- ♦ the government remove from the armed forces and police any persons against whom there is reliable evidence of having supported paramilitary groups, through acts or omissions, or having participated or in any way acquiesced in their activities;
- ♦ the authorities take immediate steps to guarantee the full operation of the justice system and the regional justice system be abolished forthwith;
- ♦ the authorities ensure proper recognition of the right of human rights advocates to conduct their activities without interference or unlawful hindrance, and without fear for their lives;
- ♦ the authorities continue to seek effective measures to prevent enforced displacement and ensure the effective exercise of the rights of displaced persons to proper nutrition, medical care, housing and education, both in their present settlements and after their return to their places of origin; and
- ♦ the government redouble its efforts to support publicly, with adequate resources and concrete action, the institutions working to ensure the observance of human rights and the rule of law as well as the bodies responsible for the administration of justice.

Response of the government to the report of the OHCHR

The government's response to the work and report of the High Commissioner's office in Bogota (E/CN.4/1998/135) provides a detailed assessment of the OHCHR report and covers many points including, *inter alia*, that: insufficient weight is given to the impact of the armed conflict as a major source of violations, with the associated failure to appreciate the full extent of the negative consequences the conflict is having on enjoyment of many economic and social rights; the treatment of the phenomenon of drug trafficking reduces it to a question of crime and corruption and does not take full account of

its effects with regard to fuelling, intensifying and exacerbating the armed conflict; there is a failure to mention the role of the guerillas in serious violations of political rights; there is a tendency to underestimate the numerical and economic strength of "private justice" or vigilante gangs; such groups are incorrectly and inappropriately considered with the police and armed forces in terms of violations of a number of rights; there is a failure to recognize the government's policy on pacification which is based on achieving peace and bringing about social, political and cultural change; and the categorization of human rights violations as "systematic" and the assertion that there remain shortcomings in the draft Military Penal Code are not justified.

Following on these and other points, the government's response notes measures taken on a number of areas covered in the report prepared by the OHCHR. The subjects addressed include: the protection of human rights defenders; the draft Military Penal Code; the codification of crimes against humanity; criminalization of the forced disappearance of persons; impunity; forced displacement through violence; regional justice; special security services; and the situation in prisons. The government also provided commentary and information on the measures it has taken, or plans to take, in several areas related to economic, social and cultural rights, including income distribution and poverty, education, health, housing, employment, the environment, and food.

The concluding comments on the operation of the High Commissioner's office in Bogota briefly cover a number of points and state, *inter alia*, that: the Office carried out its tasks in an impartial, independent, objective and transparent manner; the advisory function should be strengthened, with a view to elaborating viable proposals for a concrete response to the difficulties in the country; there is a need to pay special attention to the provision of assistance through citizenship education programmes; the staff in the Office should be reinforced with experts at the most senior levels; the current capacity to visit local areas particularly prone to violence should be maintained and expanded in order to continue to promote preventive action by the authorities and contribute to the reduction of tensions; the Office should strengthen its contacts with the High Commissioner for Refugees and other UN agencies in order to elaborate a comprehensive solution to the problem of displaced persons; and, bearing in mind that the domestic armed conflict is the primary source of human rights violations, the Office should issue a clear and consistent demand, in the name of the international community, that armed outlaw groups must respect international humanitarian standards and engage in a dialogue and reconciliation.

Chairman's statement of the Commission on Human Rights

At its 1998 session, the Commission again agreed to a detailed Chairman's statement.

The Commission, *inter alia*: welcomed the report of the OHCHR and the government's response; noted the will-

ingness of the government to give full importance and seriousness to the conclusions and recommendations of the report; urged the government to advance in the implementation of the recommendations contained within the report as soon as possible; and, welcomed the renewal of the agreement between the government and the High Commissioner for Human Rights extending the mandate of the permanent Office in Bogota until 30 April 1999.

The Commission also: expressed deep concern at the gravity and scale of the violations of human rights and breaches of international humanitarian law and the persistence and intensification of the internal armed conflict and, the serious and continuous abuses and violations of human rights and the application of international humanitarian law mainly by paramilitaries and guerrillas, but also by certain state agents; urged all parties to make serious efforts to negotiate a peaceful conclusion to the internal armed conflict; and, recognized the creation of the National Peace Council, the ten million votes for peace cast by the citizens of Colombia, the authorization of regional Governors to promote humanitarian agreements with guerrilla groups, and the growing openness of Colombia to international participation in the search for negotiated solutions to armed confrontation.

The Commission also acknowledged the package of important policies and measures adopted and initiated by the government in the field of protecting and defending human rights and its willingness to cooperate with the Office of the High Commissioner and the Commission's special rapporteurs and working groups, as well as the steps taken for the application of humanitarian standards in the conflict, and its continued cooperation with the International Committee of the Red Cross (ICRC).

The Commission expressed deep concern at the growing and harmful contribution of paramilitary groups to the increasingly violent situation in much of the country and their involvement in more than half of the violent crimes attributed to the parties to that conflict; expressed concern that members of the paramilitary groups sometimes act in conjunction with, or with the acquiescence of, members of the armed forces or police; welcomed the reduction in the number of human rights violations attributed to the armed forces and the police, but expressed concern that the measures taken by the authorities have not yet succeeded in ensuring that any support for the activities of paramilitary groups is investigated and punished; noted measures to put an end to paramilitary groups and urged all the authorities to intensify to the maximum these measures; stated its expectation that the armed forces will dismiss from service all those in their ranks who may be implicated in crimes against humanity; condemned terrorist and other violent acts by guerrilla groups which violate international humanitarian law; called on the guerrilla groups to respect norms of international humanitarian law and, especially, condemned killings and all attacks on the

civilian population, indiscriminate massacres, kidnapping and threats to kill nationals and foreigners, hostage-taking, the widespread use of anti-personnel landmines, and the recruitment of children; condemned electoral sabotage by the guerrilla groups; urged the guerrilla groups, for humanitarian reasons, to release all the soldiers in their possession and all the persons kidnapped in contravention of international humanitarian law.

The Commission: welcomed the recommendations of the Constitutional Court to impose strict controls on the weapons held by special private security and vigilante services; welcomed measures adopted by the government to regulate the establishment and functioning of these bodies; and, called on the government to ensure the required resources to monitor closely the activities of all such groups in order to guarantee their effective control and ensure that they remain within the law.

The Commission: called on the government to promote the conclusion of the process of reform of the military penal code by excluding from military courts serious human rights violations and in particular crimes against humanity, by separating the functions of the executive and the judiciary, and by introducing criminal indemnification proceedings ("*la parte civil*"); called for urgent promotion and adoption of the draft law to put an end to forced disappearances and genocide and to increase the punishment for acts of torture; acknowledged the draft law aimed at the abolition of the regional justice system; expressed continuing concern at the unacceptable level of impunity, in particular concerning abuses by state agents that continue to fall under the jurisdiction of military courts; welcomed the important advances by the Human Rights Unit in the Office of the General Prosecutor in number of cases of gross human rights violations; urged the government to strengthen and consolidate its support, through all institutions of the state, of all those who promote the defence of human rights; and, expressed deep concern at the apparent increased threat to many human rights defenders and the fact that some members of the state's intelligence organizations consider these defenders to be linked to guerrilla groups.

The Commission: acknowledged the efforts made by the government to address the problems of internal displacement of large numbers of citizens but expressed continuing concern about the increasing numbers of internally displaced people; welcomed the understanding reached between the government and the UNHCR on establishing a liaison office in Bogota; and, urged the government to continue to seek effective means to prevent such displacements, take all necessary measures to protect the life and physical integrity of internally displaced persons, and to ensure security for organizations supporting them.

The Commission requested the High Commissioner for Human Rights to present to the 1999 session a detailed report on the activities of the Office, including analysis on the situation of human rights in Colombia.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on:

(E/CN.4/1998/44, paras. 6, 14, 16, 19, 21, Annex III; E/CN.4/1998/44/Add.1, Decision No. 44/1996)

The main report notes that two urgent appeals, involving 13 persons, were sent to the government. No details of the cases were provided. Annex III of the report contains Opinions adopted by the Working Group (WG) at its November/December 1997 session.

With regard to Decision 26/1994, adopted in September 1994, the report notes that the government requested a review of the WG's decision that deprivation of liberty had been arbitrary. The case involved four Dominican citizens arrested in Colombia in October 1992. The WG based its decision on grounds that the rules of due process of law had been violated, in that: much of the evidence presented was secret, as were the judge and the prosecutor; no appropriate action was taken to compensate for not holding proceedings in public, so as to ensure the impartiality and independence of judges; the accused were denied the right to a public hearing; the accused were also denied adequate time and facilities to prepare their defence; and, the accused were denied the opportunity to examine or have examined the witnesses against them, since the identity of the latter was also kept secret. In February 1997 the government requested a review of the decision on the basis that the criminal investigation undertaken had led to the clear conclusion that the four individuals had never been unlawfully deprived of their liberty and that at all times their detention had been in conformity with an order by a competent authority. On this basis, the government stated that any notion of arbitrary detention was invalid. The WG recalled that, under its methods of work, any request for a review of an opinion must be based on entirely new facts not known to the Group at the time it adopted its decision or opinion, and of such a nature as to have caused the Group to alter its decision had it been aware of them. The report notes that the government's request for a review did not allege any new fact. In light of the absence of any new elements, the WG rejected the request for reconsideration.

Decision No. 44/1996 related to the cases of five persons who were released. On this basis and without pre-judging the nature of the detentions, the WG decided to file the cases.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 3, 8, 13, 135-147)

The report notes that the Working Group (WG) transmitted 36 new cases to the government, 16 of which reportedly occurred in 1997. Fifteen were transmitted under the urgent action procedure. Six previous cases were clarified on the basis of information provided by the government.

The report notes that the majority of the 1,006 reported cases of disappearances in Colombia have occurred since 1981 and involve members of civic or human rights groups who had publicly denounced abuses by members of the security forces or paramilitary groups. The newly reported cases transmitted in 1997 occurred mainly in rural areas. Most of the detentions leading to disappearances were carried out by members of paramilitary groups believed to be acting with the complicity or the passivity of the security forces, very often in areas of heavy military presence. In a few cases the sources pointed to the army as the force responsible for the arrest.

The WG called the government's attention to the harassment of the family of a missing person, reportedly in connection with their intervention in the penal proceedings against members of the police allegedly involved in the case. Concern was also conveyed to the government following reports that, in June 1997, a bomb exploded in the building where the Association of Relatives of Disappeared Detainees in Medellín has its offices.

The report recalls that, in the past, the WG had made recommendations to the government concerning the right of missing persons and their families to an effective remedy, and that information received from non-governmental organizations during 1997 indicates that the judicial investigations to locate the missing persons and punish those responsible almost never succeed. The WG stated that, with regard to human rights cases, the justice system has not achieved major improvements since 1988, with the possible exception of the investigation into the disappearance of 19 traders in 1987 which concluded that the victims had disappeared after being arrested at a military checkpoint. Three civilians who had acted in conjunction with members of the armed forces were sentenced to 90 years' imprisonment, but no members of the armed forces were punished by the military courts for the same facts.

With regard to the new bill on enforced disappearance presented to the Congress in November 1997, the WG recommended to the government that steps be taken to ensure that the final text fully complies with the provisions of the Declaration on the Protection of All Persons from Enforced Disappearance. Information was also received about an August 1997 decision of the Constitutional Court which states, *inter alia*, that certain crimes do not constitute service-related acts and therefore should not fall under military jurisdiction, for example, crimes against humanity, and that in such circumstances the cases should be assigned to the ordinary courts. The report notes the concerns of non-governmental sources that, since the ruling by the Constitutional Court, the government had not made the necessary arrangements to refer cases currently under the military criminal justice system to the ordinary justice system when they do not fulfil the conditions for a hearing in the military courts.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 13, 14, 15, 17, 29, 30, 31, 32, 37, 39, 40, 42, 52, 57, 60, 61, 63, 65, 66, 67, 68, 69, 70, 72, 75, 99, 112; E/CN.4/1998/68/Add.1, paras. 87–124)

The report notes that 24 urgent appeals were transmitted to the government on behalf of groups of persons, such as civilian populations, demonstrators, employees of certain enterprises as well as on behalf of individuals, including human rights activists, human rights defenders, community activists and trade union leaders. The Special Rapporteur (SR) expressed extreme concern over the fact that attacks conducted by members of the army and paramilitary groups against those believed to cooperate with the guerillas have reportedly led to the deaths of many innocent civilians. The SR also expressed deep concern over the high number of civilians and persons hors de combat who were killed in the context of the internal armed conflict and as a result of the use of indiscriminate or disproportionate force, the utilization of anti-personnel mines, or the blockage of goods and services, including relief assistance. The report notes that allegations were sent to the government with regard to the impunity enjoyed by paramilitary groups that continued to commit systematic violations of the right to life with the acquiescence of members of the armed forces.

The addendum to the main report, refers to reports that paramilitary violence was still responsible for most violations of the right to life, with groups such as the Peasants' Self-Defence Units of Córdoba and Urabá (ACCU), being responsible for systematic violations of the right to life, and acting with impunity and with the acquiescence of certain elements in the armed forces.

The SR stated that the large number of complaints received made it impossible to analyze them all and to provide appropriate follow-up. Some detail on individual cases is provided, however, related to human rights activists, priests, trade unionists, inhabitants and civilian populations in certain towns, municipal representatives, peasants' representatives and minors. A case involving a former guerrilla fighter with the Revolutionary Armed Forces of Colombia (FARC) is mentioned. As well, the report discusses concerns related to some 400 peasants and their families from Unguía, Chocó Department, Urabá, who had fled to Panamá after violent clashes between guerrilla and paramilitary groups, and their possible deportation to Colombia without measures to protect their right to life.

The report notes that complaints were transmitted to the government with regard to: the deaths of minors, human rights defenders, indigenous persons, peasants, political leaders, trade unionists and others caused by paramilitary groups; the deaths of peasants, indigenous persons, trade union leaders and others caused by members of the army; and deaths of political leaders, peasants, human rights defenders and others caused by the police.

The report notes that the SR received a large number of replies from the government, reflecting its willingness to

cooperate with the mandate. The information provided related to investigations and judicial proceedings in connection with a substantial number of cases and urgent appeals transmitted by the SR.

Recalling that the SR on extrajudicial, summary or arbitrary execution, together with the SR on the question of torture, visited Colombia in 1994, the report refers to the recommendations made following that visit and to the government's follow-up to those recommendations. The summary of the information provided by the government and that received from non-governmental sources noted, *inter alia*:

- ♦ The government cited adoption of Act 288 of 1996 which established machinery for the compensation of victims of violations. Non-governmental sources noted that the Act represented progress but did not cover the broader issue of redress for violations of human rights, confining itself solely to the question of economic compensation.
- ♦ The government noted that the Regional Justice System system must, by law, cease to operate by 30 June 1999 and that, in the light of the criticisms directed against the system, as well as recommendations and suggestions put forward, the tendency was to reduce the coverage of the regional justice system. Non-governmental sources noted that a decision of the Constitutional Court ensured that the previous rules continue to apply, making it easier for members of the forces of law and order to appear as secret witnesses and to bring charges before the courts against those they consider their enemies, who are often just social activists.
- ♦ The government stated that the Witness Protection Programme of the Procurator's Office operated on a restricted basis, since its requirements were quite strict and few persons were willing to comply with them and that resources continued to be inadequate to meet needs. Non-governmental sources stated that the intervention of the Witness Protection Programme of the Procurator's Office in cases of human rights violations had not had very good results because of, *inter alia*: the requirement that protected persons be totally isolated from their families; lack of confidence in the protection offered; and the fact that the programme is designed for repentant offenders and not for victims of human rights violations and victims see themselves in danger of being treated as suspects or accused persons.
- ♦ The government referred to its decision to submit the reform of the military criminal justice system to the Congress, but noted that it had an official position on two contentious issues: (a) with respect to how to limit the jurisdiction of the military criminal justice system, it opted not to include definitions or normative indications, but to leave the analysis and definition of whether the offence was service-related to the judges; and (b) with regard to obedience to superior orders, it opted to limit this defence to instances

when it is based on a lawful order and does not run counter to fundamental rights. Non-governmental sources stated that the draft military criminal code presented by the government reproduced the content of article 221 of the Constitution and excluded its application with regard to serious violations of human rights in the matter of military justice.

- ♦ The government referred to its active participation in the friendly settlement processes under way through the Inter-American Commission. Non-governmental sources recognized the importance of the mechanism of commissions of inquiry. They pointed out, however, that with regard to the clearing up of cases, the punishment of those responsible, and social redress for the victims, progress was minimal and none of the judicial inquiries had reached a conclusion.
- ♦ The government stated that the activities of groups dispensing private justice had been condemned by the highest government authorities and the Attorney-General had made putting an end to impunity for acts committed by these groups a priority. Non-governmental sources stated that the government's attitude to these groups is permissive; and that a trend towards legitimizing such groups had emerged with the establishment and promotion of the so-called "Convivir".
- ♦ The government stated that the Social Solidarity Network of the Presidency of the Republic was carrying out a special programme for promoting the rights of street dwellers and protecting them in 12 cities. Non-governmental sources reported that between October 1995 and September 1996, 314 persons had been killed as a result of violence against members of marginal groups with responsibility in 57 per cent of the cases attributed to paramilitary groups.

The report concludes with the statement that, because of the high number of complaints and the limited resources available to the SR, the situation in Colombia cannot continue to be examined solely under a thematic mandate — that it warrants the appointment of a special rapporteur on the situation in Colombia to work directly with the Office of the High Commissioner in the field and to report to the Commission on Human Rights.

Independence of judges and lawyers, Special

Rapporteur on the: (E/CN.4/1998/39, paras. 15, 16, 17, 19, 49–55)

The report refers to cases that were transmitted to the government, some on an urgent basis. One case related to a lawyer and City Ombudsman of San Calixto who had received a death threat from a paramilitary group called "Autodefensas del Catatumbo", reportedly linked with the security forces. Another case concerned two lawyers who the military alleged were active members of the National Liberation Army (ENL), reportedly because one of the lawyers defended an individual who had been arrested and charged with being a member of the ENL. A third case concerned three members of the "José Alvear Restrepo" lawyers' collective who were threatened and

harassed. The President of the collective was accused of supporting a wing of the ENL.

The government's replies to the cases variously indicated that: the lawyer concerned had been under investigation for rebellion, arrested and subsequently released pending further investigation; the complaint was under investigation; and, that the case of the members of the lawyers' collective had been studied by the competent authorities which had ordered the adoption of measures to protect the office and the integrity of the members of the collective.

The SR visited Colombia from 15 to 27 September 1996. The focus of this mission was to study the so called "regional courts" — a system created by the government in order to prosecute civilians charged with terrorist-related crimes and drug trafficking. The report of the mission (E/CN.4/1998/39/Add.2) contains information on a number of subjects including, *inter alia*: the crisis in the administration of justice, the general structure of the judiciary, the regional courts and international standards, the right to due process of those tried by regional courts, conditions of service that hinder the independence and impartiality of the judiciary and prosecutors and the right to defence, conditions of service of the Procurator's Office (Ministerio Público), impunity, and follow-up to previous missions.

In setting the context the report notes that, at the time of the mission, figures from the Office of the Procurator General of the Nation (Fiscalía General de la Nación) indicated that approximately 100 violent deaths occurred daily and while common crime and social violence were the causes of most violent deaths, the rate of politically-motivated homicides and executions was one of the highest in the world. The report further notes that in 1996 and 1997 the human rights situation had deteriorated seriously and, between October 1996 and March 1997, 1,704 people were victims of social and political violence. The majority of victims were civilians, particularly peasants. The increase in human rights violations reportedly committed by paramilitary groups was characterized as commensurate with the extension of the territories they controlled and the development of their activities. Despite government promises to disband paramilitary groups, these were in fact becoming more powerful and were responsible for the majority of extralegal executions, acts of torture and forced disappearances. Serious allegations had also been brought to the SR's attention concerning the links between the paramilitary groups and the armed forces. At the same time, the government continued to support rural security cooperatives or associations called "Convivir" — created and regulated by Special Decree No. 356 of 1994 — which promote an involvement of the civil population in the conflict.

Narrative on the crisis in the administration of justice refers to a number of points, including that: the main problem affecting the judiciary is the high rate of impunity at both ordinary criminal courts and military criminal courts; despite the fact that there is a well structured judicial system, there is an obvious absence of the

rule of law and, with an impunity rate of 97 per cent, there is virtually no confidence in the functioning of the justice system; increasing corruption within the public and administrative institutions, including the judiciary, is a serious cause for concern; increasing pressure on the judiciary is coming from the armed forces, security forces and the police, which on the one hand criticize the administration of justice for its ineffectiveness and, on the other hand, obstruct its work with regard to the investigation of the police and the armed forces; the acceptance of paramilitary activities by the armed forces has been a major obstacle in the administration of justice; the decline of public confidence in the judicial system also stems from the difficult access to judicial remedies and from the delays with which cases are tried; despite the extensive institutional structure for dealing with investigations of human rights violations, the activities of the competent institutions lack any effect in practice; there is also an apparent lack of coordination between various judicial bodies, investigatory institutions, the armed forces, security forces and the judiciary, which results in duplication of efforts; populations displaced as a result of the armed conflict face particular problems concerning access to justice; many writs for the protection of constitutional rights (*acción de tutela*) were routinely dismissed by competent judges and, in other cases, delays frustrate the effectiveness of the writs; and, members of the judiciary and of the legal profession lack appropriate training in international standards and law, which has serious implications for the adjudication of cases involving military officials.

With regard to the structure of the judiciary, the report notes that: the court system is comprised of two main jurisdictions, the ordinary and the military; the regional courts, previously called public order courts, and known as "faceless" courts, form part of the ordinary criminal jurisdiction; the judges of the Constitutional Court, the Supreme Court of Justice and the Council of State, are elected for a single term of eight years, the first by the Senate and the second and third by their respective members from lists of candidates submitted by the Higher Council of the Judicature (*Consejo Superior de la Judicatura*); the Office of the Procurator General directs and coordinates all criminal investigations conducted by the national police and other departments provided for by law, save those covered by the military jurisdiction; and, through the establishment of the Office of the Procurator-General the administration of justice has, to some extent, shifted from an inquisitorial to an accusatorial system. The report cites information indicating that in September 1996 approximately 1,600,000 cases were in the investigatory stage, of which 30,000 were before the "regional justice" and that there was no reliable source available to indicate the status of the cases being processed.

The SR noted that while the judiciary condemned the actions of state security forces, it failed to prosecute those responsible and the Human Rights Unit within the office of the Procurator General was faced with difficulties in identifying the increasing number of paramilitary groups

whose activities threatened the country. The Unit was also not in a position to provide precise information on the so-called "self-defence groups" which were being established by civilians throughout the country as a result of the increase in violence and the failure of the state security system to provide protection. The report also notes that prosecutors of the Human Rights Unit encountered obstacles in investigating cases in certain regions of the country.

With regard to the People's Advocate (*Defensor del Pueblo*), the report notes that the duties of the office are governed by article 282 of the Constitution and include, *inter alia*, advising and instructing inhabitants of the national territory and Colombians abroad in the exercise and defence of their rights before the competent authorities or private entities; publicizing human rights and recommending policies for promotion; and, asserting the right to the remedy of habeas corpus, as well as other constitutional guarantees.

On the subject of the regional courts, the report notes that they had been in effect since 1984 and that the crimes that fall within their jurisdiction are rebellion, conspiracy to commit crime and terrorism. On the basis that judges hearing such cases, prosecutors investigating, and witnesses testifying are all at risk, there are provisions to keep their identities secret. With regard to the use of anonymous witnesses by the regional court system, the report notes a number of points, including that: cross examination of anonymous witnesses was authorized only in 1993; such cross examination was restricted by the practical difficulties of maintaining the anonymity of the state's witnesses; usually there is no cross examination because there is an assumption that the prosecutor will not produce an unreliable witness; despite rules stating that the testimony of an anonymous witness cannot by itself sustain a conviction, it can provide sufficient basis for arresting and detaining a suspect; when the case enters the judgment phase, prosecutors reveal the name of the witness in an attempt to enhance the probative value of testimony and to ensure convictions; and, individuals are often coerced to cooperate with the military in criminal investigations.

The report notes that the government intends to discontinue the regional system by 30 June 1999. The SR then stated, *inter alia*, that: crimes falling within the jurisdiction of regional courts are defined in an ambiguous way that leads to abusive application; the involvement of the military in searches, seizures and the detention of suspects that fall within the regional jurisdiction raise concerns about the fairness and impartiality with which investigations are carried out by members of the Armed Forces, who are parties to the internal conflict; and the powers granted to the regional prosecutors to issue arrest warrants conflict with the UN Guidelines on the Role of Prosecutors that provide "the office of prosecutors shall be strictly separated from judicial functions". The report also notes that concealing the identity of the judge erodes the public accountability of judges and prosecutors of the regional jurisdiction. Under the UN Basic Principles on

the Independence of the Judiciary, one of the basic rights of the accused in any criminal trial is to know who is sitting in judgment of the case. As well, the basic right to dispute and rebut the testimony offered by a witness is severely restricted by the use of secret witnesses within the regional jurisdiction.

On conditions of service, the SR emphasized that respect for such conditions, as set out in the Basic Principles on the Independence of the Judiciary, would contribute to the achievement of an independent judiciary. The SR stated that it is the duty of the government to provide adequate resources to the judiciary for its appropriate functioning and to ensure that the judiciary functions without any restrictions, improper influences, inducements, pressures, threats or interference. Points related to security and security measures included, *inter alia*, that during 1996 13 jurists were killed for carrying out their professional duties, attacks against judges had increased and a number of judges and prosecutors had received death threats from various sources, including members of the armed forces, paramilitary groups, guerrillas, common criminals and drug cartels, in particular the Medellín cartel. With regard to lawyers and human rights defenders, the report notes that: these individuals are frequently subject to attacks or threats against their lives and that in many cases human rights lawyers representing persons accused of terrorist related activities were identified with their clients' cause or were accused of collaborating with subversive elements.

Narrative on the conditions of service of the Government Procurator's Office reviews the bodies which play an important role in monitoring public institutions, and makes a number of points, including that: serious funding problems of the Human Rights Division hamper its efficiency; civil and military authorities were not cooperative and did not provide access to prisons and military establishments; because of lack of funds the People's Advocate was unable to follow up on communications forwarded to other institutions, in order to establish whether any action was undertaken or not; in terms of the Personería Municipal — made up of the municipal representatives (personeros) who act in more than 1,000 municipalities — in recent years, personeros have been killed or forced to leave their activities after receiving death threats from different groups, including the military and guerrilla forces.

With regard to impunity, the report refers to information from both official and non-governmental sources stating that the failure to investigate and prosecute properly human rights violations, both at civil courts and, in particular, at military courts, is the most serious concern with respect to the administration of justice. Factors contributing to impunity were noted as including the fear of further violence of victims and witnesses, preventing them from taking legal action, and the lack of effective investigations and penalties, leading government officials and other persons to believe that their actions will go unpunished. The SR stated that the military jurisdiction is one of the primary sources of impunity, partly because the effectiveness of military courts in investi-

gating and prosecuting crimes committed by members of the armed forces varies depending on the nature of the offences tried before military courts. The report cites information from the Procurator-General's Office showing that, out of 7,903 judgements handed down by military criminal courts from early 1992 to mid-1994, 4,304 were convictions and 4,103 of those were for violations of internal military regulations.

The reasons for the lack of effectiveness of military courts to try and sentence cases concerning human rights violations committed by members of the armed forces against civilians are alleged to be: structural deficiencies in the military justice system, which guarantee that military and police officials are not criminally sanctioned for such offences; the main structural deficiency is the fact that military courts are composed of active officers and it is common for officers to judge subordinate officers who are from the same unit; the concept of "due obedience defence" relieves the soldier of liability and places the sole responsibility on the superior officer, meaning that subordinates can therefore argue that the judges sitting on the bench ordered them to commit the crime; and, under the extremely broad application given to the meaning of "service-related" conduct, cases from the ordinary civilian system are often assigned to the military tribunals.

The SR stated that reform of the Military Penal Code should address three main areas: it should establish who will judge cases concerning human rights offences committed by members of the armed forces; it should determine whether crimes covered by military jurisdiction include serious human rights violations; and, thirdly, the reform should establish whether the due obedience clause exempts members of the army who commit human rights violations from criminal responsibility.

The report refers to recommendations made previously by the Human Rights Committee (CCPR/C/79/Add.76) and the Special Rapporteur on summary/arbitrary execution and recommended that as a matter of priority, the government, *inter alia*:

- ♦ in order to combat impunity, adopt stringent measures to ensure that all allegations of human rights violations are promptly and impartially investigated, that the perpetrators are prosecuted, that appropriate punishment is imposed on those convicted and that the victims are adequately compensated;
- ♦ ensure the permanent removal of officials convicted of serious offences and the suspension of those against whom allegations of such offences are being investigated;
- ♦ adopt special measures, including protective measures, to ensure that members of various social sectors, particularly journalists, human rights activists, trade union and political leaders, teachers, members of indigenous populations and judges, are able to exercise their rights and freedoms, including freedom of expression, assembly and association, without intimidation of any sort;

- ♦ transfer the jurisdiction of the military courts with respect to human rights violations to civilian courts and ensure that investigations of such cases are carried out by the Office of the Attorney General and the Public Prosecutor;
- ♦ abolish the regional judicial system and ensure that all trials are conducted with full respect for the safeguards for a fair trial;
- ♦ allocate to the ordinary justice system the necessary human and material resources, ensure that judicial police functions are carried out exclusively by a civilian entity; ensure sufficient autonomy and resources to the provincial and departmental offices Office of the Attorney General to carry out prompt and effective investigations into alleged human rights violations; ensure that crimes falling under the jurisdiction of the Regional Justice System are clearly defined so as to avoid labelling acts which constitute a legitimate exercise of political dissent and social protest as "terrorism" or "rebellion"; ensure that defendants before regional courts enjoy full respect for their right to a fair trial; eliminate the severe restrictions in place in the regional system, including those affecting the right to habeas corpus; provide effective protection for all members of the judiciary and the Public Ministry from threats and attempts on their lives and physical integrity; carry out investigations into such threats and attempt to determine their origin, and open criminal and/or disciplinary proceedings as appropriate; and provide effective protection to persons giving testimony in proceedings involving human rights violations;
- ♦ take measures to ensure that the military justice system conforms with standards of independence, impartiality and competence as required by relevant international instruments; draw a clear distinction between those carrying out operational activities and personnel involved in the military judiciary who should not be part of the normal chain of command; ensure that military tribunals are composed of a corps of legally trained judges; remove the defence of obedience to superior orders in respect of crimes under international law; ensure involvement of the parte civil (claimant for criminal indemnification); and explicitly exclude the crimes of extrajudicial, summary or arbitrary execution, torture and enforced disappearance from military jurisdiction; and
- ♦ take stronger and more effective measures to protect the legitimate activities of lawyers and public officials who have dedicated themselves to defending human rights.

Racism and racial discrimination, Special Rapporteur on: (E/CN.4/1998/79, para. 108)

The report recalls that the Special Rapporteur conducted a mission to Colombia in 1996 and notes that the govern-

ment had not yet indicated what actions it has taken to follow up on the observations and recommendations of the visit.

The Special Rapporteur's (SR) interim report to the 1998 General Assembly (A/53/269, paras. 34–35) notes that in December 1997 the government granted 700,000 hectares of land to 110 Afro-Colombian communities in the Antioquia and Choco regions. The SR welcomed this measure and urged the government to contribute to the implementation of projects initiated by such communities as the National Plan for the Development of Black Communities and the Project on Health Policies for Afro-Colombian Communities.

Torture, Special Rapporteur on: (E/CN.4/1998/38, paras. 51–82; E/CN.4/1998/38/Add.1, para. 79)

The main report provides narrative on the follow-up to the recommendations made by the Special Rapporteurs on torture and extrajudicial, summary or arbitrary executions subsequent to their visit to Colombia in 1994 (see summary under "Extrajudicial, summary or arbitrary execution").

The addendum refers to a 1995 case that was transmitted to the government in 1996 involving alleged torture by members of a paramilitary group. The government indicated that an investigation into this case had been opened and that the competent prosecutor had ordered the submission of evidence.

Violence against women, Special Rapporteur on: (E/CN.4/1998/54, Section II.D)

In the section dealing with custodial violence against women, the report refers to the case of two sisters who were arrested in November 1995 on charges of "conspiring to commit a crime" and of belonging to the Colombian Armed Revolutionary Forces. In February 1996, a human rights lawyer received an invitation from the paramilitary group, Colombia sin Guerilla, to the funeral of one of women. The report notes that the death threat was sent just before the appeals court ordered the release of the two sisters. It also states that there were numerous other instances of acquitted political prisoners being targeted by security or paramilitary forces.

FIELD OPERATIONS

The headquarters of the OHCHR is located in Bogota. Ms. Almudena Mazarrasa, Directora, Edificio Corficaldas, Carrera 7, No. 74-56, Piso 11, Santafé de Bogotá, Colombia; Phone: (57-1) 313-4040/41-47; Fax: (57-1) 313-4050; e-mail: oacnudh@colnodo.apc.org. (There is an extended summary of the Office's activities above, in the section on the Commission on Human Rights.)



COSTA RICA

Date of admission to UN: 2 November 1945.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Economic, Social and Cultural Rights

Signed: 19 December 1966; ratified: 29 November 1968. Costa Rica's second and third periodic reports were due 30 June 1993 and 1996 respectively.

Civil and Political Rights

Signed: 19 December 1966; ratified: 29 November 1968. Costa Rica's fourth periodic report has been submitted (CCPR/C/103/Add.6) and is scheduled for consideration at the Committee's March 1999 session; the fifth periodic report is due 2 August 1999.

Optional Protocol: Signed: 19 December 1966; ratified: 29 November 1968.

Second Optional Protocol: Signed: 14 February 1990; ratified: 5 June 1998.

Racial Discrimination

Signed: 14 March 1966; ratified: 16 January 1967. Costa Rica's 12th through 14th periodic reports were submitted as one document (CERD/C/338/Add.4) which is scheduled for consideration at the Committee's March 1999 session; the 15th periodic report is due 4 January 2000.

Reservations and Declarations: Article 8.

Discrimination against Women

Signed: 17 July 1980; ratified: 4 April 1986. Costa Rica's initial, second and third periodic reports were due 4 May 1987, 1991 and 1995 respectively.

Torture

Signed: 4 February 1985; ratified: 11 November 1993. Costa Rica's initial report was due 10 December 1994.

Rights of the Child

Signed: 26 January 1990; ratified: 21 August 1990. Costa Rica's second periodic report (CRC/C/65/Add.7) has been submitted and is pending consideration at the Committee's January 2000 session; the third periodic report is due 19 September 2002.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 17, 29, 30, 57; E/CN.4/1998/68/Add.1, paras. 129–132)

The Special Rapporteur (SR) transmitted to the government an urgent appeal on behalf of a Honduran woman and her three daughters who had been granted asylum in Costa Rica and were reportedly still being subjected to harassment and threats by members of the Honduran security forces. The SR recalled that an urgent appeal had already been sent in September 1996 requesting measures to protect their physical integrity and right to life. Reports indicated that the threats were possibly related to the fact that the father of two of the daughters, a former member of Honduran Military Intelligence Battalion 3-16, had given evidence during investigations into human rights violations in Honduras. The report notes that the same urgent appeal was sent to the Honduran authorities.

The government replied that an investigation had been initiated and, despite various inquiries, it could not be proven that Honduran military agents were operating in Costa Rica. The government informed the SR that the woman was not entitled to approach an international human rights body, since domestic remedies had not been exhausted, and since those allegedly responsible for the harassment were not of Costa Rican origin.

The SR noted that the purpose of transmitting an urgent appeal is to prevent irreparable loss of the right to life and, further, that such appeals are sent irrespective of whether the remedies of domestic jurisdiction have been exhausted or not. The report notes that in February 1997 the woman and her daughters resettled in Sweden.

Sale of children, child prostitution, child pornography, Special Rapporteur on the: (E/CN.4/1998/101, para. 14)

In commentary on sex tourism, the report notes that extreme poverty and an insufficient judicial system lead paedophiles to believe that they can go to Central America and abuse children without any risk of legal accountability for their actions. However, the Special Rapporteur then makes reference to legal proceedings in Costa Rica. In one case, in May 1997, a Swiss man and a German woman were jailed for four years for operating a brothel where minors were employed. In another instance, two Americans were arrested in September 1997 for running a "sex tourism" operation in which foreign visitors were collected at the airport and taken straight to a brothel in San José where they had sex with minors.



CUBA

Date of admission to UN: 24 October 1945.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Cuba has submitted a core document (HRI/CORE/1/Add.84) for use by the treaty bodies. The report prepared by the government contains economic, demographic and statistical data as well as a brief historical overview and information on the general political structure and the legal framework for the protection of human rights. The rights enshrined in the Universal Declaration of Human Rights are formulated in, and protected by, current legislation. The Constitution endorses each of those rights and specifies the essential guarantees of their exercise; all the rights and freedoms enunciated in the Constitution are duly elaborated in various legal provisions that make up domestic substantive law. In cases of conflict between domestic law and provisions of international treaties to which Cuba is a party, the international provisions take precedence. The defence of the rights and legitimate interests of citizens is a main task and a special obligation of the courts and the Office of the Attorney-General.

Racial Discrimination

Signed: 7 June 1966; ratified: 15 February 1972.

Cuba's 10th through 13th periodic reports have been submitted as one document (CERD/C/319/Add.4) which was considered at the Committee's August 1998 session; the 14th periodic report is due 16 March 1999.

Reservations and Declarations: Articles, 17, 18 and 22.

Discrimination against Women

Signed: 6 March 1980; ratified: 17 June 1980.

Cuba's fourth and fifth periodic reports were due 3 September 1994 and 1998 respectively.

Reservations and Declarations: Article 29.

Torture

Signed: 27 January 1986; ratified: 17 May 1995.

Cuba's second periodic report is due 15 June 2000.

Reservations and Declarations: Paragraph 1 of article 2; paragraphs 1, 2 and 3 of article 20; article 30.

Rights of the Child

Signed: 26 January 1990; ratified: 21 August 1991.

Cuba's second periodic report was due 19 September 1998.

Reservations and Declarations: General declaration.

REPORTS TO TREATY BODIES

Committee on the Elimination of Racial Discrimination

Cuba's 10th through 13th periodic reports were submitted as one document (CERD/C/319/Add.4, June 1997) which was considered by the Committee at its

August 1998 session. The report prepared by the government contains demographic data as well as information on, *inter alia*: relevant provisions in the Constitution of 1992, the Penal Code 1987, the Associations Act 1985, the Criminal Procedure Act, the Electoral Act 1992, the Family Code 1975 and the Labour Code; the prohibition of all propaganda and organizations seeking to justify or promote racial hatred or discrimination in any form; the role and functions of the Office of the Attorney-General; teaching and education, culture, access to information and mass media.

The Committee's concluding observations and comments (CERD/C/304/Add.60) noted factors hindering implementation of the Convention, including the serious economic difficulties in the 1990s arising from the embargo, particularly with regard to economic, social and cultural rights, and the situation of less favoured social groups. The Committee stated that among those groups there is, for historical and socio-cultural reasons, a high percentage of the black and mestizo population.

The Committee welcomed, *inter alia*: the adoption since 1959 of appropriate legislation and equal opportunity policies; the policy of promoting blacks to managerial positions at all levels within the country, including the highest political organs; the 1992 constitutional reform that introduced a number of provisions by which aliens resident in Cuba enjoy the same rights as Cubans in such matters as the protection of their persons and property and the enjoyment of the rights and performance of the duties laid down in the Constitution; and that academic institutions are conducting studies on different aspects of the racial question. In stating its concerns, the Committee noted that the government had not provided sufficient information on the practical implementation of Convention, especially in terms of article 4 (prohibition of organizations and individuals promoting ideas of racial superiority) and article 6 (effective protection and remedies).

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

- ♦ provide further information in the next report on the demographic composition of the population and a summary of the findings of the study being conducted by the Anthropology Centre about race relations and ethnicity;
- ♦ provide in the next report 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 affected by such discrimination; clearly explain the role of the Attorney-General in dealing with complaints; and
- ♦ pay particular attention to the Committee's General Recommendations XIII and XVII, related to the training of law enforcement officials in the protection of human rights and the establishment of national institutions to facilitate the implementation of the Convention.

COMMISSION ON HUMAN RIGHTS

Report of the Special Rapporteur on the human rights situation in Cuba (E/CN.4/1998/69)

The mandate of the Special Rapporteur (SR) on the situation of human rights in Cuba was established by the Commission at its 1992 session. The government did not cooperate or extend an invitation to the SR to conduct an in-country visit. Mr. Carl-Johan Groth was the Special Rapporteur (SR) who prepared the report for the 1998 session of the Commission.

The report to the 1998 session contains information on, *inter alia*: the rights to non-discrimination on political grounds and to freedom of expression and association; prison conditions and summaries of comments made on the human rights situation in Cuba by the Committee on the Elimination of Discrimination against Women, the Committee on the Rights of the Child, the Committee against Torture, the Committee of Experts on the Application of Conventions and Recommendations (International Labour Conference) and the ILO Committee on Freedom of Association.

Addressing the national context, the report refers to the October 1997 Fifth Communist Party Congress and the January 1998 elections for deputies to the National Assembly of People's Power and the Provincial Assemblies. The report notes that the Fifth Congress adopted various documents and resolutions in which: socialism and the single party were affirmed; minimum margins for private initiative were established; the leading role to be played in the reform process by state enterprises was stressed; and socialist principles, such as planned economic management and the role of the state as the guarantor of community ownership, were ratified. The report notes statements that changes would be directed towards maintaining the pre-eminence of socialist state ownership by making state enterprises more efficient than those subject to other forms of ownership; and self-employment will continue, based on the established legal framework within which it acts as a positive factor for the economy by increasing the supply of goods and services and representing a source of employment. The report notes that the measures adopted by the government to deal with the grave economic crisis were reaffirmed; as well as the principles of social justice, free education and health care, the right to a secure retirement and others.

Concerning elections, the report notes that: the system established by the 1992 Electoral Law does not genuinely make it possible for persons opposed to the government and not looked on favourably by the authorities to compete freely; the only information available to voters about candidates is contained in the biographical notes distributed by the government press; candidates are not able to present their own electoral platform; and the electoral process is so tightly controlled that the final phase, the voting itself, could be dispensed with without the final result being substantially affected.

The commentary on the human rights situation is prefaced by the general observation that the information pro-

vided to the SR in 1997 indicated a continuation of the pattern of human rights abuses of previous years, particularly in 1996. The report states that there was no change in such areas as non-discrimination on political grounds, the lack of independence in the administration of justice, prison conditions, the lack of trade union freedoms or the precarious working conditions caused by the economic situation. The SR also stated that there were no positive trends related to freedom of expression, assembly, and association which could indicate greater respect for and a readiness to talk to all those who, in a peaceful way, are critical of the current political, labour or educational situation.

The narrative on non-discrimination on political grounds and freedom of expression and association details incidents and cases of violations involving members of human rights groups, for various reasons and on various charges, *inter alia*: being a danger to society, criminal conspiracy and disobedience, contempt of the National Revolutionary Police (PNR), contempt and defamation, illegal broadcasting of news abroad, revealing of secrets concerning state security, contempt of the Commander-in-Chief, dissemination of false information, acts against state security, activities aimed at subverting the judicial and constitutional order, and dissemination of enemy propaganda. Commentary is also included on cases involving members of trade union groups.

With regard to the status of journalists and conditions affecting the media, the report notes that in February 1997 the government introduced a code of conduct for foreign journalists in Cuba that requires accredited journalists to carry out their work with objectivity and ensure that all facts are accurate and in accordance with the ethical principles that govern the profession of journalism. If they fail to do so, the code stipulates that they run the risk of being reprimanded by the Cuban International Press Centre or losing their accreditation. It also stipulates that all Cuban citizens working for a foreign press office must be hired through a state employment agency, with the exception of those who are providing their services on a cooperative basis. The code also allows the authorities to request samples of a journalist's work as a prerequisite for being re-accredited at the beginning of the year. The report notes that the Director of the International Press Centre stated that the code did not reflect a tightening of the policy towards the foreign press but simply formalized what was already current practice. Violations related to press freedom are noted, including systematic harassment — to prevent the dissemination of information outside official press channels — of independent journalists who are members of news agencies which they themselves created in the capital and several provinces.

The report refers to Act No. 80 Reaffirming the Dignity and Sovereignty of Cuba (December 1996) and cites article 8 which stipulates that "Any form of cooperation, direct or indirect, which facilitates implementation of the Helms-Burton Act is declared to be illegal". The report notes that many of the journalists harassed during 1997 were accused of violating the Act; such accusations were

made when the journalists were questioned by the police, during public criticism sessions, or when they received warnings from members of the Committees for the Defence of the Revolution.

The report states that the situation in the prisons had not improved and referred to such problems as: extensive building disrepair; countless rats living in areas where food is stored and prepared; a huge quantity of flies in the cafeteria during mealtimes; overcrowding reaching as much as twice the capacity of a facility; inadequate supplies of food and vitamins and protein deficiencies in the meals served; a shortage of medicines and systematic denial of medical assistance; the spread of infections and epidemics of illnesses like scabies and amoebic dysentery; cruel and degrading treatment, in the form of beatings and a lack of respect shown in the use of obscene words, shouts, shoves and kicks; and the fact that inmates are subject to constant searches and their mail is opened as a matter of course.

The report notes that the decision to refer to comments from UN bodies was based on the fact that, unlike the SR, these bodies enjoy the cooperation of the government and because they deal with issues related to the main themes of concern and give an expert assessment of them.

With regard to the Committee on the Elimination of Discrimination against Women (CEDAW) and consideration of Cuba's report at its January/February 1996 session (CEDAW/C/CUB/2-3), the report notes that CEDAW viewed positively, *inter alia*: the fact that legislation affirms gender equality and makes discrimination punishable under the law; the government's support for the Cuban Women's Federation which represented 90 per cent of the women in Cuba; the significant increase in the number of women in all fields and levels of education; the steady decline in maternal mortality; the fact that decisions on the number and spacing of children had been proclaimed a fundamental right; the decline in school drop-out rates for girls and the development of adult education programmes for women; and efforts by the government to ensure that the effects of the drop in economic growth were not felt especially or solely by women.

The report notes CEDAW's principal concerns as including: the elimination of certain areas of progress for women owing to the embargo and the subsequent economic constraints; the persistence of gender stereotypes and the fact that domestic work and child care continued to be the responsibility of women; the need to expand the participation of women at the highest levels of political power; indirect discrimination in women's wages; and the lack of information on women in trade unions. The Committee also: viewed with some scepticism the government's report that domestic violence was infrequent and that it was not considered to be a social problem; noted that the economic situation in Cuba resulting from the economic embargo had produced a serious shortage of essential products like medicines and contraceptive devices; and expressed concern about the re-emergence of prostitution, which was linked to the growth in

tourism and to the economic problems facing women.

The SR recalled that CEDAW had recommended, *inter alia*, that: disaggregated data be collected concerning the number of complaints regarding discrimination; surveys and studies be undertaken to determine the extent and impact of violence against women, in particular domestic violence; and successful programmes to combat sexist prejudices and stereotyping, such as "Mujeres", "Muchachas" and "Perfil F", be reinstated as soon as possible, as they helped to address the attitudes of both men and women, particularly with regard to the need to share in the care and education of children. CEDAW also recommended that the government: do everything possible to meet the demand for contraceptives and strengthen special information programmes related to sexually transmitted diseases — especially HIV/AIDS — for young girls, particularly those engaged in prostitution; make every effort to check further the re-emergence of prostitution, to offer more and better job opportunities to women who engaged in prostitution, and not to place the sole responsibility for prostitution on the women themselves; adopt stronger measures to prosecute procurers and clients who violated those women's rights; conduct an empirical study to determine whether women were paid the same wages as men for work of equal value and to document occupational segregation and its relationship to income; and, include more information in Cuba's next report to the Committee on women in the labour market and their income situation as well as women in trade unions.

Referring to the Committee on the Rights of the Child (CRC), the report notes that Cuba's report was considered at the Committee's May 1997 session (CRC/C/15/Add.72) and the CRC viewed positively the progress made in providing services for, and advancing the well-being of, children, especially with regard to health and education.

The CRC acknowledged the dissolution of Cuba's traditional economic ties and the intensification of the trade embargo as factors hindering implementation of the Convention. The principal subjects of concern identified by the Committee were, *inter alia*: the lack of an independent mechanism (e.g., Ombudsperson) which is accessible to children and mandated to deal with violations of their rights; the inadequacy of measures to incorporate education about the principles and provisions of the Convention fully into the training given to professionals working with and for children; the failure to provide for a minimum age for sexual consent and the absence of harmonization between the age for the completion of compulsory schooling and the minimum age for employment; the insufficiency of information provided on the implementation of the civil rights and freedoms of children; the apparent absence of independent mechanisms for monitoring the situation of children in institutions; the insufficiency of measures taken to protect children from abuse, notwithstanding the establishment of an early warning system for violence against children; and, the insufficiency of measures taken to ensure

that problems such as drug abuse and trafficking, child labour, child prostitution and suicide do not become more prevalent in light of the considerable social and economic problems facing the country.

The Committee recommended, *inter alia*, that: legislation be harmonized with respect to the age of completion of compulsory schooling and the minimum age for employment; special attention be accorded to the implementation of the civil rights and freedoms of children; further measures be undertaken to protect children from abuse and maltreatment, in particular through the development of a widespread public information campaign for the prevention of corporal punishment and bullying of children, whether by adults or other children; further resources and assistance be devoted to activities in the area of family planning and health education programmes, with a view to addressing the problem of teenage or unwanted pregnancies, changing male sexual behaviour, raising awareness of the incidence and treatment of children infected with or affected by HIV/AIDS and STDs and reducing the apparent recourse to abortion as a method of family planning. The CRC further recommended that: as a matter of urgency, the minimum legal age of sexual consent be reviewed with the aim of raising it; the problems of begging, drug abuse and trafficking and child prostitution be monitored closely with a view to their early prevention; the Criminal Code provide for the protection of children up to the age of 18 from sexual exploitation; and that further measures be undertaken in order to address matters related to the sexual exploitation of children, particularly through tourism.

The report also includes a summary of comments by the Committee against Torture (CAT) which considered Cuba's initial report at its November 1997 session (CAT/C/SR.314). The Committee viewed positively, *inter alia*: the provision in the Labour Code through which persons acquitted of criminal offences are entitled to compensation for any period in which they were deprived of their liberty as a result of pre-trial detention; the constitutional prohibition of the use of violence or pressure "against people to force them to testify"; the declaration that statements obtained in breach of this principle are null and void; the holding of those responsible for such violations as liable to punishment; and the criminalization of every form of complicity in crimes against humanity, human dignity and offences laid down in international treaties.

As with the CRC, the Committee acknowledged that deteriorating economic conditions, resulting in part from the embargo, made it difficult for the state to provide appropriate nutrition and essential medical supplies to prisoners. The subjects of concern identified by CAT included, but were not limited to: the failure to establish in law a specific crime of torture; information in various reports, including those of the SR and NGOs, on violations related to arrest, detention, prosecution, access to counsel and imprisonment; the failure of the authorities to respond to allegations made in these reports; the uncertainty attached to nebulous offences, namely "disrespect", "resisting authority" and "enemy propaganda"

and the room they provide for misuse and abuse; certain types of punishment primarily directed at the limitation of the liberty of citizens, i.e., internal exile and confinement at home; the absence of specific training about the norms of the Convention with regard to law enforcement personnel, civil and military, medical personnel and generally personnel involved in arrest, custody, interrogation, detention and imprisonment; the absence of adequate information about the investigation of complaints of torture and ill treatment and the outcome of any such investigations; and the absence of satisfactory information as to the rights of victims of torture and ill treatment to seek redress including satisfactory compensation.

The recommendations made by CAT included that: torture be criminalized as defined in the Convention; a transparent permanent procedure be established for receiving complaints about torture and ill-treatment, examining promptly such complaints and bringing to justice those responsible; a suspect's or detainee's right to silence at all stages of investigation be incorporated into law; a system of recurrent review of prisons be established with a view to improving conditions; the rules on the organization of the judicial system be revised in conformity with international instruments; a comprehensive programme of education and training be established for law enforcement and medical personnel, public officials and everybody involved in the interrogation, custody or treatment of any person arrested, detained or imprisoned; a central register be established containing adequate statistical data about complaints of torture and ill-treatment, investigation of such complaints, the time within which the investigation is conducted and any prosecution undertaken thereafter and its outcome; a compensation fund be established for victims of torture and other prohibited treatment; human rights NGOs be allowed into the country and the government cooperate with them in identifying cases of torture and ill-treatment; and the government address on an urgent basis complaints of torture and ill-treatment raised in NGO reports and the report of the SR.

The SR report cites comments by the Committee of Experts (International Labour Conference) related to Cuba's implementation of ILO Convention No. 87 on freedom of association and protection of the right to organize. The Committee referred to the need for the government to guarantee in law and practice the right of all workers to establish independent occupational organizations in full freedom, including organizations that are outside any existing trade union structure, and requested that the government, in the context of the envisaged revision of labour legislation, remove from the Labour Code and other legal texts the explicit reference to the "Central Organization of Workers".

The ILO Committee on Freedom of Association — in the context of its report on the complaint against the government by the International Confederation of Free Trade Unions (ICFTU), related to the refusal to grant legal personality to the Confederation of Democratic Workers of Cuba (CTDC) and the temporary detention of three of its officials — requested that the government guarantee the

freedom of the CTDC to operate and to ensure that the authorities refrain from any interference aimed at limiting the organization's exercise of fundamental rights recognized in ILO Convention No. 87 on freedom of association and the right to organize. The Committee also requested the government to guarantee the exercise of human rights related to trade union rights, including the right of individuals not to be subjected to measures depriving them of their freedom on grounds related to their legitimate activities.

The conclusions in the SR's report state, *inter alia*, that: no evidence was found to suggest a trend towards greater tolerance for behaviour that does not fully conform to the existing system; the ongoing U.S. embargo was contributing to the rigidity of the system currently in place in the country, in the sense that the embargo served as a pretext for keeping the population under strict control and for punishing or suppressing in various ways those who work for political change or social space for the individual; the embargo was largely responsible for the shortage of material goods in Cuba and had caused the population untold hardship, with major negative repercussions in such key areas as health and nutrition; concern over the embargo's impact had led some members of the U.S. House of Representatives and the Senate to introduce bills aimed at allowing the export of food, medicines and medical equipment to Cuba; recent phenomena, such as unemployment and working conditions in foreign companies, made the establishment of free trade unions even more necessary; and, ideological considerations continued to have an impact on self-employment.

The SR reiterated recommendations made in previous reports, namely that the government:

- ♦ cease persecuting and punishing citizens for reasons relating to the exercise of the freedom of peaceful expression and association;
- ♦ take immediate steps to release unconditionally all those persons serving sentences for reasons relating to the exercise of rights recognized in international human rights instruments;
- ♦ permit the legalization of independent associations, especially those seeking to carry out activities in the political, trade union, professional or human rights field, and allow them to act within the law, but without undue interference on the part of the authorities;
- ♦ ratify the principal human rights instruments to which Cuba is not yet a party, in particular, the ICCPR and its two Optional Protocols and the ICESCR;
- ♦ delete from penal legislation types of offences related to freedom of expression and association — such as enemy propaganda, unlawful association and possession of illegal printed matter — and restrict the application of other offences, such as the offence of rebellion;

- ♦ review in depth the legal provisions relating to the concept of "dangerousness" and the relevant security measures with a view to eliminating all those aspects liable to infringe the rights and freedoms of individuals;
- ♦ repeal all those legal provisions which imply discrimination between citizens on political grounds, in particular in the employment and education sectors, and to the extent possible take measures to redress abuses committed in the past, for example, by reinstating in their former posts persons who have been dismissed;
- ♦ repeal the legal provisions barring Cuban citizens from exercising their right to enter and leave the country freely without prior administrative authorization;
- ♦ reform trial law so as to ensure that the guarantees of due process, including the independence of the judiciary, are safeguarded;
- ♦ ensure that the competent national authorities investigate thoroughly all incidents involving violations of the right to life and, where appropriate, punish those responsible and provide compensation to the relatives of the victims;
- ♦ ensure greater transparency and guarantees in the prison system so as to prevent, to the extent possible, excessive violence and physical and psychological suffering from being inflicted on prisoners;
- ♦ allow non-governmental humanitarian organizations and international humanitarian agencies to visit prisons; and
- ♦ allow international non-governmental human rights organizations to enter the country frequently so that they can evaluate the human rights situation and offer their competence and cooperation with a view to securing improvements.

Resolution of the Commission on Human Rights (E/CN.4/1998/L.89)

The Commission considered a resolution on the situation in Cuba which was ultimately defeated by roll call vote. In the proposed text, the Commission, *inter alia*, would have: reaffirmed the universality of the obligation of all member states to promote and protect human rights and fundamental freedoms; expressed concern at continued violations in Cuba in such areas as freedom of thought, opinion and expression, assembly and association, and rights associated with the administration of justice; welcomed release of a significant number of political prisoners; welcomed increased tolerance granted to religious institutions; called on the government to allow the SR to visit Cuba; expressed particular concern at the failure of the government to cooperate with the Commission on Human Rights; called on the government to consider acceding to human rights instruments to which Cuba is not yet a party; and called on the government to ensure freedom of expression and assembly and freedom to demonstrate peacefully, including by allowing political

parties and NGOs to function freely and reforming legislation in that area; called on the government to implement the recommendations in the SR's report and end all violations, in particular detention and imprisonment and harassment of and threats against human rights defenders and others; called on the government to grant access to the prisons by humanitarian NGOs and international humanitarian agencies; called on the government to release the numerous persons detained for activities of a political nature and reintegrate them into civil society, permitting them to carry out their peaceful activities; called on the government to ensure workers' rights, including through independent and generalized collective bargaining; extended the mandate of the SR for a further year; and invited the government to consider requesting the establishment of a programme of technical cooperation.

The resolution was defeated by a vote of 16 in favour, 19 opposed, 18 abstentions. With the resolution defeated, the mandate of the SR was discontinued.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on: (E/CN.4/1998/44, paras. 4, 7, 19)

The report notes that communications were sent to the government and a response was received in one case. No details were provided.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 14, 17, 39; E/CN.4/1998/68/Add.1, paras. 133–135)

The Special Rapporteur (SR) transmitted information to the government related to the deaths of four people in February 1996 who were flying in two civilian light aircraft and were shot down by two Cuban air force planes. The report notes that the light aircraft, belonging to the organization Hermanos al Rescate, were flying in international airspace at the time of the shoot-down.

The government responded that the cases did not fall within the SR's sphere of competence and were outside the mandate given by the Commission on Human Rights. The government stated that the shooting down of the two small pirate aircraft bearing U.S. registration marks within Cuban airspace was an act of legitimate defence, and did not constitute extrajudicial, summary or arbitrary execution. The SR noted that all complaints are analysed in a spirit of impartiality and that they are transmitted in accordance with the working methods which have been approved by the Commission on Human Rights. The SR expressed the view that the complaints transmitted concerning the incident were grave enough for the government to reply to the SR's concerns.

Independence of judges and lawyers, Special Rapporteur on the: (E/CN.4/1998/39, paras. 19, 58–64)

The report notes that the government responded to communications sent in July 1996 concerning legislation on the independence of judges and lawyers, and cases involving two lawyers. The government provided information on the reforms of the judiciary since the ending of the previous regime, particularly the law that abolished the Emergency Tribunals and the Criminal Division of the High Court, and explained that the principle of the independence of the judiciary is enshrined in the Constitution and in the 1990 Law on the Tribunales Populares. Decree Law 81 of 1984 provides, *inter alia*, that "the exercise of the legal profession is free" and that lawyers are independent and accountable only to the law. Article 5 of Decree Law 81 defines the Organización Nacional de Bufetes Colectivos (National Organization of Collective Law Offices) as a public interest professional legal entity, autonomous and national, whose membership is voluntary and which is regulated by the law and its own agreements and provisions. Information was also provided on the Criminal Procedure Law and provisions relating to the functions of lawyers, including members of the Organización Nacional de Bufetes Colectivos. In addition, the government stated that the freedom of association and of speech of lawyers is recognized in articles 53 and 54 of the Constitution and, for the members of the Organización Nacional de Bufetes Colectivos, in article 34 of its Regulations. Moreover, Decree Law 81 states that lawyers may organize and conduct legal literacy programmes for the public.

With regard to the cases of the two lawyers, the government stated that one of them had been expelled by the Organización Nacional de Bufetes Colectivos because of repeated and serious failures to carry out his professional duties, thereby harming both his clients and the prestige of the organization. On appeal, the Minister of Justice upheld the expulsion. With regard to the second lawyer, the government stated that his request to create a lawyers' association was rejected because it would have had similar objectives to those of the existing Unión Nacional de Juristas de Cuba, which would be contrary to Cuban law.

The Special Rapporteur (SR) noted, on the basis of the information provided by the government, that it does appear that the government, through the Minister of Justice, has some control over disciplinary sanctions on lawyers. The SR recalled Principle 28 of the UN Basic Principles on the Role of Lawyers which stipulates that "Disciplinary proceedings against lawyers shall be brought before an impartial disciplinary committee established by the legal profession, before an independent statutory authority, or before a court, and shall be subject to an independent judicial review." With regard to the first case, the SR stated that the appeal to the Minister of Justice and dismissal of it by the Minister indicated that there may not be a provision in the legislation for an independent judicial review as provided in Principle 28.

Mercenaries, Special Rapporteur on the use of:

(E/CN.4/1998/31, paras. 16–23)

The report refers to information provided by the government related to various groups operating in southern Florida and involving Cuban nationals residing in that area. The government stated to the Special Rapporteur (SR) that nationals of a country “should be deemed mercenaries when they attack their own country at the behest of a foreign Power and are in its pay.”

The SR noted that, at present, article 47 of Additional Protocol I of 1977 to the Geneva Conventions of 1949 sets as a requirement for the definition of a mercenary that the person concerned is neither a national nor a resident of the country affected by the individual’s unlawful activity. The SR recalled previous observations to the effect that international legislation regarding mercenaries contains gaps, conflicting requirements, and deficiencies of wording that facilitate the performance of unlawful acts which should be considered and punished as mercenary acts. On the case raised by the Cuban government, the report states that the illegal acts against Cuba in September 1997 – which resulted in the death of an Italian citizen and material damage to hotel facilities – may be said to bear the hallmark of mercenary activity since the perpetrator was a foreign national and admitted to a number of facts qualifying him as a mercenary agent in light of the international provisions which are currently in force.

The individual responsible was identified by the government as a Salvadoran citizen who: had entered Cuba as a tourist; had admitted to being the perpetrator of various attacks on hotel and tourist facilities; had been recruited abroad, trained, supplied, and paid to carry out the acts; was to receive a payment of \$4,500 for each bomb; was trained in El Salvador and received the necessary equipment, a list of possible targets, tickets and money to cover his expenses; was a former member of the Salvadoran army, where he received training as a parachutist and as a sharpshooter, the latter in a military school in Georgia in the United States; and had indicated that he had also taken a course in explosives with U.S. instructors. The government asserted that the attacks had been organized from Miami, Florida, by a group called the Cuban American National Foundation.

The report notes that the SR was still waiting for a copy of the self-incriminating statement in order to analyse the characterization of the act, existing connections, the possible responsibilities of third parties, and its possible mercenary character. [Note: see under “United States” the response of the U.S. government.]

Torture, Special Rapporteur on: (E/CN.4/1998/38, paras. 83–84; E/CN.4/1998/38/Add.1, paras. 80–82)

Three new cases were transmitted to the government related to torture and ill treatment of inmates by prison

guards, which included beatings and resulted in bone fractures, sprains and bruising. In one case, the beating and subsequent confinement in a punishment cell and suspension of family visits was reported to have been in response to a letter by an inmate addressed to the President of the National Assembly denouncing abuses against prisoners. The letter had been found in the inmate’s cell during a search.

Violence against women, Special Rapporteur

(E/CN.4/1998/54, Section II.E)

In the section on custodial violence and preventative national measures, the report notes that Cuba is among a number of countries which penalize – under either the penal law or administrative functions – sexual intercourse between a man and a woman involving the abuse of the man’s professional authority. Special sanctions are applied to anyone who, while wearing a military uniform or appearing as a public official, violates the physical integrity of a detained woman by sexual abuse or harassment.

**DOMINICA**

Date of admission to UN: 18 December 1978.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Economic, Social and Cultural Rights

Acceded: 17 June 1993.

Dominica’s initial report was due 30 June 1995.

Civil and Political Rights

Acceded: 17 June 1993.

Dominica’s initial report was due 16 September 1994.

Discrimination against Women

Signed: 15 September 1980; ratified: 15 September 1980. Dominica’s initial and second through fifth reports were due 3 September 1982, 1986, 1990, 1994 and 1998 respectively.

Rights of the Child

Signed: 26 January 1990; ratified: 13 March 1991.

Dominica’s initial and second periodical reports were due 11 April 1993 and 1998 respectively.



DOMINICAN REPUBLIC

Date of admission to UN: 24 October 1945.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Economic, Social and Cultural Rights

Acceded: 4 January 1978.

The Dominican Republic's third periodic report is due 30 June 1999.

Civil and Political Rights

Acceded: 4 January 1978.

The Dominican Republic's fourth periodic report was due 3 April 1994.

Optional Protocol: Acceded: 4 January 1978.

Racial Discrimination

Acceded: 25 May 1983.

The Dominican Republic's fourth through eighth periodic reports were due 24 June 1990, 1992, 1994, 1996 and 1998 respectively.

Discrimination against Women

Signed: 17 July 1980; ratified: 2 September 1982.

The Dominican Republic's fourth periodic report (CEDAW/C/DOM/4) was considered at the Committee's May 1998 session; the fifth periodic report is due 2 October 1999.

Torture

Signed: 4 February 1985.

Rights of the Child

Signed: 8 August 1990; ratified: 11 June 1991.

The Dominican Republic's initial and second periodic reports were due 10 July 1993 and 1998 respectively.

REPORTS TO TREATY BODIES

Committee on the Elimination of Discrimination against Women

The Dominican Republic's 2nd, 3rd and 4th periodic reports (CEDAW/C/DOM/2-3, 1993; CEDAW/C/DOM/4, 1997) were considered by the Committee at its February 1998 session. The 4th periodic report prepared by the government contains statistical and demographic data as well as information on, *inter alia*: the evolution of the economy and of poverty; the reform and modernization of government; amendments on key legislation, for example, the Penal Code, Code of Criminal Procedure, Agrarian Reform Act, Labour Code, General Health Act, General Education Act and the Elections Act; the role, functions and programmes of the Dirección General de

Promoción de la Mujer (DGPM) (the Department for the Advancement of Women), the national committee to monitor implementation of the National Plan of Action for Equality, Development and Peace; prejudices and stereotypes and programmes to overcome them; violence against women, prostitution, and trafficking in women; women heads of households; participation in political and public life; social organizations working with and for women, and women's organizations; education and illiteracy; employment, social support services, women in the work force and free-trade zones, and women-owned businesses and micro-enterprises; health, maternal mortality, HIV/AIDS, and the National Committee on Maternal Mortality; economic and social benefits; the situation of rural women and the role and functions of the Agrarian Institute; equality under the law, the Civil Code; marriage and family and the Code for the Protection of Children and Adolescents.

The Committee's concluding observations and comments (A/53/38, paras. 312–353) summarized points raised in the oral presentation of the 4th report by the government, referring to, *inter alia*: the adoption of a law against domestic violence (Ley contra la Violencia Intrafamiliar) and ongoing efforts to put into place practical measures to ensure compliance with the new law; the adoption of an education bill establishing the principle of equality of opportunity between the sexes; and proposals for inclusion of the principle of equality in the constitution.

The Committee welcomed: the ongoing work of the DGPM on a number of legislative drafts aimed at repealing or revising discriminatory laws and provisions; the adoption, in 1997, of the law against domestic violence, the holistic and integrated approach taken to address the issue of violence against women; revision of the agrarian reform law giving women the right to inherit land; the establishment, in the Electoral Law, of a 25 per cent quota for women candidates in municipal and congressional elections; women's above-average representation in secondary and higher education, noting that women's illiteracy rate is lower than that of men; the sensitivity shown by the government to the particular constraints and vulnerabilities faced by women heads of households; and the establishment of a governmental mechanism to follow up and implement the commitments of the Beijing Platform for Action.

Factors and difficulties affecting the implementation of the Convention were noted as including the persistence of a high poverty level and of situations of extreme poverty, and the absence in practice of a clear separation of church and state.

The principal areas of concern identified by the Committee included, *inter alia*: continuing discriminatory provisions in, for example, the civil code, the nationality law and marriage and family laws, especially in areas such as the administration of marital property; discriminatory provisions regarding unmarried women, as well as single mothers, in social security provisions and in land

inheritance rights under the agrarian reform law; and the continuing absence of the principle of equality in the constitution. Concern was expressed about: the economic consequences of women's poverty; women's migration to urban areas and to foreign countries making them susceptible to sexual exploitation, including trafficking and sex tourism, and prostitution; the lack of creation of jobs for women in growth sectors, including in the tourism industry, and the lack of affirmative action measures to support women's efforts to break the cycle of poverty.

The Committee expressed concern about: the rigid social codes in the country and the persistence of machismo, which is reflected in areas such as women's low participation in public life and decision-making, in the stereotypical portrayal of women's role in the family, social life and a segregated labour market; the failure to undertake comprehensive and systematic public awareness and information campaigns to change stereotypical attitudes that are detrimental to women's equality; the fact that insufficient cooperation and networking has been established between the DGPM and women in decision-making in all areas of political, economic and social life; the situation of women workers with regard to discrimination in income and benefits; the absence of efforts by the government to ensure and enforce compliance with wage, benefits and workers' safety laws, including compliance with ILO Conventions; women's overall high unemployment rate and the particularly insecure situation of domestic workers and of single mothers; and the fact that women often have higher levels of education than men but are paid less than men for work of equal value. Concerns also addressed such areas as the high maternal mortality rate caused by toxæmia, haemorrhages during childbirth and clandestine abortions, and provisions making abortions absolutely and under all circumstances illegal.

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

- ♦ ensure that the implementation of all provisions of the Convention proceeds without obstacles; include in its next report detailed information on the practical implementation of the Convention emphasizing the impact of policies and programmes aimed at achieving women's equality;
- ♦ provide the DGPM with the necessary authority, and adequate human and financial resources, to implement special programmes for women, to influence all governmental decision-making and to ensure that a gender perspective is consistently applied in all government policies and programmes;
- ♦ promote intensified cooperation between the DGPM and other sectors and entities of civil, political and economic life, so as to ensure more systematic attention to gender issues in these areas;
- ♦ make women a priority in its poverty eradication strategy, place particular emphasis on the mainstreaming of a gender perspective in all poverty erad-

ication efforts, and take measures to ensure to women the enjoyment of their rights in such efforts;

- ♦ identify priority areas for targeted actions for women, for example with regard to the reduction and elimination of illiteracy, the creation of jobs and the implementation of labour legislation and reforms;
- ♦ continue to give attention to women heads of households and conduct further research into their situation with a view to developing sound and effective policies on strengthening their socio-economic situation and the prevention of poverty, and ensure that needed services and support are provided to such households;
- ♦ improve the collection and use of data disaggregated by sex; place particular emphasis on areas related to women's health, work, employment, wages and benefits, the types and incidence of violence against women, and the impact of measures against violence against women;
- ♦ continue its integrated approach to the elimination and prevention of violence against women and give attention to so-called crimes of passion, their frequency and the response of law enforcement;
- ♦ pursue bilateral agreements and cooperate in multilateral efforts to reduce and eradicate traffic in women, to protect women migrant workers from exploitation, including sexual exploitation; conduct public information campaigns aimed at particularly vulnerable groups of women to alert them to potential dangers when seeking work overseas;
- ♦ conduct regular assessments of the impact of the 25 per cent quota regulation contained in the electoral law to ensure the full implementation of the law and the achievement of higher percentages of women in decision-making;
- ♦ strengthen vocational and technical training and career counselling for young women and increase information activities regarding non-traditional jobs for women in order to reduce job segregation patterns and the wage gap between women and men;
- ♦ strengthen educational programmes for girls and boys on sexual and reproductive health, on combatting the spread of HIV/AIDS and on family planning;
- ♦ review legislation in the area of women's reproductive and sexual health, in particular with regard to abortion;
- ♦ give full attention to the needs of rural women, including in such areas as access to health and social services, income-generation projects and housing; consider the establishment of special banks and of improved access to credit for rural women;
- ♦ take steps to ensure the *de facto* separation of the secular and religious spheres, with a view to ensuring the full implementation of the Convention; and

- ♦ continue law reform efforts aimed at the elimination of all remaining discriminatory laws and provisions, with priority attention given to such laws as the civil code, the nationality law and the labour law.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 156–158)

No new cases of disappearance were transmitted by the Working Group to the government. Of the two outstanding cases, one concerns a person who was arrested in June 1984 in Santo Domingo and who subsequently disappeared, and the other concerns a university lecturer – also a journalist and political activist – who was reportedly detained in May 1994 by members of the army and subsequently taken to a military base. The report notes a reply from the government referring to information previously provided on one of the cases, stating that the person concerned had a criminal record for crimes which included rape and leaving the country illegally, and therefore it was likely that he was out of the country.

Sale of children, child prostitution, child pornography, Special Rapporteur on the: (E/CN.4/1998/101, para. 15)

In the section on sex tourism, the report refers to allegations that over 30,000 children in the Dominican Republic work as prostitutes to escape poverty. Most of these children no longer live with their parents because they have either been thrown out or prefer to work on the streets to earn a living for themselves or their families. Minors who engage in this trade are common in Santo Domingo and other tourist zones such as Boca Chica and Puerto Plata.



ECUADOR

Date of admission to UN: 21 December 1945.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Economic, Social and Cultural Rights

Signed: 29 September 1967; ratified: 6 March 1969.
Ecuador's third periodic report was due 30 June 1997.

Civil and Political Rights

Signed: 4 April 1968; ratified: 6 March 1969.
Ecuador's fourth periodic report (CCPR/C/84/Add.6) was considered at the Committee's July 1998 session; the

fifth periodic report was due 4 November 1998.

Reservations and Declarations: Declaration under article 41.

Optional Protocol: Signed: 4 April 1968; ratified: 6 March 1969.

Second Optional Protocol: Acceded: 23 February 1993.

Racial Discrimination

Acceded: 22 September 1966.

Ecuador's 13th, 14th and 15th periodic reports were due 4 January 1994, 1996 and 1998 respectively.

Reservations and Declarations: Declaration under article 14.

Discrimination against Women

Signed: 17 July 1980; ratified: 9 November 1981.

Ecuador's fourth periodic report was due 9 December 1994.

Torture

Signed: 4 February 1985; ratified: 30 March 1988.

Ecuador's third periodic report was due 28 April 1997.

Reservations and Declarations: General declaration; declarations under articles 21 and 22.

Rights of the Child

Signed: 26 January 1990; ratified: 23 March 1990.

Ecuador's initial report (CRC/C/3/Add.44) was considered at the Committee's September 1998 session; the second periodic report was due 1 September 1997.

Reservations and Declarations: Ninth preambular paragraph; article 24 and article 38.

REPORTS TO TREATY BODIES

Committee on the Rights of the Child

Ecuador's initial report (CRC/C/3/Add.44, June 1996; CRC/C/Q/ECU/1) was considered by the Committee at its October 1998 session. The report prepared by the government contains demographic and statistical data and is not exhaustive. Rather, it provides an overview of the situation of the rights of children and young persons in Ecuador. Information included in the report related to, *inter alia*: the National Plan of Action for the Survival, Protection and Development of Children in the 1990s, the New Children's Code (1992) and the establishment of an Ecuadorean Standing Forum of Organizations for and of Children and Young Persons; the definition of the child and minimum age levels; measures related to non-discrimination and the work of the National Office for Women (DINAMU), the Secretariat for Indigenous Affairs (SENAIN) and the National Council on Disabilities (CONADIS); measures related to the best interests of the child; health and health care, the National Disabilities Plan; education, access to education, the education system; name, nationality, preservation of identity; child abuse and the Network for the Care of Abused Children established in 1988; the administration of juvenile jus-

tice; economic exploitation of children; drug and substance abuse; sexual exploitation and abuse; sale of children, trafficking and abduction; the situation of children belonging to minority and indigenous groups; policies on child participation; access to appropriate information; freedom of religion, assembly and association; and family, social welfare, social security. The conclusion of the report contains the government's assessment of measures that remain to be taken to implement fully the Convention.

The Committee's concluding observations and comments (CRC/C/15/Add.93) welcomed, *inter alia*: the creation of a National Plan for Human Rights (March 1998); the enactment of the new Constitution (August 1998), which includes provisions for the promotion and protection of human rights, including the rights of the child; the measures taken to include the teaching of the Convention in the school curricula and for the establishment of bilingual education programmes for indigenous children; the establishment of a Programme of "Alcaldes Defensores de los Niños" (City Mayors for the Defense of Children); and Ecuador's accession to both the Hague Convention of 1993 on the Protection of Children and Cooperation in Respect of Intercountry Adoption and ILO Convention No. 169 concerning Indigenous and Tribal Peoples.

Factors impeding the implementation of the Convention were noted as the damage to agriculture and infrastructure arising from natural disasters, the negative impact on children of economic factors such as structural adjustment and external debt, widespread poverty, long-standing socio-economic disparities, and uneven land distribution.

The principal subjects of concern identified by the Committee included, *inter alia*: continuing disparities between the principles and provisions of the Convention and domestic legislation; recent budget cuts and their negative impact on the provision of social programmes, especially those related to children; the lack of adequate and systematic training for professional groups working with and for children; the use of the biological criterion of puberty to set different ages of maturity between girls and boys; the predominance of discrimination on the basis of ethnic origin, gender, social status, and disabilities; the increasing disparities between rural and urban areas as well as the growing number of persons living in urban poor and marginalized areas; the lack of awareness and understanding of birth registration procedures, especially in rural areas; noting the statement in the government report that "child abuse is a culturally accepted and justified practice", the insufficient awareness regarding the harmful consequences of ill treatment and abuse, including sexual abuse, both within and outside the family; the insufficient resources, both financial and human, as well as at the lack of adequately trained personnel to prevent and combat such forms of abuse; and the insufficiency of rehabilitation measures and facilities for abused children.

The Committee expressed concern over: the prevalence of malnutrition, high rates of maternal mortality, and the

limited access to health services in remote rural areas; the high and increasing rate of teenage pregnancies, the occurrence of suicides of girls, the insufficient access by teenagers to reproductive health education and counselling services, including outside schools; the increasing rate of substance abuse; the high incidence of environmental threats, including on the health of children, in particular those in oil exploitation areas of the Amazonia region; the widespread poverty and the declining living conditions affecting the majority of the population; and, the high drop-out and repetition rates between primary and secondary school, the existing gender disparities in secondary school enrolments, and disparities in access to education between rural and urban areas.

Concerns were noted related to: the lack of specific provisions in domestic legislation concerning the rights of asylum-seeking and refugee children and the right to family reunification; the insufficient measures addressing the issues of child labour and economic exploitation, including domestic labour and sexual exploitation of children; the increasing number of children living and/or working in the streets, who require special attention because of the risks to which they are exposed; the lack of sufficient preventive measures related to the trafficking and sale of children; the absence of data and a comprehensive study on the issue of commercial sexual exploitation of children; and, with regard to juvenile justice, the fact that deprivation of liberty is not systematically used only as a measure of last resort, the slow pace with which cases are processed, the insufficient provision of legal aid for children, and the situation of children under 7 years of age living in prisons with their parents.

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

- ♦ take all appropriate measures to facilitate the process of full harmonization of domestic legislation with the principles and provisions of the Convention; take further steps to reinforce, within the framework of the National Plan for Human Rights, existing coordinating mechanisms (e.g., National Commission for Children/CONAME), including at the municipal level, in order to strengthen coordination between the various governmental bodies involved in children's rights; make greater efforts to ensure closer cooperation with NGOs working in the field of human rights, in particular the rights of the child;
- ♦ develop a comprehensive system for collecting disaggregated data in order to gather all necessary information on the situation of children, including children belonging to vulnerable groups;
- ♦ conduct training on the Convention for professional groups working with and for children;
- ♦ continue taking all available measures to reduce economic and social disparities, including between rural and urban areas; reinforce measures to prevent discrimination against the most disadvantaged groups

of children, including children belonging to indigenous communities, Afro-Ecuadorean children and girls;

- ♦ continue efforts to ensure the registration of all children immediately after birth; ensure that birth registration procedures are widely known and understood by the population at large;
- ♦ take all appropriate measures, including setting up of social programmes and rehabilitation measures, to prevent and combat child abuse and ill treatment of children within the family, at school, and in society at large; strengthen law enforcement with respect to such crimes; develop adequate procedures and mechanisms to deal with complaints of child abuse; establish educational programmes to combat traditional attitudes within society regarding child abuse;
- ♦ allocate appropriate resources and, when needed, consider seeking technical assistance to reinforce efforts to make basic health care accessible to all children; make concerted efforts to combat malnutrition; ensure the adoption and implementation of a national nutritional policy on children; promote breast-feeding in all health facilities and the public at large;
- ♦ undertake a comprehensive and multi-disciplinary study to understand the scope of adolescent health problems, as a basis to promote policies in this area, and to strengthen reproductive health education and counselling services; undertake further efforts for the development of child-friendly counselling services as well as care and rehabilitation facilities for adolescents; strengthen measures to prevent and combat substance abuse among adolescents;
- ♦ take all appropriate measures, including international cooperation, to prevent and combat the damaging effects of environmental degradation, including pollution, on children;
- ♦ take comprehensive measures to establish poverty alleviation programmes with special emphasis on the access to health care and education of children, in particular for the most vulnerable groups of children;
- ♦ strengthen educational policies and the educational system in order to reduce gender and geographical disparities and establish retention programmes and vocational training for drop-out students; strengthen measures to improve children's access to leisure, recreational and cultural activities, especially for the most vulnerable groups of children;
- ♦ undertake appropriate measures to adopt legislation to protect all the rights of asylum-seeking and refugee children;
- ♦ give specific attention to research on, and monitoring of, the situation of children living and/or working on the streets and those involved in hazardous labour, including domestic service and prostitution; develop

national policies on the prevention and the elimination of the most hazardous forms of child labour; consider ratifying ILO Convention No. 138 concerning the minimum age for access to work;

- ♦ take measures on an urgent basis to address the trafficking of boys and girls into neighbouring countries for work, including prostitution, noting that cooperation with neighbouring countries is strongly encouraged;
- ♦ reinforce the legislative framework to protect children fully from all forms of sexual abuse or exploitation, including within the family; undertake studies with a view to designing and implementing appropriate policies and measures, including care and rehabilitation, to prevent and combat this phenomenon; and
- ♦ ensure that the deprivation of liberty is only used as a measure of last resort in the area of juvenile justice and that children have access to legal aid; provide alternative care (e.g., foster family) for children living in prisons with one of their parents; and conduct training programmes on the relevant international standards for all professionals involved with the juvenile justice system.

Human Rights Committee

Ecuador's fourth periodic report (CCPR/C/84/Add.6, February 1997) was considered by the Committee at its July 1998 session. The report prepared by the government covers the period 1990 to 1996 and contains information on, *inter alia*: protections and guarantees outlined in the May 1997 Constitution which entered into force in August 1998; the Congressional Ad Hoc Commission on Human Rights; the functions and mandate of the Ad Hoc Commission for Truth and Justice; the functions and role of the Constitutional Court; the office and functions of the Ombudsman, established in 1997; elements of the National Development Plan related to the rights and status of women, equality between women and men, measures to assist peasant women, the Act Prohibiting Violence against Women and the Family, sexual violence; provisions related to a declaration of a state of emergency; abolition of the death penalty and the right to life; standards of living, health, health insurance and life expectancy; prohibition of torture and ill treatment, abolition of the Criminal Investigation Service (SIC) of the National Police; labour and employment; the right to liberty, detention, due process, habeas corpus; the prison system, prison policy, conditions in prisons, the situation of women in prison; freedom of movement, immigration and deportation processes; and equality before the law and the court system.

The Committee's concluding observations and comments (CCPR/C/79/Add.92) welcomed: the expanded list of provisions in the new Constitution for the protection of human rights; the adoption of legislation which establishes measures for the compensation of victims of human rights violations; the National Human Rights

Plan, as well as the establishment of the Consejo Nacional de la Magistratura; the decision to appoint a new Ombudsman; and the creation of the remedies of *amparo* and *habeas data*, as well as the expansion of the remedy of *habeas corpus*. The Committee also welcomed: the constitutional prohibition on the enactment of amnesty legislation or granting pardons for human rights violations; the stipulation that torture, enforced disappearances and extrajudicial executions have no statute of limitation; the provision that obedience to superior orders cannot be invoked as an extenuating circumstance; the fact that the jurisdiction of the military tribunals has been limited to members of the armed forces in the exercise of their official functions, and the stipulation that these tribunals have no jurisdiction over civilians; the provision that cases of human rights violations by members of the army and the security forces fall under the jurisdiction of civilian courts; and the decision of the Constitutional Court declaring unconstitutional the criminalization of private homosexual relations between consenting adults, as well as the law excluding persons charged under the Narcotics and Psychotropic Substances Act from the application of the new provisions on detention pending trial. The Committee welcomed the development of a series of educational programmes, in collaboration with international institutions, to enable all segments of the population – in particular members of the army, security forces and the police, and members of the judiciary and lawyers – to be better acquainted with international standards for the protection and observance of human rights and human dignity.

The principal subjects of concern identified by the Committee included, *inter alia*: the many instances of violence against women and the very few judicial decisions taken in those cases, stressing that all reported acts of violence against women should be investigated and appropriate judicial proceedings instituted; the very high number of suicides of young females, which appear in part to be related to the prohibition of abortion; the failure to address the resulting problems faced by adolescent girls, in particular rape victims, who suffer the consequences of such acts for the rest of their lives; unreasonably long judicial delays despite the measures taken to amend criminal proceedings to establish oral hearings and to introduce alternative ways of dealing with civil matters; the provision enabling accused persons to be held in detention pending trial for a maximum duration of a third of the possible sentence facing them, and the fact that close to 70 per cent of the prison population is awaiting trial; the severe shortage of public defenders for the poor in Quito and Guayaquil and their total unavailability in many parts of the country, noting that the situation is particularly grave since Ecuadorian law requires mandatory legal assistance in court proceedings.

Concern was also expressed over: the unequal treatment of women, owing in part to the continuation of traditional attitudes and obsolete laws, despite the Plan for

Equal Opportunity 1996–2000 and the constitutional guarantees of the rights of women and laws designed to end discrimination; the exploitation of children in employment, despite the legal requirement of judicial authorization for the employment of children under 14 years of age; the fact that the births of children born in Ecuador to undocumented refugees are frequently not registered due to the parents' fear of deportation and the associated repercussions relative to claims by these children of Ecuadorian nationality; and the impact of oil extraction on the realization by members of indigenous groups of their rights and continuing obstacles to the realization by indigenous peoples of the full use of their traditional lands in a communal way.

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

- ♦ adopt all necessary legislative and other measures to assist women and adolescent girls, faced with the problem of unwanted pregnancies, to obtain access to adequate health and education facilities;
- ♦ expedite the process of judicial proceedings in view of the severe backlog in the courts;
- ♦ bring bail legislation into conformity with the provisions of the Covenant and ensure that resort to preventive detention is the exception and not the rule;
- ♦ increase the number of public defenders and extend their presence throughout the whole of the country;
- ♦ implement fully the Plan for Equal Opportunity; abrogate those provisions of the Code of Criminal Procedure which prevent a prostitute from being considered as a suitable witness in trials; provide information in the next report on measures adopted and results achieved under the Plan for Equal Opportunity;
- ♦ provide the necessary means to the Comité Nacional para la Eradicación Progresiva del Trabajo Infantil so that it may carry out its mandate to eliminate the practice of child labour;
- ♦ adopt measures guaranteeing to all children of undocumented refugees born in Ecuador the right to a nationality;
- ♦ take further measures to ensure that members of indigenous groups are protected against the adverse effects of oil exploitation within the country and are enabled to realize fully their rights, particularly with regard to preservation of their cultural identity and traditional livelihood; and
- ♦ institutionalize respect for human rights at all levels of government and provide human rights education in schools.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights**Disappearances, Working Group on enforced or involuntary:** (E/CN.4/1998/43, paras. 3, 13, 159–162)

One new case of disappearance, reported to have occurred in 1997, was transmitted to the government under the urgent action procedure. The majority of the 20 cases of disappearance reported in the past occurred between 1985 and 1992 and concerned persons who were arrested by members of the Criminal Investigation Service of the National Police. The disappearances occurred in Quito, Guayaquil and Esmeraldas. In three cases the victims were children, and in three others the victims were Peruvian citizens who were reportedly detained in January and February 1995 in the cities of Huaquillas, Loja and Otavalo.

The newly reported case concerns a Colombian citizen who was said to have been detained in Quito by members of the National Police and to have subsequently disappeared. According to the government, the individual had been detained by members of the National Police. His whereabouts remained unknown, however, and the government was continuing its investigation.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 14, 32, 36, 57; E/CN.4/1998/68/Add.1, para. 145)

The Special Rapporteur (SR) transmitted cases to the government involving death by a gunshot fired by a police officer at the prison of Litoral, Guayaquil. Detainees were killed in January 1997 as they tried to escape. The SR was informed that the prisoners had been captured alive.

Torture, Special Rapporteur on: (E/CN.4/1998/38, para. 88; E/CN.4/1998/38/Add.1, paras. 88–89)

The report refers to a response from the government on a series of cases transmitted by the Special Rapporteur (SR) in 1995 concerning Peruvian citizens reportedly arrested and tortured by Ecuadorian authorities (E/CN.4/1995/34, paras. 167–171). The government stated that only some of the persons named were arrested. No further details were provided.

The SR sent an urgent appeal concerning the situation in the García Morena prison in Quito. Information indicated that a group of prisoners were seriously ill treated after beginning a peaceful hunger strike to urge the authorities to honour certain agreements that had been reached. It was alleged that several hooded members of the National Police beat the prisoners with batons and pipes and fired pellets at them, causing various injuries. The SR noted that the prisoners had expressed fears that such actions might be repeated.

**EL SALVADOR**

Date of admission to UN: 24 October 1945.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: El Salvador has submitted a core document (HRI/CORE/1/Add.34/Rev.1) for use by the treaty bodies. The report prepared by the government contains demographic and statistic data as well as information on the general political structure, economic and social trends and the general legal framework for the protection of human rights.

The rights set out in the ICCPR are included in the Constitution and international treaties to which El Salvador is a state party have a higher ranking than domestic law. No legislation may repeal or amend the provisions of a treaty. The constitutional reforms of 1991 and 1992 improved the administration of justice. The protection of human rights has been strengthened through measures and laws related to: the independence of judges and the judiciary; the participation of the judiciary in law-making; constitutional remedies for violations; and, the remedy of *amparo*. In addition to protections under law, a number of institutions and bodies have been created in the area of human rights, including the Presidential Commissioner for Human Rights, the post of Deputy Procurator for Human Rights, the Department of Human Rights within the Supreme Court, the Commission on Justice and Human Rights which was established by the Legislative Assembly, and the Human Rights Commission which was established by the Armed Forces as part of the Civil Affairs Section.

Economic, Social and Cultural Rights

Signed: 21 September 1967; ratified: 30 November 1979. El Salvador's second periodic report was due 30 June 1995.

Civil and Political Rights

Signed: 21 September 1967; ratified: 30 November 1979. El Salvador's third periodic report was due 31 December 1995; the fourth periodic report was due 28 February 1996.

Optional Protocol: Signed: 21 September 1967; ratified: 6 June 1995.

Reservations and Declarations: General declaration.

Racial Discrimination

Acceded: 30 November 1979. El Salvador's ninth periodic report was due 30 December 1996.

Discrimination against Women

Signed: 14 November 1980; ratified: 19 August 1981. El Salvador's third, fourth and fifth periodic reports were due 18 September 1990, 1994 and 1998 respectively. *Reservations and Declarations:* Paragraph 1 of article 29.

Torture

Acceded: 17 June 1996.

El Salvador's initial report was due 16 July 1997.

Rights of the Child

Signed: 26 January 1990; ratified: 10 July 1990.

El Salvador's second periodic report was due 1 September 1997.

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

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 14, 15, 17, 39, 61; E/CN.4/1998/68/Add.1, paras. 154–163)

The report states that according to information received, paramilitary groups and/or clandestine groups similar to those which were active in the 1980s and early 1990s, have reappeared in recent years in El Salvador. These groups, which are allegedly fomenting violence and social unrest in the country, are said to be acting with the acquiescence of the authorities despite the fact that their links with the latter may not be as clear as in the past. The groups are reported to include the Major Roberto d'Aubuisson Nationalist Force (FURODA), which emerged in June 1996 and has threatened public figures, journalists, and religious leaders. A second group, Sombra Negra, is reported to have appeared in December 1994 with the avowed objective of combatting crime and acting as a social cleansing squad. The members of Sombra Negra remain unknown, yet several sources have alleged that they are former soldiers, who may be acting with the acquiescence of the National Civil Police (PNC). Sombra Negra is said to be responsible for the deaths, between December 1994 and April 1995, of 17 persons, all allegedly criminals. The Special Rapporteur (SR) also referred to the existence of other clandestine armed groups, including the Maximiliano Hernández Martínez Organization against Crime, the People United against Crime Movement (PUCD) and the Provisional Anti Crime Executive Command (CEAT).

The government provided detailed information on cases that had been transmitted by the SR in 1996. The responses indicated: the cases were still being investigated, but the persons responsible for the deaths had not yet been identified; it had not been possible to identify those responsible for the death and the case had been shelved; investigations were continuing and officers of the PNC had been identified as the likely culprits; investigations were continuing and soldiers of the armed forces had been identified as the likely culprits; the person accused of causing the death, an officer of the municipal police of Nueva San Salvador (Cuerpo de Agentes metropolitanos) received a sentence of 20 years' imprisonment and was ordered to pay relatives of the deceased the sum of 10,000 colones; a sergeant in the PNC had been charged and ordered to be placed in custody; the person accused had been tried and acquitted;

the person identified as responsible for the death did not belong to any police force or to any other state agency; investigations had been completed by the Criminal Court of the Judicial District of Quezaltepeque, and, no person or group had been identified specifically as being responsible for the deaths but, in view of the seriousness of the case, if those responsible could be identified they would be subject to criminal prosecution.

FIELD OPERATIONS

The OHCHR Technical Cooperation Office in El Salvador was established in April 1997 with headquarters located in San Salvador. Florentin Melendez, Director, Office of the High Commissioner for Human Rights in El Salvador, 3calle Poniente y Pje 1 No. 4746, Colonia Escalon, San Salvador, El Salvador; Phone: (503) 264-1291; 263-6403; 263-6404; Fax: (503) 264-1292; 263-6360; e-mail: acnudhes@sal.gbm.net.

As a follow-up to a recommendation of the Commission on Human Rights, in January 1997, the government and the OHCHR signed two technical cooperation agreements, the first on "Human Rights training and documentation" and the second on "Police and human rights". The estimated duration of the technical cooperation agreements is two years. The Office comprises six professional staff — the Director, a human rights training specialist, a legal advisor, a national gender and women's rights advisor, a national human rights expert, an international police advisor — and three support staff. The OHCHR-El Salvador is mandated to: consolidate the human rights protection system for the strengthening of democracy and the rule of law and guarantee to the population the effective protection and full enjoyment of their rights and fundamental freedoms; and, consolidate the public security model, within the framework of the rule of law, through the promotion of the application of the international human rights standards by law enforcement officials.

The main activities carried out as of August 1998 included:

- ♦ legislation reform — support to the Legislative Assembly/Women, Minor and Family Commission to adapt domestic legislation to international human rights norms, in particular the norms relating to women and minors;
- ♦ strengthening national institutions — organization of intensive specialized human rights training courses, seminars and workshops for law enforcement officials, armed forces and penitentiary personnel at different levels; monthly study-sessions with the teachers of the police academy (previously trained by the OHCHR), aimed at providing them with the tools necessary to develop and implement all their courses using an integrated rights approach;
- ♦ extensive training on how to treat victims of violence, offered to both governmental and non-governmental representatives of the 12 institutions that coordinate

their services in this area, under a special programme of the Institute for the Development of Women (ISDEMU), for the protection of victims of violence; and training courses on the specialized treatment of minors for personnel working in detention centres which house minors;

- ♦ training on how to prepare reports for the Committee on Economic, Social and Cultural Rights (CESCR), which involved a national inter-institutional commission charged with responding to the observations of the CESCR; and
- ♦ revising the training curriculum and developing human rights training modules: for the armed forces, law enforcement officials, and penitentiary personnel; in human rights, humanitarian law and peace-keeping operations for the armed forces; for specialized treatment of women victims of violence; and for the specialized treatment of minors.

The Office also produced a number of publications — for example, the Universal Declaration (in Spanish Braille and in the Pipil indigenous language), a compilation of international human rights norms, various pocket books (on such themes as the Convention on the Rights of the Child and norms concerning violence against women), posters and games on various themes. Fellowships and study tours were provided to enable police officials and police trainers to participate in human rights training programmes.



GRENADA

Date of admission to UN: 17 September 1974.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Economic, Social and Cultural Rights

Acceded: 6 September 1991.

Grenada's initial and second periodic reports were due 30 June 1993 and 1998 respectively.

Civil and Political Rights

Acceded: 6 September 1991.

Grenada's initial and second periodic reports were due 5 December 1992 and 1997 respectively.

Racial Discrimination

Signed: 17 December 1981.

Discrimination against Women

Signed: 17 July 1980; ratified: 30 August 1990.

Grenada's initial report was due 29 September 1991; the second periodic report was due 29 September 1995.

Rights of the Child

Signed: 21 February 1990; ratified: 5 November 1990.

Grenada's initial report (CRC/C/3/Add.5) has been submitted and is pending consideration at the Committee's January 2000 session; the second periodic report was due 4 December 1997.



GUATEMALA

Date of admission to UN: 21 November 1945.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: The core document prepared by the government for use by the treaty bodies (HRI/CORE/1/Add.47) contains demographic and economic data as well as information on the system of government, the Office of the Human Rights Procurator, the Public Prosecutor's Department, the Office of the National Procurator-General and the general framework within which human rights are protected. The core document was submitted prior to the signing of the peace accord.

As of 1994, under the Constitution, treaties and conventions accepted and ratified by Guatemala took precedence over internal law. The rights and guarantees in the Constitution, however, are established in such a way that the interests of society take precedence over individual interests. The comprehensive agreement concluded between the government and the Unidad Revolucionaria Nacional Guatemalteca (UNRG) in March 1994 included: a general agreement on human rights; stipulation that the functioning of institutions such as the Human Rights Procurator must be unrestricted, unrestrained and unimpaired; agreements to end impunity, illegal security bodies and clandestine operations and to regulate the bearing of arms; guarantees of freedom of association and movement; a stipulation that conscription for compulsory military service will be non-coercive, fair and non-discriminatory; guarantees and protection for individuals and organizations working to safeguard human rights; and, provision for compensation and/or assistance for victims of human rights violations.

Economic, Social and Cultural Rights

Acceded: 19 May 1988.

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

Civil and Political Rights

Acceded: 5 May 1992.

Guatemala's second periodic report is due 4 August 1998.

Racial Discrimination

Signed: 8 September 1967; ratified: 18 January 1983.

Guatemala's eighth periodic report was due 17 February 1998.

Discrimination against Women

Signed: 8 June 1981; ratified: 12 August 1982.
Guatemala's third periodic report was due 11 September 1991; the fourth periodic report was due 11 September 1995.

Torture

Acceded: 5 January 1990.
Guatemala's second periodic report (CAT/C/29/Add.3) was considered at the Committee's May 1998 session; the third periodic report is due 3 February 1999.

Rights of the Child

Signed: 26 January 1990; ratified: 6 June 1990.
Guatemala's second periodic report (CRC/C/65/Add.10) has been submitted and is scheduled for consideration at the Committee's May/June 2001 session.
Reservations and Declarations: Article 1.

REPORTS TO TREATY BODIES

Committee against Torture

Guatemala's second periodic report (CAT/C/29/Add.3, February 1997) was considered by the Committee at its May 1998 session. The report prepared by the government covers the period 31 June 1995 to 30 August 1996 and provides an overview of the general situation in the country in the context of human rights policy. The information included relates to, *inter alia*: measures taken to strengthen the rule of law; programmes for the intensive training of prosecutors, judges and police officers; facilities and financial resources made available to prosecutors, judges and the National Police with a view to improving law enforcement; measures taken to protect witnesses, judges and prosecutors who have been threatened or intimidated; and limitations on the application of the Convention against Torture. Among the specific areas addressed are: the Presidential Coordinating Committee for Government Human Rights Policy (COPREDEH); complaints and reports of violations received by the United Nations Observer Mission to Guatemala (MINUGUA); the Guatemalan Commission for Human Rights (CDHG); amendments to the Penal Code and the Code of Penal Procedure; and the work of the Training, Education and Human Resources Development Unit of the Public Prosecutor's Office.

The Committee's concluding observations and comments (CAT/C/GUA) welcomed, *inter alia*: the signing of the Peace Accord in December 1996; the commitment of the authorities to undertake comprehensive reforms related to the administration of justice and public security; the demobilization of the Voluntary Civil Defence Committees; the limiting of military jurisdiction to cases involving military issues and/or matters, and provisions for the ordinary courts to hear cases involving individual members of the military when appropriate; efforts to establish the National Civil Police, improvements in the training given to members of the police, efforts aimed at professionalization of the Police Academy, and inclusion of human rights training in courses for the police; efforts

to improve the training and professional status of persons working in the administration of justice; and the exclusion from law enforcement and security services of persons presumed responsible for, or to have committed, human rights violations.

The principal subjects of concern identified by the Committee included, *inter alia*: continuing impunity for those responsible for grave violations of human rights; continuing difficulties in ensuring the investigation of allegations of torture and ill treatment and the taking of appropriate action against those found responsible; the proliferation of illegal arms, the high level of criminal violence, and the resulting grave situation with regard to public security; and inconsistencies between domestic law on torture and ill treatment and provisions of the Convention.

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

- ♦ intensify efforts to uncover past human rights violations in order to ensure that they do not recur; undertake prompt and impartial investigations into all allegations of torture;
- ♦ complete the process aimed at the creation of a unified National Civil Police force and the dissolution of the Guardia de Hacienda;
- ♦ continue efforts to limit the number of authorizations granted to carry firearms; and
- ♦ amend article 201A of the Penal Code so that the definition of torture conforms with article 1 of the Convention.

COMMISSION ON HUMAN RIGHTS

Mission of the Secretary-General

At its 1997 session the Commission adopted resolution 1997/51 in which it discontinued the mandate of the Independent Expert and requested the Secretary-General send a mission to Guatemala at the end of the year. The mission was requested to submit a report to the 1998 Commission on: the evolution of the situation of human rights in Guatemala in the light of the implementation of the Peace Agreements — taking into account the verification work done by the United Nations Observer Mission to Guatemala (MINUGUA) and the information submitted by the government, the follow-up Commission on the compliance with the Peace Agreements, the political organizations and the non-governmental human rights organizations, and the implementation of the agreement on the provision of advisory services in the field of human rights signed by the government and the High Commissioner for Human Rights. The 1997 resolution also anticipated, following the receipt of the mission's report by the Commission, the conclusion of consideration of Guatemala.

The report of the Secretary-General's mission (E/CN.4/1998/93) is based on a visit to Guatemala by a three-

member team from 8 to 19 December 1997 and provides information on, *inter alia*: the evolution of the situation of human rights, strengthening of civilian power, citizen security, the national civil police and the army, social and economic aspects, the identity and rights of indigenous peoples, uprooted persons, clarification of past human rights violations, and the agreement on the basis for the legal integration of the Unidad Revolucionaria Nacional Guatemalteca (URNG). Annex II of the report contains a summary of complaints of violations of human rights received by the mission during its time in Guatemala.

The report notes that both state and non-governmental sectors agreed that the human rights situation had improved substantially compared with the past, and that there is no state policy of violating human rights or that violations which are still occurring are on a large scale and systematic in nature. Concern is expressed, however, over the continued existence of the problem of impunity, the continuing structural defects in the system of the administration of justice and criminal investigation, the situation of citizen security, the frequent denials of due process, the continuing existence of discrimination against indigenous peoples, the lack of economic, social and cultural rights, and the weakness of national institutions for the promotion and protection of human rights.

The section of the report on the strengthening of civilian power recalls that this is one of the basic objectives in the Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society, signed by the government and the URNG in September 1996. In the Agreement, "civilian power" is defined as the expression of the will of the people through the exercise of political rights. Following on this, the report notes a number of points, including that reform of the administration of justice is a priority, aimed at ending inefficiency, eliminating corruption and guaranteeing free access to the justice system, impartiality in the application of law, judicial independence, ethical authority and the integrity and modernization of the system as a whole. The report refers to the establishment in March 1997, and subsequent extension of the mandate for a further six months through to February 1998, of a Commission on the Strengthening of the Justice System (CSJS). Following public hearings, this Commission recommended a number of measures related to modernization and professionalization, the recognition of multiculturalism and ethnicity and affirmation of legal certainty. The Commission specifically recommended, *inter alia*, that: the Supreme Court of Justice should have strictly jurisdictional functions; the administration of the judiciary should be the responsibility of the President of the Supreme Court assisted by specialized officials; and recognition be given to principles, criteria and procedures used by indigenous peoples to settle disputes between members of their communities.

The Secretary-General's mission found that the Congressional Commission was not taking into account these and other recommendations, particularly in areas such as the separation between administrative and jurisdictional

functions and efforts to professionalize judges and magistrates, with the latter related to the machinery for their selection and appointment, job security and length of service. The report states that the recommendations of the CSJS were being politicized by the action of the political parties represented in the Congress and, as a consequence, were being ignored or undermined. On other points, the report notes, *inter alia*, the fact that community justices of the peace are empowered to take account of community customs in the settlement of disputes but that there remains a need to strengthen the investigation capacity of the Office of the Human Rights Procurator and increase the budget resources allocated to the Office in order to strengthen its operational capacity.

Concerning citizen security, the national civil police and the army, the report states that efforts to improve the situation had begun to yield results but that there had been an obvious increase in the feeling of insecurity and a perception that the signing of the peace agreements created more insecurity. The report notes that this opinion, which has been encouraged by some sectors, is adversely affecting the full exercise of human rights and the implementation of the peace agreements by giving rise to responses that are outside institutional channels. The dozens of lynchings of alleged offenders, many of which have taken place in the presence of police authorities powerless to stop them, as well as some evidence of cases of "social cleansing", are cited as examples of such extra-institutional responses.

The report refers to, *inter alia*: the continuing high number of abductions and cases of extortion; the fact that there are delays in the establishment of a new police force and the effective deployment of the new structure of the National Civil Police, coupled with a high crime rate, have required the presence of the army in public security operations; the need for the government to clearly spell out the purpose, scope and conditions for temporary deployment of the army in citizen security operations; reports indicating that former members of the army, particularly the disbanded Mobile Military Police, are taking part in criminal activities; and the fact that measures establishing new methods for monitoring intelligence bodies have been delayed but remain important in order to give civilian power to functions which had been concentrated in the hands of the army.

Commentary on social and economic aspects noted, *inter alia*, that: the tax burden in Guatemala was among the lowest in Latin America and there remained a need for the government to combat tax evasion effectively and systematically; there remained extreme inequalities in the distribution of property and a heavy concentration of ownership of the best land by a very small sector of the population; few recoveries of land acquired unlawfully had been made by the time the mission's report was prepared; the decline in land invasions during 1997 was, possibly, only of short-term duration in light of the absence of programmes and activities designed to deal with unemployment and underemployment; land would continue to be a key issue that causes conflicts; there

remained an urgent need to improve national medical coverage through the health care system; labour disputes, affecting primarily public administration and plantations and refineries, were mainly the result of wage demands but also arose in response to non-payment of wages; restrictions on trade union freedoms were less numerous and serious than in the past; little attention had been paid to women's rights as a separate issue; and indigenous women were doubly disadvantaged and victimized by discrimination.

In the section addressing the identity and rights of indigenous peoples, the report refers to work of the Coordination Office of Organizations of the Mayan People of Guatemala (COPMAGUA), the members of which had committed themselves to offsetting the deficiencies of official institutions and agencies that should work to the benefit of indigenous peoples. The report states that indigenous peoples are the victims of *de facto* and, less frequently, *de jure* discrimination in areas where they make up the majority of the population. The report notes that a crucial question which remained open concerned the implementation of the Indigenous Agreement at the local and regional levels. The report states that indigenous communities have for several decades been in the midst of a serious crisis linked to modernization, which has been aggravated by the conflict. Information received by the mission indicated that the government had not yet introduced measures for encouraging or developing the indigenous communities' forms of social organization and that indigenous participation in the framework of the country's regionalization process had even less of a place on the agenda.

The report addresses other issues of concern and substance such as: the fact that the future of those forced into internal displacement by the armed conflict remained unclear, owing in part to difficulties in identifying them because they are scattered throughout the country, thereby creating the impossibility of establishing a specific policy for this type of uprooted population group; the continuing difficulties encountered by the Commission to Clarify Past Human Rights Violations, that began work in July 1997, in collecting information from the army which had been providing general rather than specific operational plans, making it hard to reconstruct the truth and establish precisely how certain situations arose which resulted in serious violations of civilians' rights; and, the lack of progress made in operationalizing the compensation programme for victims of human rights violations, in part because the government took the position that such a programme could be organized more effectively if the proposals made by the Commission to Clarify Past Human Rights Violations, due in the first quarter of 1998, could be taken into consideration. The report notes that: the peace process had been hampered by the slowness and inadequacy of decisions on plans and projects for incorporating members of the URNG into society; there had been no acts of violence against members of the URNG that could be interpreted as specifically targeting the organization, and the cases that had arisen bore every indication of being isolated

and selective events rather than constituting a pattern of politically motivated aggression; and the URNG had begun the process to become a political party but the fact that it had not been a registered party had limited both its role in the national sphere and its public statements.

The conclusions in the report cite a number of areas where measures still need to be taken. The mission therefore recommended, *inter alia*, that:

- ♦ special attention be paid to the history of social and political exclusion of the Maya, Garifuna and Xinca peoples;
- ♦ bearing in mind the limited extent to which the main actors on the political and institutional scene identify with the peace agreements, the government ensure that the agreements are adequately publicized by all means available;
- ♦ with a view to strengthening civilian power, the Congress give prompt and appropriate attention to the existing proposals for constitutional reform submitted by both the government and the Commission on the Strengthening of the Justice System;
- ♦ judicial functions be separated from administrative functions so that the Supreme Court and each of its divisions can give its exclusive attention to judicial tasks;
- ♦ the recommendations of the CSJS related to the mechanisms for the selection and appointment of judges be implemented as soon as possible;
- ♦ the strengthening of the Judicial Training School and the training unit of the Public Prosecutor's Office be continued;
- ♦ special attention be given to strengthening and improving the Public Prosecutor's Office, including through improved training for its professional staff, increasing the number of public defenders and continuing to add bilingual officials and public defenders;
- ♦ new efforts be made to strengthen the investigatory capacity of the Office of the Human Rights Procurator as well as to professionalize the office;
- ♦ the National Civil Police and the Police Academy be strengthened through the expansion of in-service training programmes for the entire police force in order better to address the situation of citizen insecurity;
- ♦ the National Civil Police take responsibility for all aspects of action to combat abduction and be provided with specialized or elite units to improve efforts to combat extortion and abduction;
- ♦ the office of the Presidential Chief of Staff be dissolved as soon as possible and a new agency organized to guarantee the security of the President, the Vice-President and members of their families;

- ♦ the programme for the reintegration of former members of the army into society be stepped up and expanded;
- ♦ steps be taken on an urgent basis to combat extreme poverty and enhance rural development, including by making the land market more flexible, establishing a land stock and reassigning land to those who need it;
- ♦ appropriate legal and technical tools be provided to the Tax Administration Supervisory Board to combat tax evasion;
- ♦ the process of adopting the constitutional and legal reforms related to the identity and rights of indigenous peoples be speeded up and used as a standard for the redefinition of policies and attitudes;
- ♦ the Commission to Clarify Past Human Rights Violations be given the cooperation and information needed from all actors concerned and, in particular, the army; and
- ♦ the government give special attention and consideration to the recommendations of the Commission to Clarify Past Human Rights Violations, particularly with regard to compensation of the victims of the violence and human rights violations.

Resolution of the Commission on Human Rights

At the 1998 session the Commission adopted a resolution by consensus (1998/22) in which it, *inter alia*: acknowledged that there no longer exists an established state policy that violates human rights or individual guarantees; congratulated the government and the URNG on the implementation of all aspects of the Agreement on a Firm and Lasting Peace related to the termination of the internal armed conflict; stated that firm and important decisions are necessary related to implementation of the Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces, the Agreement on Social and Economic Aspects and the Agrarian Situation and the Agreement on the Identity and Rights of Indigenous Peoples; requested all political parties represented in parliament to implement as soon as possible proposals for constitutional reforms; noted that the redefinition of a multicultural, multilingual and multiethnic nation necessitated the constitutional reforms set out in the peace agreements; called on the government to intensify the policies aimed at improving public security and the administration of justice, especially in the fight against impunity; acknowledged the citizen security problem; noted the statement by the Executive branch of government that the participation of the armed forces with the National Civil Police and the Public Prosecutor's Office will be temporary and subject to civilian authority; expressed concern at the difficulties encountered in bringing into force the Childhood and Youth Code; declared its support for MINUGUA and recommended the extension of its mandate; encouraged the government to intensify policies to improve public security con-

ditions and the administration of justice, in particular with regard to impunity; expressed support for the work of the Commission for Historical Clarification and urged the government to adopt and promote the recommendations formulated in the Commission's final report; recalled the importance of provisions in the Comprehensive Agreement on Human Rights related to compensation and/or assistance for victims of human rights violations, with priority given to those in greatest need; recommended that the government ratify all international standards for the protection of human rights and establish all the necessary mechanisms for active participation in their application; requested the OHCHR to provide assistance, when appropriate, to the Office of the Ombudsman, governmental bodies and non-governmental organizations for the protection of human rights, of women and of indigenous populations; expressed support for the proposals and measures related to the structure and goals of tax and fiscal reform as well as reform of the judicial system; requested acceleration of the mechanisms to facilitate the full integration of all demobilized persons into civilian and productive life; and, concluded consideration of the human rights situation in Guatemala.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on: (E/CN.4/1998/44, paras. 19, 21)

An urgent appeal was sent to the government on behalf of one person and the government responded, noting that the person named was not in detention. No details of the case were provided.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 13, 24, 25, 29, 37, 42, 47, 59, 183–190)

In the section on compensation, the report refers to information provided by the government noting, *inter alia*: the offence of enforced disappearance has been established in law, and the court hearing the case has the power to set compensation where a criminal indemnification action has been brought in a criminal case; exhumations have been carried out to determine the identity of persons who disappeared; and, at the time the report was prepared, no judgements had been handed down establishing state responsibility in a case involving the offence of enforced disappearance, and therefore no compensation had been paid.

No new cases of disappearance were transmitted by the Working Group (WG), and 17 cases were clarified on the basis of information previously provided by the government. In 11 of the cases the persons concerned were found living at liberty, and in six other cases the corpses of the persons were located. The majority of the 3,151 reported cases of disappearance in Guatemala occurred between 1979 and 1986, mainly under the military

regimes, and in the context of the government's fight against the Unidad Revolucionaria Nacional Guatemalteca (URNG).

The WG referred to the December 1996 agreement between the government and the URNG but noted that ratification by Congress of the National Reconciliation Act, also in December 1996, has been criticized by some as an amnesty for perpetrators of serious human rights violations, including disappearances.

The Group noted that at its 51st session in May 1997 meetings were held with representatives of the government who had reiterated their desire to cooperate with the WG. The Presidential Human Rights Commission (COPREDEH) reported that it was continuing to work intensively to ascertain the whereabouts and present circumstances of disappeared persons, but also noted that the length of time which has elapsed since the disappearances reportedly occurred has meant the loss of valuable evidence which could have helped to shed light on individual cases. During the period under review the government provided information on 75 individual cases of disappearance. Fifteen cases were clarified. In 51 others, the government reported that the person concerned had either changed place of residence, applied for a replacement of an identity card, or had married after the date of disappearance. The government therefore was not able to ascertain the current whereabouts of these persons. In nine other cases, the government's reply did not constitute a clarification.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 13, 14, 15, 17, 27, 29, 30, 39, 40, 48, 49, 52, 57, 61, 65, 69, 72, 98; E/CN.4/1998/68/Add.1, paras. 188–198)

Information was received by the Special Rapporteur (SR) in connection to death threats from state officials and private individuals cooperating with, or tolerated by, the authorities, as well as killings and deaths due to acts of omission by a failure to prevent mobs from carrying out "popular justice". With regard to impunity, the SR cited reports indicating that security forces continued to interfere in the justice system, affecting its independence and contributing to impunity and, further, that the population has no confidence in the justice system. The SR stated that many violations of the right to life which occurred in 1996 had not been investigated and perpetrators have not been brought to justice.

Eight urgent appeals were sent, calling for measures to protect the right to life and physical integrity of a number of persons who had all received death threats from members of the security forces and/or persons connected with those forces. These included: members of the community of El Sauce, after the death of one of them that was caused by security guards acting with the acquiescence of local authorities; members of the Institute for the Advancement of the Social Sciences in Guatemala (AVANCSO), following death threats; the mayor of Santa Cruz del Quiché and member of the political party New Guatemala Democratic Front (FDNG), who received death threats in a letter signed by the Jaguar Justiciero

death squad, accusing him of supplying food to demobilized members of the URNG; a woman and her family, apparently in response to the testimony she gave to a delegation from Amnesty International, which was visiting Guatemala; a member of the URNG and local leader of the Peasants' Unity Committee (CUC), who was attacked and beaten by six former members of the now dissolved Volunteer Civil Defence Committees; employees of Industria Harinera S.A., who were intimidated by security guards acting on behalf of the owners for the purpose of securing their cooperation in restructuring the factory, noting that the owners' security guards were at the same time employed by the Public Procurator's Office; activists in the Mutual Support Group for Getting Our Relatives Back Alive (GAM), with the threats being related to their work of documenting cases of violations of human rights while at the Commission for Historical Clarification; former policemen, who were sentenced to death for the assassination of Luis Pedro Choc Reyna in February 1995, on the basis that irregularities had occurred in the trial, including that the identification of the accused had taken place without the presence of counsel and without judicial supervision, the defendants had not been informed of their rights, and they had been arrested without a warrant.

In addition to the urgent appeals, complaints were sent to the government concerning violations of the right to life of: leaders of the Union of the Mayan People of Guatemala, who were killed by army personnel; an evangelical pastor and three other persons who were killed — by lynching and burning by mobs — after police had mistaken them for town bus robbers; a 16-year-old boy who was killed by a guard in Tecun Uman, San Marcos Department; peasants who were killed by shots fired by the mayor of Poptun, Petén when trying to clear his office of a group of peasants who had gone to the town hall to seek information concerning a donation made by the National Peace Foundation (FONAPAZ) for the construction of a road and a school; and the killing of a woman whose death was reportedly caused by landowners acting with the acquiescence of the local military authorities.

Information provided by the government indicated: proceedings were initiated by the local magistrate's court, and an investigation had been undertaken, but it was not possible to bring charges against suspects who did not belong to any state security force, so the case was closed; proceedings were at the investigative stage, and two individuals — who are not part of any state security force or body and who belong to a gang operating in the area — were being detained, accused of murder and aggravated robbery and, in one case, of the improper use of uniforms and badges; five police officers were charged with the offences of receiving bribes and concealment; pre-trial proceedings were under way, and a case was under investigation, with indications that those responsible for the death were employees of the state; and, with regard to the members of the Institute for the Advancement of the Social Sciences (AVANCSO), investigations had started and persons concerned had been granted appropriate security measures.

Racism and racial discrimination, Special Rapporteur on: (E/CN.4/1998/79, paras. 74, 99–103)

The report refers to information provided by the government which: covers the historical background to the neglect suffered by the indigenous peoples of Guatemala until the Accord on the Rights and Identity of Indigenous People was signed; notes the main features of the Accord, including action to end the discrimination that still exists, legally and in fact; refers to commitments by the government to eliminate such behaviour; and, reports on the implementation of the Accord, which was acknowledged to be very limited because of the recentness of the Accord and the size of the tasks it entails.

Torture, Special Rapporteur on: (E/CN.4/1998/38, para. 106; E/CN.4/1998/38/Add.1, paras. 144–147)

The Special Rapporteur (SR) requested information on investigations that the government stated were conducted in cases transmitted in July 1996. New cases were also transmitted involving, *inter alia*: a 17-year-old boy who was living on the street and reportedly detained in March 1997 by two uniformed police officers who asked for his identity papers, beat him when he did not produce them, and then left, noting that the Office for Professional Responsibility of the National Police was said to have initiated an investigation; three workers at the Mi Kwang S.A. factory in Cantón Najarito, Villa Nueva, Department of Guatemala, who were reportedly detained in March 1997 by a group of armed men dressed in civilian clothes, taken to the police station, and interrogated for more than an hour about alleged theft at the factory, noting that they were subjected to ill treatment and, before being released, allegedly warned not to talk about what had happened; and an individual working on a human rights project co-sponsored by the European Union, who was reportedly detained in Quetzaltenango in April 1996 by National Police officers, shackled, kicked and beaten, driven from one police station to another and later taken to a hospital and kept there for three days because of his physical state and loss of blood, noting that when the person made a statement to the judge in hospital he felt intimidated by the presence of two police officers who were watching him, and was later released.

Violence against women, Special Rapporteur on: (E/CN.4/1998/54, Section I.A)

In the section summarizing cases of violence against women in times of armed conflict, the report refers to a woman trade union leader who: received death threats, was abducted, was raped, and suffered other physical injuries perpetrated by men who were heavily armed, and received a letter saying “whore we give you 48 hours to leave the country”. The report notes that despite the signing of the Peace Agreement between the government and the URNG, isolated incidents of violence against women still persist.

Mechanisms and Reports of the Sub-Commission

Systematic rape, sexual slavery and slavery-like practices during armed conflict, Special Rapporteur on: (E/CN.4/Sub.2/1998/13, para. 30)

Noting that the term “sexual” is used as an adjective to describe a form of slavery and not to denote a separate crime, the report refers to a study on the impact of armed conflict on children (A/51/306, para. 45) in which reference is made to the use, by rebel groups, of girls to prepare food, attend to the wounded, wash clothes and provide sexual services.

Traditional practices affecting the health of women and girls, Special Rapporteur on: (E/CN.4/Sub.2/1998/11, paras. 9–41)

The report refers to information provided by the government related to the implementation of the Plan of Action for the Elimination of Harmful Traditional Practices Affecting the Health of Women and Children. The strategy was developed by the Presidential Commission for coordination of the Executive’s policy on human rights (COPREDEH). With regard to preference given to male children, a proposed amendment to article 253 of the Civil Code is noted. The amendment, *inter alia*, would make it an obligation for the father and mother to ensure that their daughters or sons are brought up so that each assumes a fair share of the household tasks and family decision-making, and participates in their community’s affairs, and in the political, cultural, economic and social life of their country.

The government also provided information on a draft national policy for the advancement and development of Guatemalan women – the Equality of Opportunity Plan 1997–2001. Other steps taken include: a proposal to amend the law on the minimum age for marriage, ensuring the same age for women and men; creation by the Minister of Health of a programme entitled “Women, health and development”; non-governmental education activities concerned with the sexual education of women and men, family planning and the prevention of venereal diseases, and provision of low-cost medical services that are accessible to people with a low economic level of living; organization of training programmes for traditional midwives in areas lacking welfare centres; creation of the Indigenous Development Fund which executes and finances economic, social and cultural programmes and projects that include the training of traditional midwives and the cultivation of medicinal plants; activities aimed at ensuring access to health services for migrant workers and their families, and particularly for migrant women; provision of means of contraception to women; dissemination of messages concerning reproductive health, in the principle languages of the region, in coordination with community leaders, couples and religious authorities; adoption of the “Law to prevent, sanction and eradicate violence in the family”; the holding of a Women’s Week every year in March, composed of a number of cul-

tural and information activities designed to increase public awareness; and lectures to police force personnel on the subject of observance of the principle of equality, non-discrimination and the rights of the child and of women.

The government also noted that the topic of women and their protection was incorporated in the Peace Agreements concluded with National Revolutionary Union of Guatemala. Special attention was given to women heads of household and to widows and orphans. The government noted its undertaking to eliminate all forms of discrimination against women and to facilitate their access to land, housing and credit, as well as their participation in development projects forming part of the global development strategy. Concerning indigenous women and their vulnerability to twofold discrimination, the government has decided: to promote legislation classifying sexual aggression as an offence that will be treated as aggravated if committed against an indigenous woman; to establish an office of Defender of Indigenous Women; to promote the publicizing and strict implementation of the Convention on the Elimination of All Forms of Discrimination Against Women; and to revise the formal and non-formal education manuals intended for indigenous people in order to eliminate from them any cultural stereotypes or stereotypes based on sex. An effort was also made to take account of the special economic and social situation of women and to integrate them into development strategies, plans and programmes.

The report notes that steps have also been taken by the government to ensure for women equality of access to education and training, and access on an equal footing with men to health care in employment and to decision-making at the local and national levels, as well as their participation in government. Laws currently in force will be amended to ensure fulfilment of these commitments. A decision was also made to take the necessary measures to encourage political and social organizations to adopt specific policies that will help women participate in the process of strengthening the civil power. The report notes that a Women's Forum was set up in 1997 in order to follow up the commitments assumed by the government.

GENERAL ASSEMBLY

Report of the Secretary-General

The report of the Secretary-General on the UN Verification Mission in Guatemala (A/53/421, A/53/421/Corr.1) relates to compliance with the agreements signed by the government and the Unidad Revolucionaria Nacional Guatemalteca (URNG). The Mission's mandate was scheduled to end on 31 December 1998. The report covers the period from January to July 1998.

In commentary on the Comprehensive Agreement on Human Rights, the report notes that while human rights violations have decreased, there is still a need for a national institution to monitor the performance of the administration and to promote new relations between the state and citizens. Factors hindering implementation

of the Agreement are noted as including delays in the development and launching of a programme of assistance to victims of violations, related to, *inter alia*, compensation. It was recommended that projects in this area be initiated immediately to assist the villages and areas which were most directly hurt by the armed conflict, and for which such assistance would be not only moral compensation for the suffering endured but also a much-needed socio-economic contribution.

Efforts to facilitate the return of refugees from Mexico were hampered, partly because of difficulties in negotiations over properties, the presence of intermediaries who distort the price, over-valuation by the owners, the government's determination to negotiate lower prices and the lack of alternatives for acquiring other land. With regard to the resettlement of internally displaced persons, there remain basic infrastructure problems, such as a lack of drinking water, sanitation and emergency food supplies. The Mission underscored the urgent need for concrete, specific measures to alleviate the situation of the uprooted population. Difficulties were also encountered in terms of the registration of births, marriages and deaths for members of uprooted population groups and demobilized members of URNG.

The report notes that the substantive activities of the Commission to Clarify Past Human Rights Violations and Acts of Violence that have Caused the Guatemalan Population to Suffer were concluded at the end of July 1998; January 1999 was set as the deadline for delivery of the Commission's report. In terms of the Agreement on Identity and Rights of Indigenous Peoples, reference is made to the initial reports of the commissions concerning land rights, official recognition of indigenous languages and educational reform. On the question of languages, the Commission devised a strategy that combines: a process of linguistic standardization and rescue of at-risk languages; a process of encouraging bilingualism and multilingualism for all citizens, particularly public servants; and prioritization of bilingual public services (if necessary by providing interpreters) in such key areas as education, health, justice, elections, the media and municipal services. Policies and strategies related to education include: decentralization and social and ethnic participation; increased investment in education to promote efficiency and academic excellence; organization of educational services based on linguistic and cultural situations and needs; and strengthening of comprehensive training for democracy, the culture of peace and sustainable development. On land rights, preliminary procedures were established to facilitate access to land ownership for peasants who do not own any land or sufficient land and to promote rural development. The report notes that the commission concerned with indigenous holy places was having difficulty completing its task, partly because of questions related to who would administer such places — an autonomous indigenous body or a body on which indigenous representation is ensured. Difficulties were also encountered by the commission mandated to take a comprehensive look at the issue of the multicultural state and the reforms that this involves including, for example,

reform of the Municipal Code and of the Urban and Rural Development Council Act. Discussions were also continuing related to the establishment of the Office for the Defence of Indigenous Women's Rights. Difficulties were noted in gaining access to radio frequencies for indigenous cultural projects, in part because of problems related to making the market mechanism that governs the assignment of frequencies compatible with effective protection and promotion of indigenous cultures.

Concerning social and economic issues and the agrarian situation, the report notes that an increase in public investment is not only possible but necessary. The report refers to: fiscal policy and tax revenue; an increase in the coverage of basic social services and an improvement in regional and local economic and social infrastructure; intensification of de-concentration and decentralization of government services, especially in the education and health sectors; a more rational use of public resources and a strengthening of anti-corruption mechanisms; an increase in the participation of the general public and organized civil society in implementing social policies, in particular in the fields of education, health and rural development; and the need to complete the reform of the legal framework in order to define clearly the powers and duties of the public administration and the development activities to be carried out at the different levels and in the various parts of the country.

Concerning the participation of women, the report notes that women suffer from the highest rates of poverty, exclusion and discrimination at all levels. The National Policy for the Promotion and Development of Guatemalan Women and the Equal Opportunities Plan, 1997–2001 establishes a global strategy proposal with national coverage. Implementation of the National Policy will be closely monitored by the Mission. Referring to the work of the Women's Forum, the report notes that the Forum has become an inter-cultural forum for Guatemalan women with the objective of influencing public policies on comprehensive development and monitoring compliance with the commitments of the Peace Agreements. The need to establish a linkage between the Women's Forum and the implementation of the National Policy was recognized, as was the need to institutionalize the advances already achieved.

With regard to the agrarian situation and rural development, the report states that the formulation and full application of a comprehensive rural development policy is necessary in order to: define and implement the various government policies; formulate and execute programmes and projects sponsored by the international community; and promote more investment by the private sector so as to increase the quantity and quality of rural jobs. The Mission noted that, because of the restructuring of the Ministry of Agriculture, there was a drastic decline in the institutional presence of the Ministry in some regions, creating a dangerous institutional vacuum and causing a disturbing decline in the services provided to farmers. The Mission recommended that steps be taken to, *inter alia*: move ahead with the formulation and implementation, by the state as a whole, of a comprehensive rural development policy; strengthen the participa-

tion of the various social actors in the organs set up to manage the sector; adopt the Land Trust Fund bill as soon as possible; draft the land registry and agrarian and environmental jurisdiction bills as quickly as possible; assign adequate funds from the national budget to the Presidential Unit for Legal Assistance and Dispute Settlement in Land Matters; involve the international community in efforts to combat rural poverty; and speed up the formulation and implementation of the package of natural resource conservation policies and measures and assign it sufficient financial resources.

The report notes progress and difficulties related to social development in such areas as: education; health care and health care coverage, vaccination programmes; housing and subsidies to the rural population, the legalization of urban squatter settlements; labour principles and policies; women's employment, labour justice proceedings, trade unions and the right to organize; and vocational training.

The report also addresses measures to strengthen civilian power and define the role of the armed forces, noting that the latter has been defined as being to defend the country's national sovereignty and territorial integrity. Other areas considered are: the administration of justice, noting *inter alia*, high crime rates, the lack of public security, efforts to modernize the judiciary, the need to modernize the prison system, the establishment by law of the Public Defender's Office in Criminal Matters although no resources were provided for the functioning of the Office; public security, noting the lack of security remains one of the greatest concerns, inadequate guarantees for the enjoyment of fundamental rights such as the right to life, delays in the national deployment of the new National Civil Police (PNC), the need to upgrade training given to new police members and staff assigned to criminal investigation tasks, the apparent absence of an institutional policy to permit the gradual but sustained integration of members of the various ethnic groups into the police force, and the failure to implement the commitment to establish the Advisory Council on Security; information and intelligence, noting delays in establishing a Civil Intelligence Department and ratifying laws providing for parliamentary oversight of intelligence bodies, the establishment of the Strategic Analysis Secretariat, but the absence of a law regulating its functions and tasks; and the armed forces, noting that the Civic Service Act had not yet been submitted to Congress, steps had been taken to reduce the troop strength of the armed forces, and efforts had been made to integrate demobilized members of the armed forces into the labour force.

The report states that the adoption of constitutional amendments in such areas as the armed forces, the creation of an intelligence service, and professionalization of the judiciary, has become the central short-term aim of the peace process. Commentary is also provided on the work of the Electoral Reform Commission and its report entitled "Guatemala, peace and democracy". Efforts made to ensure the legal integration of the URNG are also described, both the progress made and the work that remains to be done.

FIELD OPERATIONS

The Office was established as part of a technical cooperation project (GUA/96/AH/13) signed by the OHCHR with the government in 1996. The headquarters is located in Guatemala City. Fredy Ochaeta, Director, Avenida Reforma, 7-62. Zona 9, Edificio Aristos Reforma, 5o nivel, Oficina 506, Guatemala City, Guatemala; Phone: (502) 362-8153/4/5/6; Fax: (502) 362-8157; e-mail: centrodh@infovia.com.gt.

The technical cooperation programme focusses on developing Guatemala's national capacity in the field of human rights. The main activities carried out as of August 1998 included: assisting the Office of the Human Rights Ombudsman to strengthen its capacity to perform its mandate; organizing training courses for civil society organizations; training for the presidential commission, COPREDE, in charge of human rights issues and Guatemala's reporting obligations; in coordination with MINUGUA, carrying out training for the National Civil Police. New project activities planned include training courses for members of Congress (Parliament).



GUYANA

Date of admission to UN: 20 September 1966.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Guyana has submitted a core document (HRI/CORE/1/Add.61) for use by the treaty bodies. The report prepared by the government contains demographic and statistical data as well as brief information on the executive, legislative and judicial branches of government, political parties and the legal framework for the protection of human rights.

Articles 138 through 151 of the Constitution protect the fundamental rights and freedoms of the individual. All levels in the court system are empowered to hear cases related to human rights, and individuals may apply directly to the High Court as the court of first instance in any case alleging that fundamental rights and freedoms have been violated. Remedies for violations include awards, court orders, writs and directions. There is no separate Bill of Rights and the provisions of the ICCPR cannot be invoked directly before the courts other than tribunals or administrative authorities. The provisions in the Covenant may be enforced indirectly to the extent that they are subsumed in comparable provisions in the Constitution and domestic legislation.

Economic, Social and Cultural Rights

Signed: 22 August 1968; ratified: 15 February 1977.
Guyana's second periodic report is due 30 June 2000.

Civil and Political Rights

Signed: 22 August 1968; ratified: 15 February 1977.
Guyana's second through fourth periodic reports were due 10 April 1987, 1992 and 1997 respectively.
Reservations and Declarations: Paragraph 3 (d) of article 14; paragraph 6 of article 14; declaration under article 41.

Optional Protocol: Acceded: 10 May 1993.

Racial Discrimination

Signed: 11 December 1968; ratified: 15 February 1977.
Guyana's initial and second through 11th periodic reports have not been submitted (for the period 1978-1998); the initial report was due 17 March 1978 and the 10th periodic report was due 17 March 1998.

Reservations and Declarations: General declaration.

Discrimination against Women

Signed: 17 July 1980; ratified: 17 July 1980.
Guyana's second through fifth periodic reports were due 3 September 1986, 1990, 1994 and 1998 respectively.

Torture

Signed: 25 January 1988; ratified: 19 May 1988.
Guyana's initial and second and third periodic reports were due 17 June 1989, 1993 and 1997 respectively.

Rights of the Child

Signed: 30 September 1990; ratified: 14 January 1991.
Guyana's initial and second periodic reports were due 12 February 1993 and 1998 respectively.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, para. 17)

The report notes that the government responded to cases previously transmitted. Details of the cases were not provided.

Racism and racial discrimination, Special Rapporteur on: (E/CN.4/1998/79, paras. 74, 77-79)

The report notes information provided by the government related to, *inter alia*: funding of a parliamentary body to establish a commission on interracial relations and to promulgate relevant legislation; a firm commitment on the part of the Administration to deal with the consequences of racial discrimination and racism and to use all necessary means to eliminate them; establishment within the government of a service specifically responsible for responding to allegations of racial discrimination in employment; and, government support for the decision of one of the four civil service trade unions to create its own interracial relations body.



HAITI

Date of admission to UN: 24 October 1945.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Civil and Political Rights

Acceded: 6 February 1991.

Haiti's initial report was due 31 December 1996.

Racial Discrimination

Signed: 30 October 1972; ratified: 19 December 1972.

Haiti's 10th, 11th, 12th and 13th periodic reports were due 18 January 1992, 1994, 1996 and 1998 respectively.

Discrimination against Women

Signed: 17 July 1980; ratified: 20 July 1981.

Haiti's initial and second through fifth periodic reports were due 3 September 1982, 1986, 1990, 1994 and 1998 respectively.

Rights of the Child

Signed: 26 January 1990; ratified: 8 June 1995.

Haiti's initial report was due 7 July 1997.

REPORTS TO TREATY BODIES

Committee on the Elimination of Racial Discrimination

At its August 1998 session, the Committee reviewed the implementation of the Convention by Haiti based upon its previous report (CERD/C/195/Add.1, 15 June 1990) and its consideration by the Committee (see CERD/C/SR.879). The Committee noted that no report had been submitted by the government since 1989.

The Committee's concluding observations and comments (CERD/C/53/Misc.40) noted that, while the situation in Haiti has improved somewhat, the political and economic crisis continues and severe social difficulties have generated discrimination among the population.

The Committee requested that the government provide information on: the implementation of legislation prohibiting and sanctioning racial discrimination; the demographic composition of the population and measures taken to ensure that perpetrators of acts of violence related to racial discrimination are not benefiting from impunity; and the result of cooperation with UN agencies, especially in areas related to the implementation of the Convention. The government was urged to resume the dialogue with the Committee as soon as possible.

COMMISSION ON HUMAN RIGHTS

Report of the Independent Expert

At its 1995 session, the Commission on Human Rights requested the Secretary-General to appoint an independent expert to provide assistance to the Haitian government, examine the development of the situation of human rights, and monitor the government's fulfilment of its obligations in the field of human rights. In 1998, Mr. Adama Dieng was the Independent Expert.

The report of the Independent Expert (E/CN.4/1998/97) states that conditions in Haiti had not changed significantly from those described in the report to the 1997 General Assembly. The Commission was therefore requested to refer to that report (A/52/499) which includes information on: the social and political context in Haiti, the rights to health and education, participation in development, the elections, the governmental "crisis", international cooperation, prisons and the judicial system.

The Expert expressed concern over a number of issues and incidents, specifically the deterioration in economic and social conditions and the political situation, the strike at TELECO and the State University Hospital of Haiti, allegations of ill-treatment or acts of torture committed by the police, the new wave of acts of violence, overcrowding in the National Penitentiary, the rise in the cost of certain essential foodstuffs, and the weaknesses of the judicial system.

Referring to the divisions within the Lavalas movement — the open conflict between OPL and Fanmi Lavalas — and the April 1997 elections, the report states that it is important to curb the tendency to reduce democracy to its purely electoral dimension; the Independent Expert notes that barely 10 per cent of the voters went to the polls, reflecting the refusal of the majority of voters to participate in a duel within a political class which aspires to power.

On issues related to health, the report notes that: the right to health is guaranteed in the Constitution but there is little access for the population as a whole to public health services — medical personnel, facilities and drugs; the Ministry of Public Health and non-governmental organizations had established a system for the sale of generic essential drugs at cost price; and the government had drafted several laws to improve the functioning of, and access to, the health care system but the allocation of resources to the public health sector remained inadequate to support the new initiatives. The report recommended that, *inter alia*: the Ministry of Public Health receive support in managing public funds and strengthening management. The report also recommended that the Ministry: redefine the specific function of each type of health-care facility — for example, basic health-care services, the effective role of the State University Hospital of Haiti; take measures to reconcile the purpose of the facilities and their effective role; redistribute existing resources in the health system to outlying districts in

order to ensure provision of quality health care to the entire population, specifically, the most remote and destitute groups; and adopt regulations on the opening of private health practices.

In considering education, the report states that the educational system had been widely discredited, not only because of its poor quality but also because it was beyond the reach of many children. The report notes that the priorities established by the Ministry of National Education include improvement of the quality of basic education, increased access to basic education, improvements in the system's external effectiveness, and strengthening the Ministry's planning and management capacity.

On the question of international cooperation, the Expert stated that it was essential for the international community to strengthen its programmes of cooperation related to the modernization of the state apparatus, strengthening civil society, and promotion of economic reforms and growth so as to ensure the durability of the reform process and democratization. The report notes that international assistance was disorganized, with a significant number of initiatives paralysed, in particular, by the shortage of managerial staff in the Haitian administration. The report states that some of the managers spent over 70 per cent of their time at meetings with donors and suggested that donors could more effectively coordinate their support.

With regard to prisons, the report notes that, with significant support from the UNDP, improvements have been made in penitentiary institutions but that there remained the need to integrate the National Penitentiary Administration (APENA) into the police force, while retaining its special characteristics. The system of "majors" in the prisons — a prisoner who is the chief of the cell and enjoys a position of confidence with the prison administration — had repercussions on the treatment of detainees and respect for their rights because the "major" actually holds the keys to the cell during the day, opens the door to enable detainees to go to the toilets or have medical consultations at the infirmary, and distributes food to the prisoners in the cell. The delegated authority of "majors" was often obtained through violence within the cell and was the source of many abuses and arbitrary treatment, violating such fundamental rights of detainees as health, hygiene and food. The report notes that: living conditions in the prisons had improved but remained well below the level required by the Standard Minimum Rules for the Treatment of Prisoners; some escapes from the prisons were allegedly made possible by the complicity of prison officers who were rarely prosecuted; and the problem of prison overcrowding had still not been solved.

The report refers to the recommendations of the International Civilian Mission in Haiti (MICIVIH) that: steps be taken to ensure, as far as possible, the separation of the different categories of prisoners, especially the separation of minors from adults; a partnership with the Ministry of Health be established in order to provide medical care for prisoners, organize medical examinations for

them upon admission to prison and ensure that regular medical examinations are carried out; the system of "majors" be eliminated so that no prisoner carries out disciplinary functions; specialized institutions for juvenile offenders and a system for the rehabilitation of offenders be established — with the aim of giving them the necessary skills and motivation to live in a law-abiding and autonomous manner after their release; organize post-release assistance aimed at reintegration into society; make special efforts to facilitate the return of convicted juveniles to their families; address the issue of prisons in the wider context of the prevention of crime and treatment of offenders; envisage the formulation of non-custodial measures with the aim of harmonizing the penal system with modern trends and limiting the overcrowding of prisons; continue efforts to improve the management of parquets and courts so as to ensure continuity of the criminal chain and accelerate the course of justice; ensure the presence of a legal assistant in all penitentiary centres; and set up a small library of legal works and documents.

Concerns arising from the functioning of the judicial system included the question of a statute of limitation for crimes committed between September 1991 and October 1994; the fact that prolonged pre-trial detention was a perversion of the Haitian penal system and took the place of conviction in a judicial system that was improperly and inefficiently managed; and, the need to undertake a major revision of the Code of Criminal Investigation of 1835 and the Penal Code.

The report concluded that the human rights situation had improved considerably but noted that the disarmament of Haiti could not be described as a success and that an armed population posed a danger to security and stabilization.

Resolution of the Commission on Human Rights

At the 1998 session the Commission adopted a resolution by consensus on the situation in Haiti (1998/58) and renewed the mandate of the Independent Expert for a further year.

The Commission, *inter alia*: expressed concern at the negative effects on Haiti's political, economic and social situation as a result of the lack of agreement on the appointment of a prime minister; recalled that elections were planned for 1998; noted the decision of the General Assembly (July 1997) to renew the mandate of the International Civilian Mission to Haiti (MICIVIH); expressed concern at the security problems arising, in part, from the difficult social and economic conditions in the country and resulting in limitations on the judicial and police systems; invited the government to ratify the Covenant on Economic, Social and Cultural Rights, the Convention against Torture and the Optional Protocols to the ICCPR; urged the government to institute legal proceedings against perpetrators of human rights violations identified by the Commission for Truth and Justice and create effective facilities of support to the victims,

particularly women, children and members of their families; encouraged the political leaders and representatives of civil society to pursue a dialogue to reach agreement on the appointment of the prime minister; called on the authorities to mobilize political will in favour of the reform and strengthening of the judicial system and improvements in the country's prisons; drew attention to the need for continuing training for the Haitian National Police; invited the international community, including the Bretton Woods institutions, to continue their involvement in the reconstruction and development of Haiti; noted with satisfaction the operationalization of the Office of Citizen Protection and invited the High Commissioner for Human Rights to contribute to the strengthening of the office so that it may develop into a national institution for the promotion of human rights; once again invited the Special Rapporteur on violence against women to consider favourably the invitation extended by the government to visit Haiti; and invited the Independent Expert to report to the 1998 session of the General Assembly and the 1999 session of the Commission.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on:

(E/CN.4/1998/44, para. 19)

The report notes that two urgent appeals were sent to the government on behalf of two persons. No details of the cases were provided.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 194–196)

No new cases of disappearance were transmitted by the Working Group (WG) to the government. The majority of the 48 reported cases of disappearance occurred in three waves during the periods 1981–1985, 1986–1990, and 1991–1993. The majority of the cases which occurred during the first period concerned members or supporters of the Haitian Christian Democrat Party who were allegedly arrested by members of the armed forces or by the Tonton Macoutes. The cases that occurred during the second period concerned persons who were reportedly arrested by armed men in civilian clothes, members of the Anti-Gang and Investigation Service, and by the police. The last wave of cases took place in the aftermath of the coup d'état which ousted elected President Aristide. During the period under review, no new information was received from the government with respect to the outstanding cases.

Torture, Special Rapporteur on: (E/CN.4/1998/38, paras. 107–108; E/CN.4/1998/38/Add.1, paras. 148–151)

The Special Rapporteur (SR) referred to information indicating that: since their initial deployment in July 1995, the Police nationale d'Haïti had frequently treated

individuals with excessive force during arrest and beat them in police lock-ups; these practices reflected insufficient training and inadequate leadership; and investigations had been carried out only in a few cases and those responsible prosecuted and given appropriate sanctions, either at the administrative or the judicial level. The SR noted that the Police Nationale had not devoted sufficient resources to ensure that the Inspector General's office has the necessary personnel and equipment to conduct thorough investigations of police misconduct and to visit police stations around the country regularly, as required by law.

The four cases transmitted to the government involved: arrest, followed by beatings in a police station and detention for three days without medical attention; arrest, followed by beatings for five consecutive days at a police station, noting that a complaint filed with the local investigating judge did not result in any action against the police agents; arrest, followed by beatings and ill treatment at a local police station, noting that one of the agents fired a gun next to the victim's ear and left him tied to a tree in the sun for over an hour, and that police allegedly put guns in the mouths of two other detainees and urged them to make statements implicating the victim in drug trafficking; and, arrest of the father of the victim in the preceding case when he went to visit his son at the police station, followed by beatings, being handcuffed to a ladder and suspended, and interrogation.

Violence against women, Special Rapporteur on: (E/CN.4/1998/54, Section I.A)

In the section summarizing cases of violence against women in times of armed conflict, the report refers to the testimony of a woman on an incursion into a private home by soldiers, armed civilians, and a police officer who tried to rape one woman and sexually assaulted another. The Special Rapporteur stated that despite the return of the popularly elected leadership in 1994, very little has been done to break the impunity of the armed forces in Haiti.

Mechanisms and Reports of the Sub-Commission

Systematic rape, sexual slavery and slavery-like practices during armed conflict, Special Rapporteur on: (E/CN.4/Sub.2/1998/13, para. 67)

Noting that the majority of the world's contemporary armed conflicts are non-international, or internal, in character, and efforts to identify and rectify any limits that do exist to the application of current norms to situations of internal violence, reference is made to numerous reports of sexual violence committed following the military coup against the government of President Aristide in Haiti. The Special Rapporteur stated that such incidents of sexual slavery and sexual violence illustrate the need for protection of civilians and combatants during non-international conflicts.

GENERAL ASSEMBLY

Independent Expert of the Commission on Human Rights

The Independent Expert's interim report to the 1998 General Assembly (A/53/355) contains information on, *inter alia*: combatting impunity, the Haitian National Police, the judicial system, women's rights, and the rights of the child.

The Expert visited Haiti twice, from 26 February to 2 March, and from 9 to 15 August 1998. The report states that the absence of a prime minister for 14 months has had an adverse impact on the human rights situation. The institutional crisis has had a disastrous effect on economic activity, noting: an erosion in purchasing power; raging inflation; steady rises in the prices of basic foodstuffs; and a slowing of the process of modernization of the state as well as of economic reforms. The report also notes that the transformation of society is still being hampered by the weakness of its institutions, as evidenced in the deplorable situation of women's rights, the violations of the rights of children, the impunity realized by those who commit serious human rights violations, the lack of professionalism of the National Police and the deterioration of conditions in prisons. Some progress has been made, however, in the process of reform of the judiciary.

The report notes that concerns over the impunity of those committing serious violations of human rights — as well as the right to reparation, restitution and rehabilitation of victims — are currently at the centre of a wide-ranging public debate in Haiti. Complaints related to the attitude of officials of the Ministry of Justice include: a lack of transparency in the handling of the issue of reparations; failure to implement the recommendations of the National Commission of Truth and Justice and establishment, instead, of an Office of Prosecution and Follow-up for Victims (BPSV); the failure to include NGOs in the management of that Office and its lack of procedures for the settlement of cases. Noting the Ministry's preference for collective reparations in the form of legal and medical assistance and economic and social reinsertion, the Expert recommended much broader cooperation or even a partnership with NGOs in the search for solutions to the problem of reparations.

The incident involving documents seized from the headquarters of the Haitian Armed Forces and of the Front pour l'avancement et le progrès Haïtien (FRAPH) by the United States (see E/CN.4/1997/89) continues to cause controversy. The Expert stated that return of the documents was important in order to help shed light on cases currently before the courts, including the case of the Raboteau massacre which is referred to by some as the "trial of the coup d'état of September 1991". The report states that the success of the struggle against impunity largely depends on the way in which this trial is conducted and that it is important for the U.S. to return the confiscated documents, intact and without delay, since they may prove to be an invaluable source of information

for the proper administration of justice. The Expert urged all concerned states to assist in the extradition of the officers accused of participation in the Raboteau massacre, noting that requests for extradition of the superior officers had been turned down on legal grounds. The Expert recommended that assistance be furnished to the government with a view to maximizing its chances of obtaining a favourable response to extradition requests.

Commentary on the Haitian National Police notes that considerable progress was made over the past two years but that many human rights violations committed by its agents remain cause for concern. Reference is made to the Mirebalais affair in February 1998 which is said to exemplify the atmosphere of violence prevalent in that region — characterized as political violence. Two persons, one of them a police commissioner, were killed during incidents in which members of a popular organization known as "Metè lòd nan dezòd", which has close links to the Lanfanmi Lavalas party, clashed with members of the Mouvement des Paysans de Papaye. The report notes that the Minister of Justice did suspend the senior judge and the government commissioner who were suspected of involvement in the incidents at Mirebalais, but is critical of the Compagnie d'Intervention Rapide et de Maintien d'Ordre (Rapid Intervention and Law Enforcement Unit) of the National Police, on the basis that the Unit conducts itself in a corporatist manner, reminiscent of the troops of the former Haitian armed forces.

The report notes the work of the Office of the Inspector-General of the Haitian National Police (IGPNH) and the efforts made to clean up the police force. More than 2,200 files were handled by the IGPNH related to: 468 cases of human rights violations, 234 reviewed; 188 cases of fraud or theft, 86 reviewed; 32 cases involving drugs, 15 reviewed; 1,392 cases of violations of rules, 1,051 reviewed; and 187 miscellaneous complaints. The many cases of corruption had not been addressed. As a result of the review, the contracts of 200 police officers were revoked and the files of 66 police officers dismissed for disciplinary and criminal offenses were turned over to the courts. The cases involved assassination, murder and attempted murder, voluntary homicide, theft, gratuitous violence and physical abuse, embezzlement or extortion, use of counterfeit money, illegal search, misuse of firearms, infliction of gunshot wounds, insulting behaviour, bribing witnesses, and use of narcotics. The report notes this progress, despite the continuing difficulties and obstacles encountered by the IGPNH including: a shortage of human resources; pressure on investigators — including death threats against them and their families; the fact that, without adequate support, investigators have been left on their own to determine responsibility in particularly serious cases; and problems of a logistical nature, especially the shortage of vehicles and computers and the absence of a communications system. The greatest obstacle facing the IGPNH, however, is noted as the defects in the Haitian justice system, characterized by the Inspector General as "judicial impunity and complicity".

The report notes that the problems of the National Police are exacerbated by the economic and political climate and by the weakness of the state. Acknowledging that most police officers do their jobs in a relatively acceptable manner, the Expert nonetheless expressed concern about the excesses of some police officers who have been implicated in cases of torture, summary execution of gang members, abuse, corruption, and narcotics trafficking.

With regard to the judicial system, the Expert shared the view of some persons in Haiti that the judiciary remains part of an exclusionary state system which is inaccessible, ineffective and slow and which fails to respect human rights. As a result, the majority of the population is essentially without legal services. Reference is made to the report of a Preparatory Commission that was established in February 1997, pursuant to a recommendation of the National Commission of Truth and Justice. The report is described as a general policy document on the reform of justice which contains proposals for reform of, *inter alia*, the legal system and focusses on five topics: the fundamentals of reform; civil society's primary requirements for the administration of justice; responses to requests from civil society; a strategy for action; and the agents of change. The urgent need for judicial reform is underlined in the report with the observation, that out of a prison population of approximately 3,500 detainees, 85 per cent are being held in pre-trial detention. The Expert strongly recommended that the international community spare no effort to ensure implementation of the plan of action for the justice system.

With regard to women's rights, the report notes that violence against women remains a major concern of women's rights organizations and, further, that in November 1997 80 women's organizations established an International Tribunal for the Elimination of Violence against Haitian Women. The theme of the organizations involved was: "Let's remove the gags" (i.e., no one will realize the extent of violence against women unless people talk about it.) The report notes that the progress of the "trial" has been a success from the point of view of the mobilization of women and of the press and has proved to be a turning point. For three days, the "Tribunal" sessions made society realize that the problem of women's rights is one of human rights, thereby sparking genuine awareness.

The government's efforts on behalf of women are acknowledged, but the report notes: the shortage of staff and equipment of the Ministry of Women's Affairs; the apparent absence of an adequate judicial response to violence against women; serious flaws in police procedures and practices with respect to crimes of a sexual nature and to the protection of women victims of crimes of violence; and a tendency of judges to blame a woman's rape on her "sex appeal" and wife-beating on the victim's "disobedience" or remarks to her husband.

The Expert recommended, *inter alia*, that: article 262 of the Penal Code, which prohibits and penalizes abortion, be amended to authorize abortion in cases of rape or

incest or where the mother's health is at risk; the flaws in articles 285, 286 and 287 of the Penal Code, which make women and men subject to different penalties for adultery, be corrected; legislators endeavour to recognize women's rights in cases of plaçage (Haitian common law marriage) and concubinage, which are widespread in rural areas; a comprehensive study be undertaken on the compatibility of the provisions of Haitian legislation with the international instruments ratified by Haiti, particularly the Convention on the Elimination of All Forms of Discrimination against Women and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará); a sensitivity course on the problem of violence against women be included in training programmes for judges and lawyers; and the government and the international community support the actions of women's groups, which are breaking the silence with increasing frequency, to ensure that complaints are followed by investigations which might lead to the arrest and trial of those responsible for crimes against women.

With regard to children, the report notes: the problem of restaveks (child servants) persists and will continue to do so until poverty is eliminated in Haiti; there has been an alarming increase in the number of street children, particularly restavek girls; and the failure of the government to harmonize domestic law with the Convention on the Rights of the Child. Examples of inconsistencies between domestic law and the Convention are provided.

In the conclusions of the report, the Expert expressed regret at the decision of the Office of the High Commissioner for Human Rights to transfer its cooperation activities to MICIVIH. The Expert invited the OHCHR to consider the consequences of its decision, noting that in the context of the President's will to advance human rights in Haiti, it is important to demonstrate the international community's commitment to strengthening Haitian expertise in the field of human rights.

Resolution of the General Assembly

The 1998 session of the General Assembly adopted by consensus a resolution on the situation of human rights in Haiti (A/C.3/53/L.43). The GA, *inter alia*: noted that, despite the efforts of the government to improve the situation of human rights and the progress that has been reported, serious problems still persist relating mainly to the administration of justice; noted with concern that the prolonged absence of a Prime Minister has had adverse consequences for the situation of human rights; reiterated the hope that the Haitian people will, at the earliest possible date, be able fully to express their will through free, fair and transparent elections; welcomed the decision of the Special Rapporteur of the Commission on Human Rights on violence against women to travel to Haiti on mission in November 1998; welcomed the decision of the government to distribute throughout the country the report of the National Commission on Truth and Justice of February 1996 and to initiate legal action in serious cases; encouraged the government to continue its work on the reform of the judicial system and called

upon all sectors of Haitian society concerned to adopt coordinated measures with a view to the enhancement of the system for the administration of justice; called upon the authorities to mobilize the political will for the pursuit of reform and for the strengthening of the judicial system and the improvement of the country's prisons; expressed deep concern at the prolonged political stalemate and urged the authorities and political leaders to continue their efforts to resolve the crisis so that the appointment of a Prime Minister may be ratified by the Parliament without further delay; noted that the operations of the Office of the Ombudsman had begun; invited the international community, including the Bretton Woods institutions, to continue their involvement in the reconstruction and development of Haiti; and encouraged the government to ratify the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and the Optional Protocols to the International Covenant on Civil and Political Rights.

FIELD OPERATION

Technical Cooperation

The report by the Secretary-General on the technical cooperation programme in Haiti (A/53/530) refers to the decision of the OHCHR to prepare a technical cooperation programme aimed at strengthening Haiti's institutional capacity in the field of human rights, especially in the areas of legislative reform, training of justice administration personnel and human rights education. The programme was prepared in close cooperation with the government and other parties, including the International Civilian Mission in Haiti (MICIVIH) and the UNDP.

The timing of the programme's implementation helped to consolidate cooperation between other agencies or groups within the UN system, such as UNDP's governance assistance, as well as the many activities of MICIVIH. The OHCHR participated in the activities organized by UNDP and MICIVIH.

The report refers to the decision of the General Assembly to renew the MICIVIH mandate (resolution 51/196 B, 31 July 1997) and notes that, given the increased involvement of the Mission in training activities, as well as its experience in assisting in the area of administration of justice, the OHCHR decided to transfer to the Mission the implementation of the remaining activities of the programme of technical cooperation. The decision was taken to ensure cost-effectiveness, complementarity and coordination in the UN assistance and reconstruction effort in Haiti.



HONDURAS

Date of admission to UN: 17 December 1945.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Honduras has submitted a core document (HRI/CORE/1/Add.96) for use by the treaty bodies.

Economic, Social and Cultural Rights

Signed: 19 December 1966; ratified: 17 February 1981. Honduras' initial report (E/1990/5/Add.40) has been submitted and is pending for consideration at the Committee's November 2000 session; the second periodic report was due 29 June 1995.

Civil and Political Rights

Signed: 19 December 1966; ratified: 25 August 1997. Honduras's initial report was due 24 November 1998.

Optional Protocol: Signed: 19 December 1966.

Second Optional Protocol: Signed: 10 May 1990.

Discrimination against Women

Signed: 11 June 1980; ratified: 3 March 1983. Honduras' fourth periodic report was due 2 April 1996.

Torture

Acceded: 5 December 1996. Honduras' initial report was due 3 January 1998.

Rights of the Child

Signed: 31 May 1990; ratified: 10 August 1990. Honduras' second periodic report (CRC/C/54/Add.2) has been submitted and is pending for consideration at the Committee's May/June 1999 session; the third periodic report is due 8 September 2002.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 13, 24, 25, 31, 42, 47, 51, 60, 197-202)

In the section dealing with compensation, the report refers to information provided by the government indicating that: legislation provides that any person incurring criminal responsibility for an offence or misdemeanour, also incurs civil liability which includes restitution, reparation for material and non-material injury, and compensation for damage caused; a presumption of death must be established before payment of compensation may be made; exhumations have been carried out to determine the identity of persons who disappeared; the Office of the Public Prosecutor had initiated investigations into the whereabouts of many of the individuals

who had been detained and had disappeared in the 1980s; and, compensation was paid to the families of two victims, following a decision by the Inter-American Court of Human Rights.

During the period under review no new cases of disappearance were transmitted by the Working Group (WG) to the government and one case, which reportedly occurred in 1982, was clarified when the subject's corpse was found and identified through forensic means. The majority of the 197 cases of disappearance reported to the WG occurred between 1981 and 1984, a period during which members of Battalion 3-16 of the armed forces and heavily armed plain-clothes men seized people, perceived as ideological enemies, in their homes or on the street and took them to clandestine detention centres. The systematic practice of disappearance ended in 1984, although sporadic cases continued to occur. One such case reportedly occurred in 1995 and concerned a person who was allegedly arrested on charges of murder. He is said to have been transferred from a public security force prison to the Central Penitentiary. However, the authorities at the penitentiary reportedly denied that such a transfer had occurred and the individual's whereabouts remain unknown.

The government informed the WG that it had initiated a friendly settlement procedure at the Inter-American Commission on Human Rights to solve the outstanding cases of enforced disappearances and violation of fundamental human rights during the 1980s. An inter-agency governmental committee was established to study the cases and their possible friendly settlement through the good offices of the Inter-American Commission.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 14, 17, 29, 30, 39, 40, 57, 65, 71, 72; E/CN.4/1998/68/Add.1, paras. 199–201)

The Special Rapporteur (SR) sent communications to the government related to death threats from, and/or deaths caused by, state officials and/or private individuals cooperating with or tolerated by the authorities. One case related a mother and her three daughters, Honduran nationals who had been granted asylum in Costa Rica. The report notes that continuing threats were allegedly made, possibly because the father of one of the girls had given evidence during investigations into human rights violations in Honduras. A second case concerned members of the Committee of Relatives of Disappeared Detainees in Honduras (COFADEH), who received death threats from someone who claimed to be acting on behalf of a member of the armed forces. In the third case, concerning members of the Tolupan indigenous group, the report noted two killings by landowners who were said to be acting with the acquiescence of the local authorities and the army.

The government indicated that in the first two cases, proceedings before the appropriate judicial authorities had been initiated. With regard to the killing of two members of the Tolupan indigenous group, the government provided a copy of a note by the Department for Ethnic

Affairs and the Cultural Heritage, stating that the killings resulted from a conflict between two indigenous families over personal problems and land ownership. Nevertheless, the Criminal Investigation Department, the Department of Ethnic Affairs and the competent courts were continuing their investigations in order to establish the facts and bring those responsible to court.

Sale of children, child prostitution, child pornography, Special Rapporteur on the: (E/CN.4/1998/101, paras. 16–17)

Referring to street children and sex tourism, the report notes that extreme poverty and an insufficient judicial system lead paedophiles to believe that they can go to Central America and abuse children without any risk of legal accountability for their actions. The Special Rapporteur cited two cases, the first involving a paedophile who was arrested in Florida and accused of trafficking a young Honduran boy to the United States; the accused, described as one of the most sought-after criminals, with 85 charges of paedophilia against him, was arrested in Honduras by Interpol. The second case involved a Guatemalan woman who was sentenced to two years and eight months for attempting to transport five juveniles across the border from Honduras to Guatemala. The report notes, however, that national law often fails to protect children effectively, with most offences against children considered private crimes. Authorities cannot intervene unless a complaint has been filed by the child or the parents.

Torture, Special Rapporteur on: (E/CN.4/1998/38, para. 109; E/CN.4/1998/38/Add.1, paras. 152–158) Cases transmitted to the government related to: a 16-year-old girl, a street child, who was reportedly raped by a sergeant of the Public Security Force (FUSEP) at the Mamchen police station in Tegucigalpa; a street child who was detained by two plain-clothes municipal police officers in the central park of Tegucigalpa, accused of theft, taken to a command post for interrogation, reportedly beaten, and finally brought before the juvenile magistrate, who ordered his release for lack of evidence. On these two cases the government reported that criminal proceedings had been brought against the director of the Comayagua jail as well as the guards involved in the acts of assault, and that the guards had already been served with arrest warrants.

In response to cases previously transmitted, the government stated: with regard to eight juveniles who were incarcerated in the Comayagua prison for adults, and reports of abuses, a committal order had been issued against the director of the Comayagua jail and the case was in the hands of the Supreme Court; with regard to a reported case of rape, the First Court of Appeal of the Department of Francisco Morazán had rendered a sentence of six years' rigorous imprisonment against the two soldiers charged with the offence. The government's reply to a third case involving the incarceration of two juveniles in the San Pedro Sula prison did not refer to the complaints of ill treatment which they had allegedly suffered.



JAMAICA

Date of admission to UN: 18 September 1962.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Jamaica has submitted a core document (HRI/CORE/1/Add.82) for use by the treaty bodies. The report prepared by the government contains demographic and statistical data as well as information on the economy, a summary on the general political structure and commentary on the general legal framework for the protection of human rights.

Economic, Social and Cultural Rights

Signed: 19 December 1966; ratified: 3 October 1975.
Jamaica's second periodic report was due 30 June 1995.

Civil and Political Rights

Signed: 19 December 1966; ratified: 3 October 1975.
Jamaica's third periodic report is due 7 November 2001.

Optional Protocol: Signed: 19 December 1966; ratified: 3 October 1975; denounced ratification 23 October 1997.

Racial Discrimination

Signed: 14 August 1966; ratified: 4 June 1971.
Jamaica's eighth through 14th periodic reports have not been submitted (covering the period 1986–1998); the 14th periodic report was due 4 July 1998.
Reservations and Declarations: General declaration.

Discrimination against Women

Signed: 17 July 1980; ratified 19 October 1984.
Jamaica's second, third and fourth periodic reports were submitted as one document (CEDAW/C/JAM/2-4) which has not yet been scheduled for consideration by the Committee; the fifth periodic report is due 18 November 2001.
Reservations and Declarations: Paragraph 1 of article 29.

Rights of the Child

Signed: 26 January 1990; ratified: 14 May 1991.
Jamaica's second periodic report was due 12 June 1998.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 27; E/CN.4/1998/68/Add.1, paras. 240–241)

The Special Rapporteur (SR) sent an urgent appeal to the government in response to its decision to withdraw from the Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR). Information indicated that the reason for this decision was related to the 1993

ruling of the Judicial Committee of the Privy Council in which the execution of prisoners who have been on death row for more than five years constitutes inhuman or degrading treatment or punishment. The government was reported to be facing a situation in which the death sentence not be executed, since individuals could only appeal to the Human Rights Committee once domestic remedies had been exhausted, and Committee practices could lead to delays of six months to two years.

In the appeal the SR expressed deep regret at the decision by the government and pointed out that, by withdrawing from the Optional Protocol, one additional appeal option would be withheld from all persons under its jurisdiction claiming to be victims of violations of any rights set forth in the ICCPR. The SR noted that, in a considerable number of communications filed by persons sentenced to death in Jamaica, the Human Rights Committee had adopted the view that article 14, the right to a fair trial, had been violated. The government's attention was drawn to the fact that imposition of a death penalty on a person whose right to a fair trial has been violated constitutes a violation of the right to life, and of article 6 of the Covenant. The government was also reminded of resolution 1997/12, adopted by the Commission on Human Rights at its 1997 session, calling upon all states that had not yet abolished the death penalty to comply fully with their international obligations and to consider suspending executions, with a view to completely abolishing the death penalty. The SR requested the government to consider finding a solution more compatible with its international obligations to protect the right to life and, in this respect, to reconsider its decision to withdraw from the Optional Protocol.



MEXICO

Date of admission to UN: 7 November 1945.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: The core document prepared by the government for use by the treaty bodies (HRI/CORE/1/Add.12/Rev.1) provides statistical data as well as information on the general political structure in Mexico, the legal framework within which human rights are protected and the institutions and national machinery with responsibility for overseeing implementation of human rights.

The National Human Rights Commission (CNDH) is the main administrative body responsible for proposing and ensuring compliance with national policy for the promotion of human rights. The CNDH implements preventive, remedial and coordinating measures to safeguard the human rights of both Mexicans and foreigners in Mexico. In matters related to foreigners, the CNDH coordinates

action with the Ministry of Foreign Affairs. Through a 1992 amendment to the Constitution, the National Human Rights Commission was granted constitutional rank with the result that: its character as "ombudsman" was reaffirmed; the principles of autonomy and independence were strengthened; the procedures for handling and settling complaints were refined; a non-judicial system for the protection of human rights was established at the federal level; and, its relationship with the 32 human rights commissions corresponding to the states and the Federal District was established.

Economic, Social and Cultural Rights

Acceded: 23 March 1981.

Mexico's third periodic report (E/1994/104/Add.18) has been submitted and is scheduled for consideration by the Committee at its November/December 1999 session; the fourth periodic report is due 30 June 2002.

Reservations and Declarations: Article 8.

Civil and Political Rights

Acceded: 23 March 1981.

Mexico's fourth periodic report (CCPR/C/123/Add.1) has been submitted and is scheduled for consideration at the Committee's July 1999 session; the fifth periodic report is due 22 June 2002.

Reservations and Declarations: Paragraph 5 of article 9; article 18; article 13; paragraph (b) of article 25.

Racial Discrimination

Signed: 1 November 1966; ratified: 20 February 1975.

Mexico's 12th periodic report was due 22 March 1998.

Discrimination against Women

Signed: 17 July 1980; ratified: 23 March 1981.

Mexico's third and fourth periodic reports were submitted as one document (CEDAW/C/MEX/3-4 and Add.1) which was considered at the Committee's January 1998 session; the fifth periodic report was due 3 September 1998.

Torture

Signed: 18 March 1985; ratified: 23 January 1986.

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

Rights of the Child

Signed: 26 January 1990; 21 September 1990.

Mexico's second periodic report (CRC/C/65/Add.6) has been submitted and is pending for consideration at the Committee's January 2000 session; the third periodic report is due 19 October 2002.

REPORTS TO TREATY BODIES

Committee on the Elimination of Discrimination against Women

Mexico's 3rd and 4th periodic reports were submitted as one document (CEDAW/C/MEX/3-4, May 1997) which was considered by the Committee at its January 1998 session. The report prepared by the government contains

general demographic data, as well as information on, *inter alia*: general constitutional provisions; the mandate and functions of the National Human Rights Commission and its Programme on Matters relating to Women, Children and the Family; the National Commission for Women, the National Programme for Women: Alliance for Equality 1995 (PRONAM); political participation and the Federal Electoral Institutions and Procedures Code 1996; the Food, Health and Education Programme (PASE), affirmative measures in favour of women; measures to overcome stereotyped attitudes; violence against women, sexual offences against women, the Criminal Prosecution and Victim Priority Action Programme, the work of the Pluralistic Victim Support Committee (Grupo Plural); equality before the law, nationality, equal access to education, the education policy, the National Institute of Adult Education, the National Educational Promotion Council; equality of women and men in employment; health and health care, the Reproductive Health and Family Planning Programme, HIV/AIDS; women with disabilities; access to credit and loans, the National Rural Credit Banking System; the situation of rural women and the New Agrarian Act 1992; indigenous women in Chiapas; family, marriage and spousal and parental rights and responsibilities. The addendum (CEDAW/C/MEX/3-4/Add.1) is a report of consultations with NGOs and their comments on the consolidated reports prepared by the government.

The Committee's concluding observations and comments (A/53/38, paras. 354–427) welcomed, *inter alia*: constitutional guarantees for the protection of women's and men's rights, both as individuals and as groups; the establishment of the National Programme for Women: Alliance for Equality; the stipulation that primary and secondary education is compulsory for women and girls; modifications to the civil procedure and penal codes in order to facilitate proceedings with regard to violence against women in the family, including marital rape; adoption by the Congress of an addendum to the Federal Code of Electoral Institutions and Procedures, which states that national political parties should consider providing in their statutes that no more than 70 per cent of the candidates for deputy or senator should be of the same gender; efforts being made to implement affirmative action programmes in a number of areas, including the Federal Code of Electoral Institutions and Procedures; the considerable number of women working in the judicial system and the fact that women occupy 19 per cent of high-level judicial posts; and the reinstatement of the Women, Health and Development Programme in 1995 and the elaboration of the Reproductive Health and Family Planning Programme, 1995–2000.

Factors hindering the implementation of the Convention were noted as including: elements in the legislation of a number of Mexican states that discriminate against women and are not consistent with national legislation and the Convention; and the fact that Mexico is a territorially vast, multi-ethnic and multicultural developing country with a difficult economic situation which affects the most vulnerable strata of society, and women in particular.

The principal areas of concern identified by the Committee included, *inter alia*: the discrimination faced by indigenous women, where health, education and employment indicators are below the national average; the situation of rural women living in poverty and in extreme poverty; the situation of indigenous women and children, particularly in the state of Chiapas; *de facto* discrimination in terms of the situation of women workers in factories; the situation in certain areas where the principle of equal pay for work of equal value is not applied and where women of child-bearing age are subject to mandatory pregnancy tests as a condition of employment; that, in spite of the legislative measures taken, violence against women, particularly domestic violence, continues to be a serious problem; the high, and unsatisfied, demand for contraceptive methods, particularly among poor urban women, rural women and adolescents; cases in some localities in which contraceptive methods have been used without women's express consent, in violation of the law; and the possible existence of illicit traffic in women.

Concern was also raised with regard to: the possibility that in the present circumstances, the gender-equality policy in the regular educational system may be affected by the decentralization of education in Mexico; the lack of access to health-care services for children and the elderly; inadequacies in the policies to promote equality within the family, noting that stereotyped roles are perpetuated in the family by deeply rooted traditions of men's superiority; the possibility that certain legal provisions might continue to promote inequality and traditional roles within the family; the high rate of teenage pregnancy and the lack of access for women in all states to rapid and easy abortion; and the absence of information about Mexican women who migrated abroad.

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

- ♦ continue efforts to reduce poverty among rural women, particularly indigenous women, and make special efforts to promote education, employment and health programmes conducive to the integration of women into the development process, both as beneficiaries and as protagonists;
- ♦ evaluate areas, such as the private sector, that are not covered by affirmative action and, in the next report, submit a consolidated evaluation of all affirmative-action initiatives;
- ♦ include, in the next report, more information about existing mechanisms to enable women to seek redress from the courts on the basis of the Convention;
- ♦ continue to monitor compliance with labour laws in the factories and pursue the work of raising awareness among factory employers;
- ♦ continue, through the Ministry of Agrarian Reform, institutional intervention to persuade public land (ejido) assemblies to allocate to women the parcels of land to which they are entitled;

- ♦ consider the advisability of revising the legislation criminalizing abortion and weigh the possibility of authorizing the use of the RU486 contraceptive as soon as it becomes available; introduce training for health personnel with regard to women's human rights, and particularly their right, freely and without coercion, to choose means of contraception; assist all states to review their legislation so that, where necessary, women are granted access to rapid and easy abortion;
- ♦ provide information in the next report on the impact of programmes to reduce and prevent teenage pregnancy;
- ♦ continue to work for the adoption of nationwide legislation on all forms of violence against women, including domestic violence, adjusting state laws to national laws; consider the possibility of implementing an integrated, long-term plan for combatting violence that could include taking legal action, training judicial, law enforcement and health personnel, informing women about their rights and about the Convention and strengthening victims' services; take strong action against persons who commit violence against women and make it made easier for women to bring court action against offenders;
- ♦ address in the next report the matter of whether the government intends to legalize prostitution and whether this issue has been subject to public debate; ensure that new legislation does not discriminate against prostitutes and does punish pimps and procurers;
- ♦ amend the legal penalties for rape and ensure their implementation; conduct rape awareness campaigns for NGOs and legislators;
- ♦ take action against employers who discriminate against women on grounds of pregnancy;
- ♦ include, in the next report, information on, *inter alia*: the avenues of appeal open to women who, upon a division of property in divorce, suffer economically despite their contribution to the family's assets; women who migrate abroad, where they go, and whether any authorized agency regulates such migration; men's and women's comparative access to pensions and the minimum amount of such pensions; whether homosexuality is penalized in the criminal code; and women heads of rural enterprises and on programmes for the economic advancement of rural women;
- ♦ introduce education programmes on the provisions of the Convention and the rights of women for judicial personnel, law enforcement officers, lawyers and others who are responsible for applying the law; take further steps to increase the numbers of women at all levels of the judiciary and law enforcement agencies; conduct a campaign to educate women about the content of the Convention, alerting them to their economic, political, civil and cultural rights; and

- ♦ pay special attention to safeguarding the human rights of women, including indigenous women and women in conflict zones, especially where police and armed forces are operating.

Sub-Commission on Prevention of Discrimination and Protection of Minorities

At the 1998 session, the Sub-Commission adopted by secret ballot a resolution on developments in the human rights situation in Mexico (1998/4). The vote on the resolution was 12 in favour, 6 opposed, 6 abstentions. The Sub-Commission, *inter alia*: noted corroborative sources indicating that developments in the human rights situation were becoming more and more disturbing, particularly with regard to the indigenous populations; noted the announcement made to the Sub-Commission by the government of its support for the adoption by the General Assembly of the draft declaration on the rights of human rights defenders; viewed as an encouraging sign and a positive development the statement made by the government on the general strategy decided by the authorities to resolve the question of Chiapas with the help of dialogue, and without first requiring the Zapatista National Liberation Army to hand over its weapons; and reaffirmed that preventive action by the Commission on Human Rights and other protection mechanisms is the surest way, while there is still time, to prevent violence and impunity from irreparably impairing the rule of law. The Sub-Commission: requested the authorities to ensure full respect for the international human rights instruments to which Mexico is party; appealed to the signatories of the San Andrés accords to resume the process favouring dialogue; requested the Commission on Human Rights, in the interest of prevention, to consider at its next session developments in the human rights situation in Mexico; and decided that should the Commission be unable to take up consideration of the matter, to continue the Sub-Commission's consideration of these developments at its 1999 session.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on:

(E/CN.4/1998/44, paras. 4, 7, 8, 19, 21; E/CN.4/1998/44/Add.1, Opinion No. 10/1997, Opinion No. 11/1997)

The main report notes that various appeals and communications were sent to the government. No details of the cases are provided. The addendum to the report summarizes cases on which the Working Group (WG) adopted opinions.

Opinion No. 10/1997 related to the arrest of eight persons. The government informed the WG that the individuals had been charged with storing weapons, had been found guilty and were sentenced. Under provisions taking into account the time spent in detention on remand and during trial all nine persons had been released.

Opinion No. 11/1997 related to the case of a bishop, an American citizen, who was arrested at Mexico City Airport by agents of the Federal Criminal Investigation Service. He was tried for the offence of possession and illegal introduction into the country of the substance MDA, and was sentenced to 10 years' imprisonment without remission. Information indicated that various irregularities had occurred during the case. The government's reply was limited to informing the WG that the individual was tried and sentenced to 10 years' imprisonment and a fine and did not refer to alleged procedural irregularities. Given that the source of the information did not provide to the WG any proof of lack of due process and the failure of the government to respond to those allegations the WG decided to keep the case pending awaiting further and more up-to-date information.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 3, 13, 260–269)

The report notes that the majority of the 343 reported cases of disappearance in Mexico occurred between 1974 and 1981, 98 of them in the context of rural guerrilla warfare in the mountains and villages of Guerrero during the 1970s and the beginning of the 1980s. Twenty-one cases occurred in 1995, mostly in Chiapas and Veracruz with the majority of the victims being members of several Indian, peasant and political organizations. Four cases occurred in 1996 in Guerrero and one in Sinaloa, and concerned two teachers, two peasants and a businessman.

Twenty-four newly reported cases of disappearance — all of which occurred in 1997 in Guerrero, the Federal District, Chiapas and Morelos — were sent to the government. The victims were peasants, teachers, members of ethnic peasant and human rights organizations, a soldier and individuals connected to the legal opposition party, the Party of the Democratic Revolution (Partido de la Revolución Democrática, PDR). Information indicated that the army was responsible in nine cases, the Judicial Police of the State of Guerrero in six cases, the Judicial Police of the Federal District in five cases, the Judicial Police of the State of Morelos in one case, and members of the paramilitary group "Guardias Blancas" and agents in civilian clothes in three cases. Seven of the cases were clarified when the sources reported that six of the persons had been released and one found in detention.

The WG referred to concerns that had been expressed with regard to an increase in the number of cases of "short term" disappearances. Many of these cases were said to be linked to military and police counter-insurgency operations, especially in Chiapas and Guerrero. It was alleged that detainees were held in unacknowledged detention, and when inquiries were made by relatives and members of non-governmental organizations to the military and police authorities, knowledge of the person was said to be denied. Some of those disappeared persons who were subsequently released have reportedly claimed that while in incommunicado detention they were subjected to ill-treatment and torture. Others were report-

edly warned not to tell anyone what had happened. Information also indicated that the growing participation of the armed forces in security matters had had a negative impact on the human rights situation and the total impunity with which the perpetrators were able to act had created a situation of lawlessness where enforced disappearances can occur. There is no national legislation in Mexico that expressly prohibits the act of enforced disappearance.

Information from the government on 54 cases that had been referred to it by the WG stated that: in 8 cases, the persons concerned were found alive and living at liberty; in 2 cases, the persons concerned were found in detention; in 30 cases the investigations were continuing; with respect to 14 cases, investigators had experienced problems with a group of armed inhabitants in the municipality of Ocosingo, Chiapas, who had threatened them and forced them to leave the region, thus making it very difficult to continue the investigations *in situ*.

Noting the fact that new cases continue to be reported, the WG stressed the urgency of taking effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance. The WG also stressed the need for more effective measures to clarify the so-called "old cases" that occurred in the 1970s, and reminded the government of its continuous responsibility to conduct thorough and impartial investigations into cases of disappearances for as long as the fate of the victim remains unclarified.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 13, 14, 15, 17, 29, 30, 32, 36, 39, 40, 48, 49, 57, 60, 61, 65, 68, 70, 72; E/CN.4/1998/68/Add.1, paras. 260–282)

The Special Rapporteur (SR) continued to receive reports of harassment, death threats and intimidation against human rights activists, leaders of indigenous organizations, members of political parties — particularly the Democratic Revolutionary Party (PRD), and members of religious communities. The SR stated that according to several sources, the authorities acquiesced in these acts and, further, that cases of threats or intimidation of peasants within the context of anti-guerrilla operations were also reported, particularly in the Sierra Madre region of Chiapas, in the municipalities of Angel Albino Corzo and La Concordia. There were also reports of deaths caused by mobs.

Individuals who received death threats from members of the police and/or security forces included, *inter alia*: members and leaders of the Southern Sierra Peasants' Organization (OCSS), the President of the Coordinating Office of Non-Governmental Organizations for Peace (CONPAZ) in Chiapas and other members of the organization, the children in a family which had witnessed the killings of members of the PRD by two individuals with alleged ties to the local authorities, and a woman and her family following a complaint she had lodged regarding the rape of her 16-year-old daughter. On the last case, the report notes that the daughter eventually committed suicide.

Additional allegations were received related to, *inter alia*: a victim of mob killings who was believed to have murdered the wife of one of the mob members; deaths in police custody; killings by members of the army; killings of PRD members by unidentified men with alleged ties to the local authorities; killings attributed to members of the PRI or persons acting on the orders of a member or members of PRI; and, a killing allegedly on the orders of the mayor of a municipality.

The report refers to information provided by the government in response to cases transmitted by the SR in 1996 and 1997. The government variously indicated that: the journalist who had been abducted had never asked for protection; the journalists who claimed to have been harassed during a press conference organized by the Revolutionary People's Army (ERP) had not lodged any public complaints or charges with the Procurator's Office, as there were no grounds to do so; with regard to death threats against the leader of the National Union of Agricultural Producers, Tradesmen, Manufacturers and Service Providers, the results of the investigation were being prepared for submission; the person accused of the killing had been acquitted and the public prosecutor had appealed the verdict; the outcome of the investigation remains pending; the person named had died during a confrontation with the State Judicial Police and Public Security Police; no complaint had been received from the persons alleging that they had been threatened; at the request of the National Human Rights Commission the government of Chiapas had taken precautionary measures on behalf of CONPAZ; no evidence had been produced during investigations to support the claim that the deaths described had been politically motivated; an arrest warrant and guilty verdict were issued against three persons who participated in a mob killing; criminal proceedings for homicide and abuse of authority were instituted against two members of the Federal Highway Police in one case; an army captain was found criminally liable for homicide, and a sergeant for illegal deprivation of liberty and complicity, with the proceedings at the pre-trial stage; and the deaths were the result of civilian and not army involvement and criminal proceedings against those responsible had begun.

The SR expressed continuing concern over allegations related to threats to, and intimidation of, human rights activists.

Freedom of opinion and expression, Special Rapporteur on: (E/CN.4/1998/40, paras. 83–84)

The report refers to information transmitted to the government related to, *inter alia*: the abduction, detention and torture of three journalists for TV Azteca, possibly linked to their reporting on police involvement in corruption and human rights violations; the kidnapping, detention and interrogation of a journalist with the daily Reforma who had been reporting on alleged involvement of employees of the Office of the Public Prosecutor in drug trafficking; the abduction of and assault and threats against a second journalist working for Reforma who was investigating the disappearance of a member of the judi-

cial police and had transmitted information on the reported killings of three media professionals; the killing of a journalist and director of the weekly magazine *Siete Dias* who was reportedly facing a defamation lawsuit; the killing of the publisher and editor of the daily newspaper *La Prensa*, who was allegedly facing several lawsuits for criminal libel, with his killing possibly linked to his coverage of drug trafficking and the involvement of the local administration; and, a journalist with the magazine *Como*, who reportedly died from head injuries after having been severely beaten as he was leaving the offices of the Federal Judicial Police in Mexico City, possibly because of articles he had published on alleged links between police and drug-traffickers.

Independence of judges and lawyers, Special Rapporteur on the: (E/CN.4/1998/39, paras. 15, 17, 19, 117–119)

The report refers to an urgent appeal sent to the government on behalf of a lawyer who is a member of the National Association of Democratic Lawyers (ANAD) and had been the target of harassment and death threats. Information indicated that the ANAD is a group of independent lawyers that undertakes cases involving labour and indigenous rights. The report notes that in response to the wave of harassment, ANAD had registered formal complaints with the Office of the Attorney General, asking for appropriate investigation and protection. As of the date of the appeal, no protection had been provided and no investigation had been initiated.

The Special Rapporteur (SR) also sent a communication to the government concerning a judge who had reportedly received death threats from the President of the Upper Tribunal of the State of Tabasco. Information indicated that the judge had been removed from his judicial functions for failing to sign a judicial order of imprisonment against a former local deputy of the Revolutionary Democratic Party (RDP), who was being tried for fraud and who had already been detained. According to the source, during trial the judge had ordered the deputy's release and the President of the Upper Tribunal had requested him to change that decision. Concern was expressed that the threats made against the judge might be carried out. In its reply to the SR's communication the government stated that the judge had not been removed from office, but resigned in order to avoid penal responsibility for an alleged crime of fraud for which he is being tried. The government asserted that his appeals at different levels of the courts, including an amparo appeal, were refused and his complaint before different human rights organizations for alleged violation of his rights was unfounded and intended to gain impunity for a crime that he committed.

Sale of children, child prostitution, child pornography, Special Rapporteur on the: (E/CN.4/1998/101/Add.2)

The Special Rapporteur (SR) visited Mexico from 10 to 21 November 1997. The focus of the mission was the commercial sexual exploitation of children and the SR made

on-site investigations during the nights in order to observe the situation of children in streets, bars and nightclubs. The Special Rapporteur also visited a number of children's homes to meet with child victims of exploitation and abuse.

The report contains information on, *inter alia*: the commercial sexual exploitation of children in a metropolis (Mexico City, D.F.) and an industrialized port region (Puerto de Veracruz and Zalapa); the impact of tourism on commercial sexual exploitation (Cancun, Q.R.); such exploitation of children in frontier areas (Ciudad Juarez, Chihuahua and Tijuana, B.C.); the causes and characteristics of such exploitation; government programmes; and the criminal justice system.

The commentary on the commercial sexual exploitation of children in Mexico City notes a number of elements related to causes and characteristics, including that: it is estimated that 90 per cent of street children are victims of sexual abuse at one stage of their lives in the streets; since 1994, there has been an increase in child prostitution, especially in the involvement of young girls who come primarily from southern states such as Tlaxcala, Oaxaca, Chiapas, Puebla and Veracruz; socially disadvantaged conditions, unemployment and lack of educational opportunities were cited as the main causes for rural-urban migration of young single girls; most of the girls travel to the Federal District to find employment and end up in the streets without money and housing; in many cases, these girls have escaped a violent family situation and are vulnerable to exploitation by pimps or middlemen; other girls are lured away from their families, sometimes with the family's blessing, by a middleman (*padrote*) or a "boyfriend" or a prospective "husband", who promise to secure employment for them in the city and who often loan the girls substantial amounts of money beforehand to create a dependent relationship; eventually, the debts owed by these girls are so great that they are forced to prostitute themselves for their former "husbands" or "boyfriends", now pimps; in such cases, the physical and sexual exploitation is exacerbated by the emotional and psychological exploitation of the young girls' feelings.

The SR stated: one of the main causes for children leaving home or being abandoned is family disintegration and the lack of capacity of families to take care of their members; family violence and substance-abuse are also factors in the changing of social values and morals which do not recognize income situations as the main cause for vulnerability; increased rates of teenage pregnancies and averse social attitudes to this phenomenon also propel young girls into prostitution; some girls are given work in bars and restaurants, largely based on the understanding that other services are also to be made available at the client's request; some of the girls in prostitution send money home to their families to supplement the family income or support a younger sibling's education; street girls involved in prostitution are often exploited not only by their pimps but also by the police, restaurant (*loncherias*) and café owners, as well as local

administrative officers who ask for "protection money"; prostitution of boys also occurs but boys are more likely to engage in sex in exchange for food, drugs or a place to sleep than for money; it is difficult to investigate what is actually happening because boys are not willing to talk about their experiences, either out of fear or embarrassment; in the La Merced area, a number of associations of adult commercial sex workers exist with many of them fighting against each other, often resulting in violence and threats, increasing the vulnerability of children in the streets and making it virtually impossible for them to get out of such circumstances; and the spread of HIV/AIDS is an increasing risk associated with the increase in child prostitution, in part because clients are often averse to using condoms and increasingly prefer sex with younger children.

The report notes that the prohibition and punishment of commercial sexual exploitation of children is covered in laws related to the corruption of minors. The sale, trafficking and prostitution of minors are also covered, either directly or indirectly, by various provisions in the Constitution, the Penal Code and the Federal Labour Law.

The section of the report providing a comparative analysis of commercial sexual exploitation of children in Mexico notes, *inter alia*: the underlying causes which push children into commercial sexual exploitation in the metropolitan, tourist and border areas are generally very similar, viz. poverty, the continuously increasing rural to urban migration, disintegration of the family and of social and moral values and intra-familial violence; the most common and visible form of commercial sexual exploitation of children in Mexico is prostitution, which includes employment as table and striptease dancers; the use of children in pornography is reported also to be prevalent, but facts and data are much more difficult to establish because of the secrecy typical in this kind of exploitation; children in border states are perhaps more vulnerable to becoming victims of such use given that the production of child pornography often takes place in these areas because of the ease of transport to the United States; drug addiction appears to be one of the main causes for children getting caught up in the sex trade. This was reported to be the case during a study of the city of Tijuana.

The report also notes: recruitment methods do not vary much from one state to another and, with the exception of street children, there are loosely organized networks and "standard" recruitment methods involving the systematic luring of children from rural areas and from their home environment under false pretences to cities where they are left to the mercy of middlemen; the participation of law enforcement authorities in the creation of a climate of impunity which encourages the more organized networks to operate; despite the fact that Mexico is a state party to the Convention on the Rights of the Child, there is a great divergence of laws in the different states, and, in many cases, these laws do not conform to relevant international standards; in general, the government is well aware of the urgent need for action on commercial sexual exploitation of children but there do not appear to

be systematic, concrete and nationwide strategies in place yet; response mechanisms are largely dependent on the interest and dedication of people in positions of responsibility; a defensive and closed attitude is shown by most of the tourism, immigration and customs officials, who appear to be still in the stage of denial of the existence of the problem; there is a need to give serious attention to sensitization of the law enforcement authorities; the alleged involvement of some law enforcers in abuses against children either by themselves or in collusion with others requires urgent measures; and the lack of reported cases specifically on commercial sexual exploitation of children may be attributable to the lack of awareness on the part of both the police and the general public.

The report includes recommendations to the federal and state governments as well as to non-governmental organizations.

The report recommends that the federal government, *inter alia*:

- ♦ mainstream crimes against children among the primary concerns of law enforcement;
- ♦ develop advocacy and awareness-raising programmes geared towards enhancing the reporting mechanisms for instances of child abuse;
- ♦ provide training of all parties in the criminal justice system, from entry to exit points of the child victim, in order to avoid revictimization of the child; implement a multi-sectoral response mechanism whenever feasible to a child seeking assistance;
- ♦ ensure the prosecution and punishment of child abusers, including law enforcement officers and other public officials, and give wide publicity to these cases;
- ♦ undertake a review of both federal and state laws affecting children with the goal of harmonizing these laws with the provisions of the Convention on the Rights of the Child, particularly on the definition of a child as a person below 18 years of age; and undertake a review of both federal and state legislation on abuses against children with a view to criminalizing such abuses, specifying elements constituting abuse and the penalties for such abuse;
- ♦ ensure the constant monitoring and supervision of places where children are at risk and implement programmes for their rescue and protection;
- ♦ enhance the role of the National System for the Integral Development of the Family (DIF) in the protection of children through institutionalized and uniform programmes addressing and eradicating the main causes for the existence of the phenomenon, especially intra-familial violence and sexual abuse;
- ♦ give urgent attention to the issue of drug and substance abuse among children and enforce and/or implement compulsory education for children, whether formal or informal; and

- ♦ ensure close cooperation and coordination with non-governmental agencies concerned with child protection and involve the private sector in the protection and reintegration of children victims.

The report recommends that state governments in the border areas, *inter alia*:

- ♦ initiate and/or enhance cooperative efforts between the relevant officials on both sides of the border for the protection of children; sensitize and train the border police, customs, and immigration officers on the vulnerability of children and on the methods of investigation and inquiry in the process of apprehension or repatriation; provide training to Mexican consular officials in the United States for treating and interviewing migrant minors; and
- ♦ ensure constant supervision of the border areas to prevent exploiters from having ready access to children for the purpose of subjecting them to abuse either locally or across the border.

The report recommends that non-governmental organizations, *inter alia*:

- ♦ conduct general awareness programmes related to: the existence of the specific problem of commercial sexual exploitation of children; the primary causes giving rise to the vulnerability of children; the modus operandi of recruitment of children; the rights of children under international instruments, particularly the Convention on the Rights of the Child; the repercussions of commercial sexual exploitation of children on their whole personality; and the responsibilities of parents and other members of the community to be vigilant for the protection of children;
- ♦ actively participate in monitoring places where children are at greater risk and take measures to report findings and remove the children from the exploitative situation; monitor response mechanisms by the government, especially law enforcement authorities, in order to avoid revictimization of children needing assistance;
- ♦ encourage and make possible networking and cooperation among themselves by first, making an inventory of the different organizations providing service to children, and then by allocating areas of responsibility to improve coordination and avoid duplication;
- ♦ pay particular attention, as a matter of priority, to the curtailment of drug or substance abuse among children especially in the metropolitan and border areas;
- ♦ actively cooperate with government in the search for viable alternatives to formal schooling for working children;
- ♦ actively advocate and sensitize the business sector in training children for alternative sources of income other than commercial sex; and
- ♦ provide for "help lines" or "hot lines" to which children needing assistance can have easy access.

The SR's interim report to the 1998 General Assembly (A/53/311, para. 21) welcomes the creation of the Comisión Nacional para Prevenir, Atender y Erradicar el Fenómeno de la Venta de Niños, la Prostitución Infantil y la Utilización de Niños en la Pornografía (National Commission for the Prevention, Responsibility for, and Eradication of the Phenomenon of the Sale of Children, Child Prostitution and the Use of Children in Pornography). The aims of this national commission include: raising public awareness about the commercial sexual exploitation of children; carrying out a full assessment of the problem; and introducing appropriate preventative measures and adequate legislation.

Torture, Special Rapporteur on: (E/CN.4/1998/38, paras. 133–134; E/CN.4/1998/38/Add.1, paras. 237–248)

The main report notes that eight urgent appeals were sent to the government and that replies were received to seven of them, as well as to two cases that were transmitted in 1995 and 1996.

The addendum summarizes individual cases including, *inter alia*: the arrest of members of the Tepozteca Unity Committee by judicial police officers and allegations that at least two of them were threatened with death and subjected to ill treatment; incommunicado detention and beatings of at least of seven persons, including two Jesuit priests and five community leaders, by judicial police officers in connection with incidents in which two policemen had been killed; detention of members of the Mixtec indigenous community, reportedly associated with the Democratic Revolution Party (PRD), by members of the state judicial police; detention of other indigenous members of the PRD who were allegedly tortured; detention by members of the Public Security Police (PSP) in Chiapas of several persons involved in a private dispute; detention and alleged torture of members of the DRP in Guerrero; detention of the agricultural secretary of the DRP in Guerrero, who was reportedly handed over to the army the same day and reportedly tortured to make him confess to links with the People's Revolutionary Army; actions against inhabitants of the San Lorenzo Texmelucan community, including beatings, burns and threats; and, detention, including incommunicado detention of three municipal officials by judicial police officers accompanied by two masked individuals.

The government variously responded that: the Morelos Human Rights Commission had received a complaint but it did not contain any allegations of torture; the statements of persons named had been taken in the presence of their lawyers and at no time were they subjected to ill treatment, held incommunicado, or otherwise deprived of legal guarantees; a complaint had been lodged by the accused against members of the Attorney General's Office on grounds of fabrication of evidence, illegal detention, ill treatment and incommunicado detention; the National Human Rights Commission and the Human Rights Commission of Guerrero had opened an investigation on the disappearance of the four named persons, their whereabouts were still unknown; no complaint had

been made about actions by public officials allegedly violating the rights of the persons detained; the persons named did not wish to make a complaint; the National Human Rights Commission had interviewed the persons concerned and carried out medical examinations of the persons but the Chiapas Attorney General's Office had not received any information about the detentions; and an investigation had been carried out by the National Human Rights Commission which decided that it had not been established that human rights violations had been committed by officials; and, the police action had been taken to serve arrest warrants relating to the commission of various offences, a group of persons had blocked the road, the police unit had withdrawn from the area, the Public Prosecutor's Office had initiated an inquiry but received no testimony about alleged ill treatment, and the National Human Rights Commission had initiated an investigation into the matter.

The SR visited Mexico from 7 to 16 August 1997. The aim of the mission was to collect first-hand information from a wide range of contacts in order to assess the situation better with regard to the practice of torture in Mexico. The report of the mission (E/CN.4/1998/38/Add.2) contains information on, *inter alia*: the scope and context within which torture occurs; legislative and other measures to protect detainees against torture; and the right to effective remedy. The annex to the report summarizes more than 100 cases referred to the government by the SR, covering the period between January 1996 and September 1997.

At the outset, the report states that the SR received a great deal of information from non-governmental sources to the effect that torture continued to be a common practice but the majority of cases are not reported to the authorities due to ignorance, limited means of substantiating the case, mistrust on the part of the victims in institutions or fear of reprisals. Those same sources indicated that the most common cases occurred in the course of investigations of crimes, with the use of torture common among judicial police forces. Other cases were attributed to the army.

The report refers to amendments to laws introduced by the government on the basis that they were necessary to respond to the rise in the crime rate and the social demand for greater public security. The amendments have allowed the armed forces to intervene in areas which pertain to the civil authorities, such as public security and the prosecution of certain offences. As a result, the armed forces intervene in the investigation and prosecution of offences such as terrorism, smuggling and illegal trafficking in persons, arms and drugs, despite the fact that article 21 of the Constitution provides that the investigation and prosecution of offences is the province of the Public Prosecution Department.

Following on this, the report notes that: in order to justify this role of the armed forces, it has been argued that they assist the civil authorities, although they are not actually subordinate to those authorities; the armed forces undertake duties on their own account which are

the province of the Public Prosecutor, on the pretext of looking for drugs or weapons; these actions and this practice are contrary to article 129 of the Constitution which stipulates that in peacetime no military authority may engage in duties other than those which are directly related to military discipline; and, in March 1996, the Supreme Court ruled that the army could, if expressly requested by the civil authorities, participate in civil actions in favour of public security in situations which did not require the suspension of guarantees, provided that the Constitution and laws were strictly observed.

A further area of concern is noted as involving arrests, followed by interrogation under torture, carried out by unidentified individuals who are often masked. Information received indicated that victims are blindfolded and therefore unable to identify the places to which they are taken as well as the fact that the type of interrogation and behaviour has led detainees to suspect that their captors are linked to the security forces. The information also referred to cases in which civilians acted alongside public agents or with their acquiescence (white guards, hired gunmen, etc.), particularly in Chiapas. Additional sources provided the SR with documentation related to attacks, carried out by the police force, on street children and young people as well as educators working with them. The attacks involved beatings, threats and, in two cases, sexual harassment and/or abuse. The actions were reported to have taken place either as part of an effort to force street children from a specific area of a city or during crime investigations.

The report notes that the most commonly used methods of torture include, *inter alia*: indiscriminate beatings, attempted suffocation by placing a plastic bag over the victims' heads or keeping their heads under water, pouring large quantities of liquid into the mouth and nose, hanging by the neck or limbs and applying electric shocks. The torture was accompanied by threats, including death threats, against victims and their families. A significant amount of information was received related to politically motivated torture against, for example, peasant and social activists, militants of opposition parties and persons detained in conflict zones, usually rural areas, during combined police and military operations or simply military actions against subversive groups. The report also refers to harassment and intimidation against members of many non-governmental human rights organizations — including threatening telephone calls, anonymous threatening letters, office searches and slander campaigns in the media.

The various responses given by authorities during the mission asserted, *inter alia*, that: according to the Minister of the Interior, significant progress in the eradication of torture had been made in recent years as a result of the Federal Act for the Prevention and Punishment of Torture and the establishment of human rights commissions; torture was not a generalized practice although there were isolated cases which should not go unpunished; the government was trying to introduce programmes for improving the human rights culture in

Mexico, not only for the general public but also for the police forces; and, the Attorney-General of the Republic (PGR) reiterated the authorities' wish to eradicate a practice that had been so prevalent in previous decades, and referred to the positive effect of constantly challenging it and exposing it before public opinion.

The summary of measures taken by authorities at the federal and state levels are noted in the report as including, *inter alia*: organization of training courses for public servants and members of the judiciary as well as introduction of human rights subjects into the police academy curricula; efforts to purge the Office of the Attorney-General of the Republic (PGR) of all persons, whether working for the police or for the Public Prosecutor's Office, involved in corrupt practices or human rights violations; efforts to strengthen the General Directorate of Human Rights in monitoring compliance with human rights within the Attorney-General's Office; a national census of police and former police staff, drawn up by the Ministry of the Interior, to prevent a police officer sanctioned in one unit from being cleared in another; and at the state level (e.g., Guerrero), introduction of training programmes for police units, the purging of the judicial police and establishment of stricter conditions for joining the force in order to obviate such problems as corruption.

The commentary on the legal protections against torture refers to provisions in the Constitution and the Federal Code of Penal Procedure stipulating that: the accused may not be compelled to testify; a confession made to any authority other than the Public Prosecutor's Office or judge, or made without the assistance of counsel, has no probative value; no confession or information obtained by torture may be cited as evidence; and, but for Puebla and Tlaxcala, all state laws disallow confessions obtained under torture.

The report also provides narrative on the role of defence counsel and the probative value of confessions. On the question of effective remedy, the report covers a number of points from both the governmental and non-governmental point of view. These points include, *inter alia*, that: the Federal Act for the Prevention and Punishment of Torture provides for prison sentences of three to 12 years for anyone committing torture, as well as a fine and disqualification from public office, post or assignment; the Comision Nacional de Derechos Humanos (CNDH) has proposed adding a paragraph to the Federal Act stating that, for the offence of torture, criminal proceedings and punishment under criminal law are impermissible; anyone claiming to have been tortured may lodge a complaint; the creation of the human rights commissions at the federal and state levels has meant that a large proportion of complaints concerning human rights violations, and particularly torture, have been channelled through them; these human rights commissions, however, do not always have staff who are trained to conduct full investigations into events requiring different professional skills; despite this drawback interventions by the commissions have helped to foster respect for integrity of

the person although the burden of proof continues to rest with the complainant in terms of producing evidence sufficient to convince a commission that torture took place.

Other points noted include: following a recommendation by the CNDH investigations can go on indefinitely, in part because, for example, the Public Prosecutor's offices are under-qualified, under-staffed, negligent or corrupt; no single investigation of torture had been initiated without a recommendation from the national Commission; for victims, the preliminary investigation conducted by the Public Prosecutor's Office raised problems, chiefly because victims were exposed to threats for having lodged a complaint and because public servants are brought to public notice in a recommendation made by a human rights commission; as a result, frequently victims no longer want to confirm their complaint or to give evidence to the investigation; at present investigations by the CNDH, are taken as evidence and not accepted as proof by the Public Prosecutor's Office; there remains a need for legal mechanisms that would compel or exert effective pressure on authorities that ignored CNDH recommendations as well as a need to ensure that the Commission's annual reports are not merely formalities but rather followed up by a presidential decision enforcing observance of the Commission's recommendations; and, according to the CNDH, legislation on compensation is highly deficient.

Based on discussions during, and the findings of, the mission, the report concludes that torture and ill treatment frequently occur although not as a manifestation of systematic practice and that it is mainly inflicted in order to elicit confessions or information. The report recommends, *inter alia*, that:

- ♦ the government consider ratifying the Optional Protocol to the ICCPR and make the declaration under article 22 of the Convention against Torture to allow the right of individual petition to the Human Rights Committee and the Committee against Torture;
- ♦ the government consider ratifying Additional Protocol II to the Geneva Conventions relating to the Protection of Victims of Non-International Armed Conflicts, and make the declaration contemplated by article 62 of the American Convention on Human Rights concerning the compulsory jurisdiction of the Inter-American Court of Human Rights;
- ♦ a system of independent inspection of all places of detention be established; the system of videotaping interrogations established in one precinct of Mexico City be expanded throughout the country; statements made by detainees not be considered as having probative value unless made before a judge; and after detainees have been brought before a prosecutor, they not be returned to police custody;
- ♦ a radical overhaul of the public defender system be undertaken to ensure a substantial improvement in the competence, remuneration and status of public defenders;

- ♦ the database of dismissed police officers be monitored closely to ensure that these officers do not transfer from one jurisdiction to another;
- ♦ all Procurator's Offices (Procuradurías Generales de Justicia) establish a system of rotation among members of the police and of the Public Prosecutor's Office, to lessen the risk of establishing links that could lead to corrupt practices;
- ♦ prosecutors and judges not treat as proof of false allegations the absence of marks on the body that would be consistent with allegations of torture;
- ♦ cases of serious crimes committed by military personnel against civilians, in particular torture and ill treatment, be subject to civilian justice, irrespective of whether they took place in the course of service;
- ♦ the military penal code be amended to include explicitly the crime of torture inflicted on military personnel;
- ♦ doctors assigned to the protection, care and treatment of persons deprived of liberty be employed independently of the institution in which they practise, given training in the relevant international standards and be entitled to levels of remuneration and conditions of work commensurate with their role as respected professionals;
- ♦ the government support the initiative of the CNDH to improve the law on compensation for victims of human rights violations;
- ♦ bearing in mind the poor record of the Public Prosecutor's Office in prosecuting crimes committed by public officials, consideration be given to the possibility of establishing an independent prosecution service with responsibility for such prosecutions, perhaps appointed by and responsible to Congress;
- ♦ legislation be enacted to make it possible for victims to challenge, before the judiciary, the failure of the Public Prosecutor's Office to initiate proceedings on human rights cases;
- ♦ a limit be established by law to the duration of investigations on human rights cases, including torture, carried out by the Procurator's Offices (Procuradurías) and sanctions established in cases where the limit is not respected;
- ♦ measures be taken to ensure that the authorities properly comply with the recommendations of human rights commissions;
- ♦ efforts be pursued to increase awareness among personnel of the Procurator's Offices and the judiciary that torture should not be tolerated and that those responsible for this crime should be punished; and
- ♦ cases of threats and intimidation against human rights defenders be fully investigated.

Violence against women, Special Rapporteur

on: (E/CN.4/1998/54, Section I.A)

In the section dealing with violence against women in the context of armed conflict, the report refers to death threats against and the continual harassment of women who had witnessed the killing, by state security forces, of peasants in Aguas Blancas who were demonstrating for the release of a fellow villager. The report also notes that in Chiapas and Guerrero human rights groups have documented human rights violations, including violence against women.

Mechanisms and Reports of the Sub-Commission

Traditional practices affecting the health of women and girls, Special Rapporteur on:

(E/CN.4/Sub.2/1998/11, paras. 68–77)

The report cites information provided by the government stating that, while traditional practices such as they are usually understood (e.g., female genital mutilation) do not exist in Mexico, there are other practices which may affect the health of women, such as early maternity. Other customs that might be considered detrimental include: the practice of a fiancé abducting his future wife in order to save the families the cost of a formal wedding; the belief that a pregnant woman runs a risk if she exposes herself directly to an eclipse or to a full moon; and the belief concerning the "loss of one's shadow", viz. the possibility of persons losing or suffering the theft of their souls through witchcraft or chastisement.

The government stated that efforts have been made to encourage a strengthening of the dialogue between modern medicine and the traditional medicines which are sources of useful information. Reference is also made to: certain practices, directly associated with beliefs and customs, that are designed to affirm the superiority of men and the subordination of women; the fact that the dissemination in the media of aggressive images that flout rights of which women are ignorant is often the cause of various forms of violence directed against women, including domestic violence; and government efforts to combat violence, and the penalization and prevention of violence.

The government referred to the initiative of the Department of Justice in the Federal District to establish, in 1989, three centres — the first intended for the victims of domestic violence, the second for lost persons or run-aways, and the third for the victims of offences, particularly minors and persons with disabilities. The government also noted: legislation relating to sexual offences was amended in 1991; in 1993, the government found itself constitutionally obliged to provide legal and medical aid to victims of such offences and to ensure their compensation; a number of measures were adopted that are designed to ensure that women participate fully and on the same footing as men in the economic, social, political and cultural life of the nation; a number of seminars, round tables and conferences were held and activities undertaken to inform, develop awareness in, and mobi-

lize all sectors of society against violence in all its forms; and programmes of aid to, and rehabilitation of, victims have been established.



NICARAGUA

Date of admission to UN: 24 October 1945.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Economic, Social and Cultural Rights

Acceded: 12 March 1980.

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

Civil and Political Rights

Acceded: 12 March 1980.

Nicaragua's third periodic report was due 11 June 1991; the fourth periodic report was due 11 June 1996.

Optional Protocol: Acceded: 12 March 1980.

Second Optional Protocol: Signed: 21 February 1990.

Racial Discrimination

Acceded: 15 February 1978.

Nicaragua's 10th periodic report was due 17 March 1997.

Discrimination against Women

Signed: 17 July 1980; ratified: 27 October 1981.

Nicaragua's fourth periodic report (CEDAW/C/NIC/4) has been submitted but is not yet scheduled for consideration by the Committee; the fifth periodic report was due 26 November 1998.

Torture

Signed: 15 April 1985.

Rights of the Child

Signed: 6 February 1990; ratified: 5 October 1990.

Nicaragua's second periodic report (CRC/C/65/Add.4) has been submitted and is scheduled for consideration at the Committee's May/June 1999 session; the third periodic report is due 3 November 2002.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 285–288)

No new cases of disappearance were transmitted to the

government. Of the 234 cases reported to the Working Group (WG), 131 have been clarified. Most of these cases occurred between 1979 and 1983, in the context of the internal armed conflict which took place during the decade of the 1980s. Many of the reports of these disappearances pointed to the involvement of members of the army, the former Sandinistas, the former General Directorate for the Security of the State and the Frontier Guard. Two cases, however, reportedly occurred in 1994. One case concerned a farmer who was allegedly detained by a group composed of members of the army and the police; the other case concerned a person allegedly accused of being a member of the Recontras armed group. No information was received from the government concerning the outstanding cases, and the WG was still unable to report on the whereabouts of the persons concerned. The WG expressed regret at the repeated lack of communication from the government on these cases, and reminded the authorities of their responsibilities to conduct thorough and impartial investigations for as long as the fate of the victim of enforced disappearance remains unclarified.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, para. 17; E/CN.4/1998/68/Add.1, paras. 294–296)

In response to cases previously transmitted, the government replied that the two persons named died during the course of a demonstration in Managua. An investigative commission had been established on the instructions of the Minister of the Interior and had recommended that the case should be tried by the ordinary courts. Judicial proceedings had been initiated and an interlocutory judgement handed down, with charges dismissed against some of the accused, and a temporary stay granted the others. The police were ordered to continue investigating the case. The government stated that, with regard to two other cases, charges were filed in the Eighth Criminal District Court of Managua and criminal proceedings were in the judicial investigation stage. Finally, with regard to the deaths of 11 members of the "Meza Rearmed Group" during an attack by members of the army, the government stated that the charges of homicide and bodily injury had been dismissed, there was no appeal, and the case was closed.

Religious intolerance, Special Rapporteur on: (E/CN.4/1998/6, paras. 48, 50, 60)

The report refers to violations of freedom of religion or belief against all religions, all religious groups and communities, except the official or predominant religion. The report notes information indicating that the Catholic Church was trying to introduce Catholic textbooks in state schools and, further, that these textbooks would appear to preach a message of intolerance towards other religions.



PANAMA

Date of admission to UN: 13 November 1945.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Panama has submitted a core document (HRI/CORE/1/Add.14/Rev.1) for use by the treaty bodies. The report prepared by the government includes demographic data and information on the economy (growth, public debt, income distribution, employment), the structure of government, and the legal framework for the protection of human rights.

The Constitution forms the primary legal framework for the protection of human rights and sets out a number of rights that may not be suspended during a state of emergency, including equality before the law, non-discrimination, due process, freedom of religion and association, the prohibition of the death penalty, and non-retroactive application of law. The provisions in international human rights treaties are incorporated into domestic law and may be invoked in the courts after the treaty is adopted by formal act by the Legislative Assembly and endorsed by the executive.

Economic, Social and Cultural Rights

Signed: 27 July 1976; ratified: 8 March 1977.

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

Civil and Political Rights

Signed: 27 July 1976; ratified: 8 March 1977.

Panama's third periodic report was due 31 March 1992; the fourth and fifth periodic reports were due 6 June 1993 and 1998 respectively.

Optional Protocol: Signed: 27 July 1976; ratified: 8 March 1977.

Second Optional Protocol: Acceded: 21 January 1993.

Racial Discrimination

Signed: 8 December 1966; ratified: 16 August 1967.

Panama's 15th periodic report (CERD/C/338/Add.2) has been submitted but has not yet been scheduled for consideration by the Committee; the sixteenth periodic report is due 4 January 2000.

Discrimination against Women

Signed: 26 June 1980; ratified: 29 October 1981.

Panama's second and third periodic reports were submitted as one document (CEDAW/C/PAN/2-3), which was considered at the Committee's June 1998 session; the fourth periodic report was due 28 November 1994.

Torture

Signed: 22 February 1985; ratified: 24 August 1987.

Panama's third periodic report (CAT/C/34/Add.9) was considered at the Committee's May 1998 session; the

fourth periodic report is due 27 September 2000.

Reservations and Declarations: Paragraph 1 of article 30.

Rights of the Child

Signed: 26 January 1990; ratified: 12 December 1990.

Panama's second periodic report was due 10 January 1998.

REPORTS TO TREATY BODIES

Committee on the Elimination of Discrimination against Women

Panama's second and third periodic reports were submitted as one document (CEDAW/C/PAN/2-3, February 1997) which was considered by the Committee at its June 1998 session. The report prepared by the government contains general information on land and people, the economy, the political structure and the framework for the protection of human rights. Information is also provided on, *inter alia*: the Women and Development Action Plan (1994–2000); the National Women's Council and the National Women's Office, both established in 1995; the Ministry of Youth, Women, Children and the Family, established in 1997; legislative and regulatory measures to eliminate discrimination against women; the Equal Opportunities Programme; NGOs promoting the comprehensive development of women; affirmative action; sex roles and stereotypes, establishment of the Office of Women's Affairs in the Ministry of Education in 1995; measures and considerations related to prostitution; participation in political and public life; women in, and access to, the education system; employment, legislation concerning women in the workplace, vocational training; child care services; health and health care, sexually transmitted diseases (STDs) and AIDS, female circumcision and other harmful practices, family planning; the situation of rural women, cooperatives, access to agricultural credit and loans; women and the family, the Family Code 1995; and legal measures related to prevention and punishment of violence against women. Annex II of the report contains a list of case law in which provisions in the commercial, administrative and civil codes were found to be unconstitutional. Annex III outlines the government's agenda and priorities with regard to implementation of the Beijing Platform for Action.

The Committee's concluding observations and comments (CEDAW/C/1998/II/L.1/Add.4) commended, *inter alia*: the establishment of the Ministry of Youth, Women, Children and the Family; the government's support of women's NGOs; the 1997 reforms to the Electoral Code, stipulating that at least 30 per cent of the candidates for public election must be women; the 1995 Act qualifying domestic violence and child abuse as crimes; the establishment of family courts following the adoption of the Family Code; and efforts to make the mass media more aware of and to eliminate sexism and the projection of women as sex objects. Factors hindering implementation of the Convention were seen to include the difficult and special political, economic, social and legal situation of Panama, the unequal distribution of wealth, the struc-

tural adjustment programmes and the high rate of unemployment in metropolitan and rural areas.

Areas of concern identified by the Committee included, *inter alia*: that neither the Constitution nor any other legislative provision makes clear or specific reference to the elimination of discrimination against women; implementation of only a few of the many programmes and projects to prevent discrimination against women; a discrepancy between legal provisions guaranteeing equal pay for equal work and the reality; that women continue to experience discrimination in the workplace and have no effective protection with respect to maternity leave and breast-feeding breaks; that women account for only 28 per cent of the economically active population; the 53 per cent illiteracy rate among women, the majority of whom are indigenous women; and that gender stereotypes persist, resulting in a large number of adolescent girls terminating their education at an early age to undertake domestic work.

The Committee expressed concern about: the reproductive health of women and an apparent setback in the treatment of the right to abortion in cases where the pregnancy is the result of rape; and the discriminatory treatment received by women engaged in prostitution, noting the government statement that a prostitute would find it difficult to seek legal redress in the case of rape since the Code still requires the victim in that situation to be "chaste and virtuous" in order to be able to institute legal proceedings.

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

- ♦ revise all legislation to provide expressly for the elimination of discrimination against women;
- ♦ mount a major campaign to disseminate the principles of the Convention and provide education and training in them, especially among judges, lawyers, journalists and teachers, and Panamanian women;
- ♦ include, in the next report, gender-specific statistics so as to indicate the results of the various programmes proposed for the benefit of women;
- ♦ initiate a campaign to guarantee equality of treatment in the workplace; implement vigorously legislation on the right to maternity leave and breast-feeding;
- ♦ mount an aggressive educational campaign as a matter of urgency, designed to ensure that all girls and women have a full education and to reduce sharply the number of adolescent girls leaving school early to work in unskilled employment or to marry;
- ♦ take multi-disciplinary measures to provide special care to the victims of sexual violence and include legal and psychological assistance for the victim; grant to women whose pregnancies are a result of rape the opportunity to seek termination of such pregnancies;
- ♦ undertake training programmes for women political leaders and encourage large scale participation of women in decision-making; and

- ♦ include, in the next report, specific information on results obtained from the various anti-discrimination programmes and projects, as well as statistics disaggregated by sex so as to enable an evaluation of the effectiveness of the measures taken; and make a serious effort to amend relevant legislation and to eliminate entrenched stereotypes.

Committee against Torture

Panama's third periodic report (CAT/C/34/Add.9, May 1997) was considered by the Committee at its May 1998 session. The report prepared by the government covers the period from 21 September 1992 to 19 May 1997 and contains information on, *inter alia*: relevant provisions in the Penal and Judicial Codes; constitutional protections related to human rights and due process; extradition, drug-related offences and laws; the Criminal Investigation Service and regulations related to the performance of duties by law enforcement personnel; conditions in prison institutions and relevant monitoring mechanisms; remedy and compensation; the probative force of evidence; and the post of Public Defender (legal aid). Annex I of the report provides examples from case law on the issues of torture and/or ill treatment.

The Committee's concluding observations and comments (CAT/C/PAN) noted that no recent allegations of torture had been received. The Committee welcomed the legislative measures aimed at the prevention of torture and ill treatment, the limit of 24 hours placed on detention before a person is brought before a judge, and the human rights component in police training and for personnel working in the prison system. The principal subjects of concern included the absence in law of a maximum period of preventive detention, the high number of persons being held in pre-trial detention, and the incidence of refoulement to neighbouring countries where the risk of human rights violations persists.

The Committee recommended that the government, *inter alia*, adopt all measures to ensure the safety of refugees from neighbouring countries and ensure that repatriation does not place any person at risk of human rights violations upon return.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 14, 39, 40, 44, 45, 64; E/CN.4/1998/68/Add.1, paras. 311–312)

An urgent appeal was transmitted to the government on behalf of approximately 400 peasants and their families, most of them from Unguía, Department of Chocó, Urubá, Colombia, who had fled to Panama during the fighting between guerrillas and paramilitary groups. Information indicated that the Panamanian authorities had begun the process of deporting them to Colombia. The Special Rapporteur asked the government to take the necessary steps

to ensure that, should the peasants and their families be deported, their right to life and physical integrity would be guaranteed. (An appeal was also sent to the Colombian government.)

Allegations concerning violations of the right to life were also sent to the government on behalf of three persons in the municipalities of Yape and Yaviza who were killed by Colombian paramilitaries. The report notes that Colombian paramilitaries were said to have made an incursion into Panamanian territory for the purpose of eliminating guerrilla sympathizers. (This case was also sent to the Colombian government.)



PARAGUAY

Date of admission to UN: 24 October 1945.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Paraguay has submitted a core document (HRI/CORE/Add.24) for use by the treaty bodies. The report prepared by the government contains demographic and statistical data as well as information on the general political structure, the separation of powers, and the general legal framework for the protection of human rights.

The Constitution sets out all basic human rights and provides for a number of mechanisms to protect and safeguard them. Remedies for violations include habeas corpus, actions under the law on criminal procedure, actions under the Code for Juveniles, and systems of compensation. The office of the Defensoria del Pueblo (Ombudsman) has been established and functions as a parliamentary commissioner to defend human rights, channel claims by citizens and protect community interests. The Ombudsman may publicly censure acts or conduct contrary to human rights and must report annually to the two chambers of Congress. The Constitution is the supreme law with international treaties ratified by Paraguay directly following it in rank; treaties are defined as a part of domestic positive law which may be invoked before the courts. The Directorate-General for Human Rights was established in 1990 with a broad mandate encompassing the promotion, dissemination and protection of human rights.

Economic, Social and Cultural Rights

Acceded: 10 June 1992.

Paraguay's second periodic report is due 30 June 1999.

Civil and Political Rights

Acceded: 10 June 1992.

Paraguay's second periodic report is due 9 September 1998.

Optional Protocol: Acceded: 10 January 1995.

Discrimination against Women

Acceded: 6 April 1987.

Paraguay's third periodic report was due 6 May 1996.

Torture

Signed: 23 October 1989; ratified: 12 March 1990.

Paraguay's third periodic report is due 10 April 1999.

Rights of the Child

Signed: 4 April 1990; ratified: 25 September 1990.

Paraguay's second periodic report (CRC/C/65/Add.12) has been submitted and is pending for consideration at the Committee's September/October 2001 session; the third report is due 24 October 2002.

COMMISSION ON HUMAN RIGHTS

At its 1998 session, the Commission on Human Rights considered the situation in Paraguay under the confidential 1503 procedure. The Commission decided to discontinue that consideration.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 293–295)

During the period under review no new cases were transmitted to the government. Of the 23 cases transmitted by the Working Group, 20 have been clarified. All of these cases occurred between 1975 and 1977 under the military government, and no reports of disappearances occurring in Paraguay have been received by the WG since. Several of the disappeared persons were members of the Communist Party, including the party's Secretary-General. Although disappearances took place in the capital, Asunción, the majority of the cases affected the rural population and were carried out in the districts of San José, Santa Helena, Piribebuy, Santa Elena, and Santa Rosa. The report notes that no new information was received from the government on the outstanding cases.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 14, 17, 39, 40, 66; E/CN.4/1998/68/Add.1, paras. 317–318)

Cases were transmitted to the government related to the deaths of 15 persons as a result of paramilitary activity, and the killing of a member of the Puente Kue Neighbourhood Commission by armed men allegedly acting with the acquiescence of the security forces in Caazapa. In response to a case previously transmitted, the government stated that the Second Rota Criminal Court of First Instance had conducted the investigative proceedings to establish the facts, three persons had been detained on suspicion of murder, and they did not belong to any official or private institution or body. The government also

provided the Special Rapporteur with a copy of Act No. 933/96, promulgating the Inter-American Convention on the Forced Disappearance of Persons.

Racism and racial discrimination, Special Rapporteur on: (E/CN.4/1998/79, paras. 74, 91–93)

The report refers to information provided by the government according to which there had been no cases of anti-Semitism, racial discrimination or racism affirming the superiority or privilege of one's own race. The government referred to articles 73 and 74 of the Constitution related to equal access to education and the need to remove discriminatory material from school books, as well as constitutional and legislative provisions in favour of women and children. The government acknowledged, however, the situation of indigenous peoples in Paraguay was troubling to the extent that it is typically characterized by poverty and neglect, and stated that bills to improve the situation of indigenous peoples were being prepared.

Toxic wastes and products, Special Rapporteur on: (E/CN.4/1998/10, para. 51)

The report notes that the government was investigating a serious case of illicit movement and dumping of toxic wastes which may have occurred in Paraguay, and undertook to provide the Special Rapporteur (SR) with relevant information as soon as it was available. The government requested the SR's assistance in investigating the issue. No details of the incident were provided.



PERU

Date of admission to UN: 31 October 1945.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Peru has submitted a core document (HRI/CORE/1/Add.43/Rev.1) for use by the treaty bodies. The report prepared by the government includes demographic and statistical data as well as information on the general political structure and the framework for the protection of human rights.

Under the 1993 Constitution, international treaties are part of national law and the Constitution stipulates that the rights and freedoms set out in it must be interpreted in conformity with the Universal Declaration of Human Rights and any international treaties and agreements related to human rights that Peru has ratified. In addition to the Public Prosecutor's Department and the office of the Ombudsman, other institutions and arrangements exist for the protection of human rights. These include the Special Procurator for Human Rights for the Whole Nation (jurisdiction and investigation of complaints of human rights violations), the Peace Council (to imple-

ment the National Pacification Plan), the National Council for Human Rights (the primary agency responsible for promoting, coordinating and advising on the protection and observance of fundamental individual rights), the National Human Rights Committee (a coordinating and monitoring body within the Ministry of the Interior), the Register of Complaints related to Disappeared Persons (under the responsibility of the Special Procurator for Human Rights and the Ombudsman), the National Register of Detainees and Persons Sentences to Custodial Sentences, the Technical Commission for Displaced People (to deal with families displaced by terrorist violence), the Programme of Support for the Population (to assist displaced persons to return to places of origin) and the Pacification and Human Rights Commission (with the role of securing the fundamental and constitutional rights of individuals).

Economic, Social and Cultural Rights

Signed: 11 August 1977; ratified: 28 April 1978.
Peru's second periodic report was due 30 June 1995.

Civil and Political Rights

Signed: 11 August 1977; ratified: 28 April 1978.
Peru's fourth periodic report has been submitted but has not yet been scheduled for consideration by the Committee; the fifth periodic report is due 9 April 2003.
Reservations and Declarations: Declaration under article 41.

Optional Protocol: Signed: 11 August 1977; ratified: 3 October 1980.

Racial Discrimination

Signed: 22 July 1966; ratified: 29 September 1971.
Peru's 12th and 13th periodic reports were submitted as one document (CERD/C/298/Add.5) which is pending for consideration at the Committee's March 1999 session; the 14th periodic report was due 29 October 1998.
Reservations and Declarations: Declaration under article 14.

Discrimination against Women

Signed: 23 July 1981; ratified: 13 September 1982.
Peru's third and fourth periodic reports were submitted as one document (CEDAW/C/PER/3-4) which was considered at the Committee's July 1998 session; the fifth periodic report is due 13 October 1999.

Torture

Signed: 29 May 1985; ratified: 7 July 1988.
Peru's second periodic report (CAT/C/20/Add.6) was considered at the Committee's May 1998 session; the third periodic report was due 5 August 1997.

Rights of the Child

Signed: 26 January 1990; ratified: 4 September 1990.
Peru's second periodic report (CRC/C/65/Add.8) has been submitted and is pending for consideration at the Committee's June 2000 session; the third periodic report is due 3 October 2002.

REPORTS TO TREATY BODIES

Committee against Torture

Peru's second periodic report (CAT/C/20/Add.6, January 1997) was considered by the Committee at its May 1998 session. The report prepared by the government contains information on, *inter alia*: anti-terrorist legislation, the institution of "faceless judges", the use of military courts, pre-trial detention, the crime of enforced disappearance and the Easing of Measures Act; provisions and measures related to states of emergency; the Office of the Public Prosecutor; constitutional provisions related to judicial functions, the competence of the military courts, the Code of Military Justice; trials of civilians for crimes of treason and regulation of military jurisdiction; the National Council of the Judiciary, the Judicial Coordination Council, the Office of the Ombudsman, the role and functions of the Office of the Public Prosecutor; due process and the rights of detainees; the special register of disappeared persons and the register of reports on disappeared persons; Special Offices of the Ombudsman and Procurator for Human Rights; human rights training and education for civil and military law enforcement personnel; and compensation and rehabilitation for victims, the National Judicial Error and Arbitrary Detention Compensation Fund, and relevant provisions in the Civil and Penal Codes.

The Committee's concluding observations and comments (CAT/C/PER) welcomed, *inter alia*: the discontinuation of the use of "faceless judges"; incorporation into domestic legislation of a definition of torture that is consistent with the Convention; and reform measures aimed at strengthening the independence of the judiciary and improving human rights protections relative to anti-terrorist legislation.

The principal subjects of concern identified by the Committee included, *inter alia*: the frequency of allegations of torture; continuation of military jurisdiction over civilians in some cases and the fact that military jurisdiction continues to operate to the detriment of civil jurisdictions; the laws enacted between 1995 and 1998 calling into question the independence of the judiciary; and legislation related to states of emergency which does not contain adequate guarantees for the protection of human rights, in particular regarding the eradication of torture.

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

- ♦ abrogate legislation that has a negative impact on the independence of the judiciary and ensure that the system of appointment of judges and rules of judicial procedure are independent from government and the administration; and
- ♦ take the appropriate steps to ensure that victims of torture and ill treatment and/or their families have recourse to indemnification, compensation and rehabilitation.

Committee on the Elimination of Discrimination against Women

Peru's third and fourth periodic reports were submitted as one document (CEDAW/C/PER/3-4, September 1995) which was considered by the Committee at its July 1998 session. The report prepared by the government contains general information on the country's land and people, the political structure, and the general legal framework for the protection of human rights. Specific areas addressed in the report included, *inter alia*: implementation of the principle of non-discrimination against women; commercial and administrative legislation, the Penal Code, the Domestic Violence Act 1993 and measures to address domestic and sexual violence, the Code of Children and Adolescents, the consequence of terrorism for women, actions by the Sendero Luminoso (The Shining Path) and Tupac Amará Revolutionary Movement; the Standing Commission on Women's and Children's Rights, the National Programme for the Advancement of Women (1991-1995), the Wawahuasis programme (community education homes), the Land Titling Programme, the National Programme for Food Aid (PRONA), the Office for Women (Ministry of Justice); NGOs working with and for women; women and employment; sex roles and stereotypes; education and access to education, illiteracy; the role of women in the family; steps taken to abolish prostitution; participation in political and public life; health and health care, women and HIV/AIDS, mental and occupational health; the situation of rural women; equality before the law in civil matters; and women as heads of household, marriage, property rights, inheritance.

The Committee's concluding observations and comments (CEDAW/C/1998/II/L.1/Add.7) noted developments since preparation of the government's report, including: establishment in 1996 of the Ministry for the Advancement of Women and Human Development (PRO-MUDEH), creation of the Special Office for the Defence of the Rights of Women within the office of the Special Ombudsperson, integrated literacy programmes designed and implemented by the Ministry for the Advancement of Women; and establishment of the Programme for Reproductive Health and Family Planning for 1996-2000 to guarantee access to an integrated range of services designed to address, *inter alia*, maternal health, contraception and sexually transmitted diseases.

The Committee acknowledged the difficult situation in the country as a result of the economic crisis and terrorist violence and welcomed, *inter alia*: entry into force of the 1993 Constitution; introduction of significant new legislation and reforms to current legislation to promote compliance with the Convention; the establishment of the Office of the Ombudsman; the establishment of the independence of the judiciary; the Act on Domestic Violence; and the establishment of the Ministry for the Advancement of Women and Human Development.

Poverty and its associated effects were acknowledged as main factors hindering implementation of the Convention. The Committee noted that one-half of the population lives in poverty, poverty affects 44 per cent of Peruvian women, with 18 per cent of women live in extreme poverty, there has been a feminization of poverty, and the situation is worsening in rural areas, indigenous settlements and areas declared emergency zones.

The principal subjects of concern identified by the Committee included, *inter alia*: the situation of women who have been removed from their places of origin with their families as a result of terrorist activity, noting government programmes to return such women to their places of origin or to settle them where they currently reside; continuing inequality between women and men despite the introduction of significant legal changes aimed at implementation of the Convention; the prevalence, throughout society, of socio-cultural patterns of behaviour that perpetuate prejudices and discrimination against women; and lack of clarity in the definition of "discrimination" contained in Act No. 26772 and possible inconsistencies with article 1 of the Convention relating to direct and indirect discrimination.

The Committee expressed concern about: the lack of information on the migration of Peruvian women abroad and on the protection afforded to them by the government; the effects of regulating prostitution, viz. was the effect to protect the rights of prostitutes or to protect the health of the clients and make it easier for them to obtain sexual services; the lack of references to any specific measures taken to deal with cases of violence, including incest; instances of sexual violence against rural and indigenous women and the high rate of sexual abuse of teenagers and girls in the emergency zones; the high drop-out rates among girls, particularly in poor urban, rural and indigenous areas; the very high illiteracy rates among women; the situation of women with regard to employment, the need for programmes and projects designed to increase the access of the working female population to the labour force and the number of women in all occupational categories; and the fact that many women are underpaid and are paid less than men for work of equal value.

Concern was also raised over: the high percentage of women heads of household and the need for systematic programmes to meet the needs of such women; the high rates of maternal and infant mortality; teenage pregnancy; the fact that malnutrition and preventable diseases are common; the lack of resources for women to avail themselves of medical care when needed and with the necessary speed; the close link between the number of abortions performed and the high maternal mortality rate, noting that criminalizing abortion did not discourage abortions but rather had the effect of making the procedure unsafe and dangerous for women; and lack of access to adequate contraception among poor women in urban and rural areas, indigenous women and teenage girls.

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

- ♦ give the greatest possible care to women displaced by terrorist activity, who are the heads of households and should benefit from programmes promoting their participation in the labour force and providing access to education, health care, housing, drinking water and other essential services;
- ♦ formulate a working strategy involving training, publicity and legal literacy regarding the new legal provisions to achieve *de facto* compliance with legislation promoting the rights of women; systematically disseminate the Convention at all levels, to women and men, and in particular to all government authorities and persons responsible for its implementation; impose penalties against those infringing current legislation;
- ♦ provide information in the next report on the status of the Convention vis-à-vis existing legislation and whether cases of discrimination have been resolved by the courts with reference to the Convention;
- ♦ as a matter of priority, include in gender equality programmes a component to promote the gradual elimination of harmful stereotypes and undertake a general awareness-raising campaign to eradicate them;
- ♦ with regard to Act No. 26772, which defines discrimination, ensure that the stipulation "any objective and reasonable justification" is used only on the basis of implementation of temporary special measures which accelerate *de facto* equality between women and men; include, in the next report, information on the manner in which the criterion of "objective and reasonable justification" has been implemented and whether a definition of discrimination reflecting article 1 of the Convention is an enforceable part of the law;
- ♦ take steps to help increase the access of women to management and, in particular, decision-making posts; include in the report the results of the steps taken to increase the access of women to Parliament through the requirement of a 25 per cent quota for women in the lists of candidates;
- ♦ include in the next report information on: any increase or decrease in the number of women prostitutes; the existence of under-age prostitutes; the situation of women who engaged in prostitution without meeting the established requirements, and of their clients; the number of women and men who had been accused, arrested, tried and convicted for offences relating to prostitution and trafficking in persons; sociological characteristics of women engaged in prostitution; and the prevalence of sexually transmitted diseases and other diseases among prostitutes;

- ♦ take the necessary practical measures to implement the Act on domestic violence and make the necessary efforts to treat the victims and to provide training to those whose job it is to treat the victims; keep official records and establish the necessary monitoring system so as to make it possible to evaluate the magnitude of the problem and how it is evolving;
- ♦ undertake programmes to curb and reverse the trend of high school drop-out rates among girls and make existing programmes more systematic; pay particular attention to literacy programmes and implement them in a sustained manner; include information on progress to eradicate illiteracy in the next report;
- ♦ make greater efforts to achieve the principles of equal pay and equal pay for work of equal value, educate women so as to enable them to enter the labour force, provide training and re-training programmes so as to encourage women to gain access to non-traditional jobs, guarantee their right to social security;
- ♦ make all due efforts so that women can exercise their right to health and receive proper care and the necessary information from medical and paramedical personnel as part of basic respect for their human rights;
- ♦ review the law on abortion and ensure that women have access to full and complete health services, including safe abortion and emergency medical attention when complications arise from abortions;
- ♦ establish family planning programmes that emphasize sex education, use of adequate contraception and responsible use of sterilization services where necessary; and
- ♦ include, in the next report, information related to programmes on microcredit, bearing in mind that such programmes are extremely important and necessary in order to improve the status of women living in poverty, primarily in rural areas.

COMMISSION ON HUMAN RIGHTS

At its 1998 session, the Commission on Human Rights considered the situation in Peru under the confidential 1503 procedure. The Commission decided to discontinue that consideration.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on:

(E/CN.4/1998/44, paras. 4, 7, 14, 15, 23, Opinion No. 18/1997; E/CN.4/1998/44/Add.1, Decisions No. 43/1996, 45/1996, 46/1996, 47/1996, 48/1996, 49/1996)
The main report notes that one case was transmitted to the government and no reply had been received. Reference is also made to receipt of a response from the government to decisions previously taken by the Working

Group (WG) as well as the fact that the government had reiterated its invitation to the WG to carry out an in-country visit.

Annex III of the main report summarizes opinions that were adopted at the WG's session in November/December 1997. Opinion No. 18/1997 related to the arrest and detention of an individual, apparently in connection with his public denunciation of a misappropriation of public funds in an enterprise in which the state holds 90 per cent ownership. Despite a decision of the civilian court ordering his release, the detention was maintained by order of the Military Court on the basis that the individual was retired from the army. The WG noted that the Peruvian Ombudsman had found the Military Court procedure to be arbitrary and had ordered the implementation of the ruling on the habeas corpus appeal. The WG adopted an opinion stating that the detention was arbitrary and indicated its intention to inquire further into the case during its 1998 visit to Peru.

The addendum to the main report summarizes decisions taken by the WG.

Decision No. 43/1996 related to the 1983 detention of an anthropologist who was accused of collaborating with and assisting Sendero Luminoso (The Shining Path), of financing subversive activities, and of terrorism. The trial was conducted with both the judges and prosecutor hooded; the defendant was reportedly sentenced to 12 years' imprisonment, the prison terms to which she was sentenced were to be served consecutively, and no release date was fixed. Concerns were expressed about the woman's health under harsh prison conditions. The government informed the WG that a forensic physician had visited her in 1996 and declared her state of health normal. The WG referred to the planned visit to Peru and the need to evaluate the functioning of the so-called "faceless" tribunals and the guarantees of due process which might have been violated, even if the explanations provided by the government are valid. As a consequence, the WG decided to leave the decision on the case pending until after the visit.

Decision No. 45/1996 related to the case of an American citizen who was sentenced in January 1996 by a "faceless" military tribunal to life imprisonment for the crime of "betraying the country". The government responded to the case, noting: the woman had been arrested in November 1995 together with others, all members of the Tupac Amaru Revolutionary Movement, during an armed confrontation with the police; those arrested were preparing to engage in subversive acts; and the woman was tried by a military court, which fully respected the rules of due process, and was sentenced for the crime of betraying the country, covered by and punishable under Decree-Law 25659. The WG left the decision on the case pending until after the visit to Peru to evaluate the functioning of the "faceless" tribunals and respect for the guarantees of due process.

Decision No. 46/1996 related to the arrest of a professor, by agents of the Anti-Terrorism Department (DIN-

COTE), who was subsequently accused of terrorism on the basis of a denunciation made under the Repentance Law by a student at the same university where she taught. The precise charge was militancy of behalf of Sendero Luminoso and, specifically, being the militant known as "Rita", an important leader of Sendero Luminoso. The WG noted that the statements made by the student were not verified as required by law and the professor was arrested, held incommunicado for 10 days and, according to the allegations, raped and ill-treated. The initial charge against her was the crime of betraying the country. The case was heard before the Special Naval Court under military law. In 1993 the professor was acquitted. However, on appeal by the Military Prosecutor she was sentenced to 30 years' imprisonment. This sentence was later set aside by the Supreme Council of the Military System of Justice which ordered her to be tried by the ordinary courts for the crime of terrorism. A "faceless" court then sentenced her to 20 years' imprisonment for terrorism. The WG noted that appeal proceedings were initiated before the Supreme Court of Justice. The government initially responded that the custodial penalty of 20 years for the crime of terrorism could not be set aside but later informed the WG that the professor had been released.

Decision No. 47/1996 related to an earlier decision (No. 12/1995) to keep a case pending until further information was received from the government. The Decision notes that the person concerned had been released. Decision No. 48/1996 also referred to a previous case (No. 22/1995) and noted that the person concerned had been released. Decision No. 49/1996 also referred to a previous case (No. 42/1995) and the fact that the person concerned was no longer in detention.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 13, 24, 25, 33, 37, 45, 54, 296–307)

The report notes that new cases were transmitted to the government and some outstanding cases had been clarified. The report also notes that the government had provided information on the question of compensation for victims or relatives of victims of enforced or involuntary disappearances, noting, *inter alia*, that: there was no specific provision for the payment of compensation to the victims of enforced disappearance or their families; the procedures provided for in the legal system, however, are applicable; with regard to presumption of death, there is a stipulation that 10 years must have passed before a court may issue a notice of death, two years when the circumstances involved grave danger of death, or five years if the person was over 80 years old; any individual may initiate proceedings leading to a declaration or presumption of death; a prior notice of presumed death would not be necessary for the payment of compensation in the case where a person has been legally declared to have disappeared; on the question of exhumations, this may take place only in accordance with a court order, the government may not order exhumations; and, the specialized criminal courts have the general power to order exhumations

and frequently do when judges consider it necessary, and not only for cases of disappearances.

With regard to the cases handled by the Working Group (WG) the report notes that the vast majority of the 3,004 cases of reported disappearances occurred between 1983 and 1992 in the context of the government's fight against terrorist organizations, especially Sendero Luminoso. The three newly reported cases involved an abduction from a private home in 1997 by members of the military and two cases which reportedly occurred in 1996.

The WG reiterated its concern that the adoption in 1995 of the amnesty law had resulted in total impunity for the perpetrators of disappearance and other human rights violations. The WG noted the concerns of others related to the fact that: while fewer, cases of disappearance continue to be reported; and a vast number of cases remain unclarified; the government is unable to carry out investigations into disappearances in a prompt and thorough manner; and, adequate compensation has not been granted to the victims of acts of enforced disappearance and their families.

The government provided the WG with information on individual cases and forwarded a lengthy report prepared by the Permanent Secretariat of the Peruvian National Human Rights Commission of the Ministry of the Interior. On the issue of the general amnesty, the government stated that the Peruvian Congress had passed the law in the general interest of the state, the amnesty was not a declaration of innocence and administrative penalties against those convicted remained intact. The government denied allegations regarding the ineffectiveness of the National Registry of Detainees in preventing disappearances. The government stated that the implementation of the Registry throughout the country, together with a reduction in the number of armed confrontations, had been a decisive element in the reduction of the number of cases of disappearance.

The WG acknowledged the information provided by the government but reiterated its opinion that the amnesty law, which resulted in the closing of all investigations into outstanding cases of disappearance, violates articles 17 and 18 of the Declaration on the Protection of All Persons from Enforced Disappearance and creates an atmosphere of impunity which could be conducive to further acts of disappearance and other similar human rights violations.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 14, 15, 17, 29, 32, 39, 57, 66, 69, 70; E/CN.4/1998/68/Add.1, paras. 319–331)

Cases and concerns were transmitted to the government related to, *inter alia*: allegations of a general nature concerning the attack by the armed forces on the Embassy of Japan in Lima in which a Supreme Court Judge, two army officers and all the members of the Tupac Amaru Revolutionary Movement (MRTA) guerrilla group died;

a member of Congress from the United Left party, who was reportedly shot at by a group of heavily armed men who identified themselves as police officers; defence counsel for an Army Intelligence Service agent who was allegedly tortured by members of the same service, after receiving death threats; and, the torture and death, reportedly at the hands of the Army Intelligence Service, of an individual who had given the media valuable information on human rights violations committed by the Army Intelligence Service and Grupo Colina.

The government's replies variously indicated that: investigations had concluded that the threats were a case of common crime; relevant members of the National Police had been appropriately disciplined; the relevant member or members of the National Police responsible were tried and sentenced; and, no criminal complaint had been filed by those alleging threats against them.

The Special Rapporteur (SR) expressed regret that the government had not replied to the allegations related to the attack on the Japanese Embassy and called on the authorities to undertake the necessary investigations in order to establish whether there was any illegality in the conduct of the armed forces. The SR welcomed the decision to end the system of faceless judges, whose ability to guarantee the rights of persons on trial under their jurisdiction had been vigorously questioned.

Freedom of opinion and expression, Special Rapporteur on: (E/CN.4/1998/40, paras. 8, 56, 89–92)

The report notes that the government had not yet responded positively to the request of the Special Rapporteur (SR) for an invitation to visit. In commentary providing an overview on the issue of women and freedom of expression, the report refers to a case of death threats against a woman because of her activities in a women's group that organizes educational programmes and provides legal and social assistance to working women. With regard to recent cases, the report notes communications sent to the government related an individual who was the majority owner of the Frecuencia Latina/Channel 2 television network. Information received by the SR stated that the Peruvian citizenship which this individual had acquired in 1984, had been revoked by the government, threatening his ownership of the network, since foreigners cannot be majority shareholders in the communications industry. It stated further that broadcasts of this network had cited corruption and mismanagement on the part of the State and had reported on human rights violations, implicating public officials, members of the army and army intelligence. The government informed the SR that the individual's citizenship was invalidated simply because he had not met all legal requirements, and that, as the licence of the Frecuencia Latina / Channel 2 was not affected, and its usual programmes continued to be broadcast, the case cannot in any way be considered a violation of freedom of expression.

Independence of judges and lawyers, Special Rapporteur on the: (E/CN.4/1998/39, paras. 15, 19, 134–142; E/CN.4/1998/39/Add.1)

The report notes that in September 1997 an urgent appeal was sent to the government concerning a judge against whom the government took action, allegedly related to a *habeas corpus* writ she had issued ordering the release of a person in detention. According to the government, the writ was unlawful because it had been issued without a request by the person concerned or another acting on his/her behalf and without the intervention of the prosecutor, as required by law. The government further stated that the judge had ordered the release of an individual who was under investigation for crimes of terrorism and/or treason, before issuing a judicial decision, which constitutes the crime of abuse of authority, or violence against and resistance to the authorities.

Several of the government's replies to various other communications related to states of emergency declared and/or extended in the Department of Lima and in a number of Provinces; and the fact that under the states of emergency a number of rights were suspended. The government also replied to the case of a defence lawyer who was acting on behalf of clients before all instances of the Supreme Council of Military Justice and had been suspended by the military prosecutor for three months. The lawyer's appeal of the suspension was dismissed by the Superior Military Tribunal and subsequently he was sanctioned for five months during which he was not able to represent his clients before military instances. Early in 1997 the government informed the Special Rapporteur (SR) that the lawyer had been granted and given amnesty under Law No. 26700.

With regard to previously expressed concerns over the attack on the President of the Constitutional Tribunal, the government replied that the attack which took place was directed not against the President of the Constitutional Tribunal but against an unidentified person whom criminals were trying to attack and/or kidnap. According to the government these individuals shot at the policemen, killing two and injuring another. The Directorate against Terrorism (DINCOTE) indicated that there was no evidence of a terrorist attack against the President of the Constitutional Court.

The SR visited Peru from 9 to 15 September 1996 but the report of that mission was not available for the 1997 session of the Commission on Human Rights. The report was prepared and distributed at the 1998 session, however, and was strongly criticized by the government as being out-of-date and, in some respects, no longer relevant.

The report includes information on, *inter alia*: the human rights situation prior to 5 April 1992 when the democratically elected President Alberto Fujimori established a Government of Emergency and National Reconstruction and began a major restructuring of the judicial system; events following 5 April 1992 related to the functioning of the judiciary; judicial

institutions; exceptional measures implemented by the government to prosecute civilians charged with terrorism and treason; anti-terrorism legislation relative to international standards; the Ad Hoc Commission for Pardons; the need for judicial reform; and the situation of lawyers and human rights defenders.

The report recalls that, in previous years, the SR had expressed concern over the use of "faceless" judges and anonymous witnesses as a means of protecting the judiciary from acts of terrorism. The SR had stated that these tribunals violated the independence and impartiality of the justice system and was an issue requiring further study. The primary focus of the mission, therefore, was to look into the use of "faceless" judges for both civil and military courts to try civilians charged with terrorist-related crimes and treason within the context of accepted international standards concerning the independence and impartiality of the judiciary, and the right to due process. During the mission, attention was also paid to such issues as the procedures for appointment of judges, security of tenure, discipline and dismissal, remuneration, and the role of lawyers and the extent of their independence.

The report describes the human rights situation at the time of the SR's visit as one in which there had been considerable improvement in the security situation and a decline in human rights violations by government officials. Reports of torture and involuntary disappearance had been recorded, however, and there was concern over the impunity enjoyed by those government officials involved in past human rights violations. The report also notes that as of 7 March 1997 more than 15 per cent of the national territory remained under a state of emergency and that in the civilian courts the use of "faceless" tribunals was discontinued in October 1997. Information from non-governmental sources, however, indicated that these tribunals were still being used in the military courts.

The commentary on the military courts notes that the Military Code stipulates that only crimes arising from the line-of-duty function (*delitos de función*), committed by military and police personnel or civilians employed by the military, are to be tried by military courts. Exception to this stipulation is provided, however, by the 1993 Constitution which grants these tribunals jurisdiction to try civilians charged with terrorism or treason. Other factors related to military courts are noted as including the fact that: military judges on active duty are subject to the Code of Military Justice; except for the prosecutor and the auditor, these judges do not belong to the judicial branch; police personnel subject to the Code of Military Justice are tried by special police tribunals; and in cases of military justice, the Supreme Court may only resolve conflicts of competence, rule on requests for extradition, and hear in first instance the competence proceedings of the military courts against, for example, the President, government ministers, members of Congress and members of the Supreme Council of Military Justice.

The review of exceptional measures taken by the government to prosecute civilians charged with terrorism and treason, up to and during the time of the visit, notes, *inter alia*, that: Decree-Law 25.475, 6 May 1992, defines "terrorism" as an act aimed at "provoking, creating or maintaining anxiety, alarm and fear in the public or a sector thereof"; investigations of terrorist-related crimes are carried out by the Anti-Terrorism Department (DINCOTE); access to detainees by relatives and defence lawyers is allowed under amendments to the law; DINCOTE has the power to decide whether the evidence is sufficient to bring charges and determines what charges will be brought and whether the detainee will be charged before a civilian or a military court; DINCOTE continues to have unlimited time in the questioning of suspects and the formalizing of charges; under emergency legislation, a judge must open an investigation and order an arrest once a person has been accused of terrorism, even if the facts do not necessarily support the allegation of a terrorist crime having been committed; and, judges of the courts of first instance or superior courts may order the unconditional release of an accused if there is insufficient evidence against that person.

The report further notes, *inter alia*: as of 1996, police were no longer allowed to present detainees charged with terrorist offences to the news media but were allowed to continue this practice in the case of detainees charged with treason; the right of access to a lawyer from the moment of detention was restored by the government and the presence of the public prosecutor during the police interrogation was made mandatory; anyone accused of treason is to be tried by a single tribunal composed of four active-duty military officers who are assisted by a military lawyer; a treason trial should be completed within 10 days, and an appeal before the Supreme Council of Military Justice in five days; military courts are conducted in camera; in treason cases, the 15-day period of incommunicado detention can be extended for another 15 days.

According to information received: often the defence evidence submitted at trials is not accepted while the evidence provided by DINCOTE is given more credence; judicial decisions are often not based on the evidence submitted at the trials; and very often the tribunals rely on police investigations and reports submitted to the tribunal which are not disclosed to defence counsel. Information also indicated that: the amnesty laws of 1995 had been declared by some judges as not being applicable in specific cases already under investigation; Congress subsequently adopted Law 26.492, prohibiting judges from declaring the previous law unconstitutional. The report notes that, as a result of the amnesty laws, about 1,000 victims of human rights violations — such as torture, arbitrary detention and enforced or involuntary disappearances — would be prevented from having access to justice.

Bearing in mind these and other measures, the SR states that, with regard to the state of emergency that was still in effect in some parts of the country at the time the

report was prepared, Peru did not observe the general conditions provided in international law for a state of emergency. The excessive powers given to the police, enabling them to impose incommunicado detention unilaterally, without consulting with a judge, and the restrictions of the right of defence at both civil and military "faceless" tribunals were inconsistent with provisions of international human rights treaties to which Peru is a party, in particular those that provide for the right to due process and its components.

The narrative on the ongoing process of judicial reform sets the context by noting widespread agreement that there is an acute need to reform the judiciary in Peru. The problems include poor remuneration of judges; poor training; lengthy legal procedures; limited access to justice; weak alternative mechanisms for dispute resolution; deficient management systems; weak courtroom management; weak monitoring of the system; poor physical infrastructure; and rampant corruption.

Reference is made to the World Bank's programme related to the administration of justice in Peru. The objectives of the programme are to: improve access to the judicial power; reduce the lengthy administration of justice; improve the professionalism of lawyers and judges and the quality of human resources, both judicial and administrative; and strengthen the judicial institutions and other institutions in their capacity to resolve conflicts.

Concerns related to the reform process undertaken by the government within this general framework, with the modernization of the system as an added objective, are noted as including, *inter alia*: the high degree of centralization of the decision-making process and of the management of the budget assigned to the Executive Commission of the Judiciary which is widely perceived to be closely linked to the executive branch; there is a perception that the establishment of the Executive Commission of the Judiciary and the Executive Commission of the Public Ministry is an inappropriate act of interference in the judiciary on the part of the executive branch; the provisional appointment of a judge had become standard practice within the judiciary, leaving judges more vulnerable to government interference and violating the principle of security of tenure; provisional judges are used to try cases of terrorist-related crimes, violating the principle that the trial of persons accused of security-related crimes by judges without security of tenure constitutes *prima facie* a violation of the right to be tried by an independent tribunal; provisional judges can be transferred without their consent and on instruction from the Executive Commission of the Judiciary; Law 26.898 undermines the independence of judges insofar as it extends, without limit, the number of temporary judges, while suspending the nomination of permanent judges by the National Council of the Magistracy; and the powers of the Office of Internal Affairs within the judiciary to investigate the conduct of provisional judges or provisional prosecutors is limited.

With regard to human rights defenders and lawyers defending victims of human rights violations or persons accused of terrorist-related activities or treason, the SR stated that their situation is reported to be particularly difficult. The report briefly describes several cases in which, because of their work, lawyers were subjected to threats and intimidation by civilian and military authorities. The report notes that the threats were not adequately investigated by the appropriate authorities and called into question the ability of the state to provide the necessary conditions for lawyers to discharge their professional duties.

The report recommends, *inter alia*, that:

- ♦ if "faceless" tribunals are still being used within the military courts, they be abolished immediately;
- ♦ the continuing practice of referring cases of human rights violations/wrongdoing committed by members of the armed forces to military courts be discontinued;
- ♦ adequate resources be made available to the Public Ministry in order to allow it to deal with the enormous backlog of cases, and to hire additional prosecutors to deal with the many outstanding cases;
- ♦ the administrative reform of the judiciary include consultations with all actors in the administration of justice, particularly judges and lawyers, and not be unilaterally implemented by the Executive Commission of the Judiciary;
- ♦ the selection, appointment and dismissal of judges be left entirely to the organs provided by law and the discipline of judges accused of misconduct be carried out through regular mechanisms established on a permanent basis within the judicial branch;
- ♦ the government provide judges with continuing legal education during their tenure in office to acquaint them with the latest developments in the law and provide for this training to be carried out exclusively by the Academy of the Magistracy;
- ♦ the government and its agencies provide lawyers with the necessary guarantees to enable them to discharge their professional duties without any intimidation, harassment or threats; the government refrain from identifying lawyers with the causes of their clients;
- ♦ steps be taken to establish a national bar association;
- ♦ lawyers and non-governmental organizations cooperate fully with the Ad Hoc Commission for Pardons and its work in reviewing the cases of innocent people who have been tried and sentenced by civil and military "faceless" tribunals; and
- ♦ the wrongful conviction and sentencing of persons be removed from the records by a judicial institution and innocent victims adequately compensated for the injuries suffered.

Sale of children, child prostitution, child pornography, Special Rapporteur on the:

(E/CN.4/1998/101, paras. 6, 117)

In the section dealing with education as a catalyst to help children better understand their rights and themselves the report notes that the Education Ministry has been developing sex education programmes. A commission of teachers, psychologists and representatives of the Catholic Church prepared notebooks with sex topics children usually asked about. The notebooks are different according to the age of the children.

Torture, Special Rapporteur on: (E/CN.4/1998/38, paras. 154–157; E/CN.4/1998/38/Add.1, paras. 300–327)

The main report refers to information indicating that torture continued to be widely practised in the country, both against those suspected of common criminal offences and against those suspected of offences of a political nature, and not only in the zones under a state of emergency. Allegations were received that torture was commonly practised in towns and cities by units of the anti-terrorist police (DINCOTE), and in the rural areas by the armed forces having control over the zone because of the state of emergency. The report notes that various aspects of the anti-terrorist legislation appear to contribute to the situation, including the nearly unlimited period of time available to the police to interrogate suspects and bring charges.

The report refers to information indicating that prison conditions were particularly bad for persons serving a sentence under the anti-terrorist legislation, including, for the first year of sentence, solitary confinement and permission to leave cells for only 30 minutes a day and to receive visits only from lawyers.

The addendum to the main report summarizes cases that were transmitted to the government and replies received to some of them.

The cases related to or involved, *inter alia*: detention of approximately 80 persons in the province of Tocache and questioning by the Tocache specialized police unit and allegations of ill treatment; detention of an individual because he was not carrying his identity papers with him and death in custody from a cerebral and pulmonary oedema, leading to criminal proceedings against the officers involved and their being relieved of duties; detention of an individual by police officers who were drunk, followed by repeated beatings and an attempt by the officers to abuse him sexually; arrest on a charge of theft, followed by torture, with the detainee eventually released; detention of an individual for not having his identity papers with him, followed by beatings by soldiers at a military base, with disciplinary sanctions later imposed on the soldiers involved; detention and torture of an indeterminate number of persons at a military base in the course of a military operation carried out after the killing of a soldier, apparently by members of his own unit; detention and torture committed by personnel of the National Criminal Investigation Directorate (DININCRI)

of the national police against an individual accused of murder and child rape; detention and torture of a number of persons by military personnel in an effort to obtain information about the detainees' suspected subversive activities; beatings following arrest of an individual who was accused of theft and later released; detention, torture and questioning of a member of the Army Intelligence Service (SIE), by SIE personnel in connection with alleged leaks of confidential information about the Service, noting the case was under consideration by the military jurisdiction; detention of more than 40 peasants, including 8 juveniles, accused by the army of belonging to the Túpac Amaru Revolutionary Movement (MRTA), followed by incommunicado detention and torture and ill treatment, with all but one of the individuals eventually released by the DINCOTE for lack of evidence.

The government responses to previous communications from the Special Rapporteur (SR) variously asserted that: the person or persons named underwent an examination and did not show traces of recent traumatic injuries; no record was found of the person named ever having been detained and the individual had not produced any evidence to support the allegations; the persons named had been detained but were not tortured, as attested in a medical certificate; a *habeas corpus* action had been brought before the Seventh Court of Criminal Investigation in Lima against DINCOTE personnel for ill treatment, and the application was declared admissible; the person named had not provided evidence making it possible to establish the veracity of the allegation of ill treatment and had not availed himself of domestic legal remedies; in response to a death in custody, the military penal court had sentenced two police officers for abuse of authority to two years' imprisonment, together with disqualification and payment of damages amounting to 2,000 new soles (Peruvian currency); the complaint was withdrawn following admission to the facts by the officer responsible and payment of a sum to the victim; and, the case was under investigation at the penal and disciplinary level.

Violence against women, Special Rapporteur on: (E/CN.4/1998/54, Section I.A)

In the section dealing with violence against women in situations of armed conflict, the report states that rape has been used by both sides to the conflict in Peru as an instrument of war — with women being threatened, raped and murdered by government security forces and by the Shining Path guerrillas. The report notes that there is little national redress for women victims of sexual violence which has led to some cases being filed before the Inter-American Court of Human Rights. The report cites a recent decision of the Inter-American Court which found that one woman, a teacher, had been arbitrarily detained, tortured and raped by members of the security forces and the court ordered her release. In October 1997, the government released the university teacher, who had been imprisoned since 1993.



SAINT KITTS AND NEVIS

Date of admission to UN: 23 September 1983.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Saint Kitts and Nevis has not submitted a Core document for use by the treaty bodies.

Discrimination against Women

Acceded: 25 April 1985.

The initial, second, third and fourth periodic reports for Saint Kitts and Nevis were due 25 May 1986, 1990 and 1994 and 1998 respectively.

Rights of the Child

Signed: 26 January 1990; ratified: 24 July 1990.

The initial report for Saint Kitts and Nevis (CRC/C/3/Add.51) has been submitted and is pending for consideration at the Committee's May/June 1999 session; the second periodic report was due 1 September 1997.



SAINT LUCIA

Date of admission to UN: 18 September 1979.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Racial Discrimination

Succeeded: 14 February 1990.

Saint Lucia's initial and second through fourth periodic reports were due 16 March 1991, 1993, 1995 and 1997 respectively.

Discrimination against Women

Acceded: 8 October 1982.

Saint Lucia's initial and second through fourth periodic reports were due 7 November 1983, 1987, 1991 and 1995 respectively.

Rights of the Child

Signed: 30 September 1990; ratified: 16 June 1993.

Saint Lucia's initial report was due 15 July 1995.

REPORTS TO TREATY BODIES

Committee on the Elimination of Racial Discrimination

At its March 1998 session, the Committee reviewed the implementation of the Convention and noted with regret

that the government has not submitted its initial report which was due in 1991 (CERD/C/52/Misc.14). The Committee decided to send a communication to the government setting out its reporting obligations and urging that the dialogue with the Committee be initiated as soon as possible. The Committee suggested that the government may wish to avail itself of the technical assistance offered under the advisory services and technical assistance programme of the OHCHR, with the aim of drafting and submitting its report(s) in time for the Committee's August 1998 session.



SAINT VINCENT AND THE GRENADINES

Date of admission to UN: 16 September 1980.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: The core document for Saint Vincent and the Grenadines (HRI/CORE/1/Add.36) provides demographic and statistical data as well as a political history and information on the structure of government and the general legal framework for the protection of human rights. Specific areas covered in the report include descriptions of the legislative and executive branches of government, the Magistrate's Court, the Eastern Caribbean Supreme Court and the Court of Appeal.

The commentary on the legal framework for the protection of human rights reviews constitutional provisions related to rights set out in the international human rights instruments and specifically the ICCPR. The report notes that the provisions of the Covenant may not be invoked before or directly enforced by the courts, other tribunals or administrative authorities.

Economic, Social and Cultural Rights

Acceded: 9 November 1981.

The initial and second periodic reports of Saint Vincent and the Grenadines were due 30 June 1990 and 1995 respectively.

Civil and Political Rights

Acceded: 9 November 1981.

The second, third and fourth periodic reports of Saint Vincent and the Grenadines were due 31 October 1991, 8 February 1993 and 8 February 1998 respectively.

Optional Protocol: Acceded: 9 November 1981.

Racial Discrimination

Acceded: 9 November 1981.

The second through eighth periodic reports of Saint Vincent and the Grenadines (for the period 1984-1996) have

not been submitted; the eighth periodic report was due 9 December 1996.

Discrimination against Women

Acceded: 4 August 1981.

The fourth and fifth periodic reports of Saint Vincent and the Grenadines were due 3 September 1994 and 1998 respectively.

Rights of the Child

Signed: 20 September 1993; ratified: 26 October 1993.

The initial report of Saint Vincent and the Grenadines was due 24 November 1995.



SURINAME

Date of admission to UN: 4 December 1975.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Suriname has submitted a revised core document (HRI/CORE/1/Add.39/Rev.1) for use by the treaty bodies. The report prepared by the government contains demographic and statistical data and information on, *inter alia*, the general political structure. The protection of human rights is provided for in the Constitution. Chapter V refers to personal rights and freedoms and establishes principles related to: equality and non-discrimination; equal and public treatment before the law; physical, mental and moral integrity; the right to life; personal liberty and safety; respect for privacy; freedom of religion and philosophy of life; and freedom of opinion, expression, peaceful association and assembly. Chapter VI contains provisions on social, cultural and economic rights and obligations in such areas as: the right to work and safe and healthy conditions of work; the right to own property; protection of the family and the child; equality of women and men before the law; and health and education. Violations of basic rights are submitted to the Court of Justice. Once established, the Constitutional Court will have the task to review laws, or parts of them, as to whether they contravene the Constitution and/or international conventions, as well as to decide whether decisions of government bodies are compatible with basic rights.

The framework for the protection of human rights is set out in the Constitution and responsibility for ensuring respect for human rights is placed with the High Court of Justice, the Public Prosecutor's Office and other judicial bodies and officials. Remedies for violations are stipulated in the Penal Code, the Code of Criminal Procedure, the Civil Code and the Code on Civil Procedure. The enjoyment of human rights can be limited only by the Constitution itself and in exceptional cases where public order is jeopardized. Most human rights instruments are incorporated into national legislation and there is a

National Institution for Human Rights which is a semi-governmental body.

Economic, Social and Cultural Rights

Acceded: 28 December 1976.

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

Civil and Political Rights

Acceded: 28 December 1976.

Suriname's second through fourth periodic reports were due 2 August 1985, 1990 and 1995 respectively.

Optional Protocol: Acceded: 28 December 1976.

Racial Discrimination

Succeeded: 15 March 1984.

Suriname's initial and second through seventh periodic reports were due 14 April 1985, 1987, 1989, 1991, 1993, 1995 and 1997 respectively.

Discrimination against Women

Acceded: 1 March 1993.

Suriname's initial and second periodic reports were due 31 March 1994 and 1998 respectively.

Rights of the Child

Signed: 26 January 1990; ratified: 1 March 1993.

Suriname's initial report (CRC/C/28/Add.11) has been submitted and is pending for consideration at the Committee's October 2000 session; the second periodic report is due 31 March 2000.



TRINIDAD AND TOBAGO

Date of admission to UN: 18 September 1962.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Economic, Social and Cultural Rights

Acceded: 8 December 1978.

Trinidad and Tobago's second and third periodic reports were due 30 June 1993 and 1998 respectively.

Reservations and Declarations: Paragraphs (1) (d) and (2) of article 8.

Civil and Political Rights

Acceded: 21 December 1978.

Trinidad and Tobago's second and third periodic reports were due 20 March 1990 and 1995 respectively.

Reservations and Declarations: Paragraph 2 of article 4; paragraphs 2 (b) and 3 of article 10; paragraph 2 of article 12; paragraph 5 of article 14; paragraph 6 of article 14; paragraph 1 of article 15; article 21; and article 26.

Optional Protocol: Acceded: 26 May 1998.

Reservations and Declarations: Article 1.

Racial Discrimination

Signed: 9 June 1967; ratified: 4 October 1973.

Trinidad and Tobago's 11th and 12th periodic reports were due 3 November 1994 and 1996 respectively.

Discrimination against Women

Signed: 27 June 1985; ratified: 12 January 1990.

Trinidad and Tobago's initial and second periodic reports were due 11 February 1991 and 1995 respectively.

Reservations and Declarations: Paragraph 1 of article 29.

Rights of the Child

Signed: 30 September 1990; ratified: 5 December 1991.

Trinidad and Tobago's second periodic report is due 3 January 1999.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Religious intolerance, Special Rapporteur on:

(E/CN.4/1998/6, paras. 48, 69, 91)

The report refers to violations of freedom of religion and belief against Christianity and notes information provided by the government. The information stated that the Public Service Examinations Board had made special arrangements to enable any candidate who was a member of the Seventh Day Adventists to take examinations on a Friday, rather than on Saturday as was generally required, in order to respect the religious beliefs of all citizens. The Special Rapporteur recalled that the government had previously stated that candidates — including members of the Seventh Day Adventists — taking some of the examinations, if successful and appointed, are required to work, and in fact do work, on Saturdays as necessary. At that time, the Board did not consider it intolerant to ask such candidates to sit an examination on a Saturday.



URUGUAY

Date of admission to UN: 18 December 1945.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Uruguay has submitted a core document (HRI/CORE.1/Add.9/Rev.1) for use by the treaty bodies. The report prepared by the government contains demographic and statistical data as well as information on the political and economic history, the structure of government, the authorities responsible for overseeing

implementation of human rights, remedies for violations and the role of international cooperation in implementation of the International Covenant on Economic, Social and Cultural Rights.

The general legal framework for the protection of human rights is established in the Constitution, as well as laws, decrees and administrative acts and decisions. *Habeas corpus* and *amparo* protect personal freedom and address acts of omission or commission by the state, its agents and authorities and individuals that damage, restrict, alter or threaten in a clearly illegal way any of the rights or freedoms set out in the Constitution. Remedy for violations may be sought through the courts at all levels. The rights set out in international human rights treaties have been incorporated into the Constitution. There is no specific legal norm on the direct applicability under domestic law of an international instrument but Uruguayan legal practice accepts this principle without dispute. A treaty ratified by Uruguay is directly implemented under domestic law and may be invoked before the national courts unless otherwise specified by the treaty itself or unless the nature of the treaty makes this impossible.

Economic, Social and Cultural Rights

Signed: 21 February 1967; ratified: 1 April 1970.

Uruguay's third periodic report is due 30 June 2000.

Civil and Political Rights

Signed: 21 February 1967; ratified: 1 April 1970.

Uruguay's fourth periodic report (CCPR/C/95/Add.9) was considered at the Committee's March 1998 session; the fifth periodic report was due 21 March 1998.

Optional Protocol: Signed: 21 February 1967; ratified: 1 April 1970.

Second Optional Protocol: Signed: 13 February 1990; ratified: 21 January 1993.

Racial Discrimination

Signed: 21 February 1967; ratified: 30 August 1968.

Uruguay's 12th through 15th periodic reports (CERD/C/338/Add.45) were submitted as one document which is scheduled for consideration by the Committee; the 16th periodic report is due 4 January 2000.

Reservations and Declarations: Declaration under article 14.

Discrimination against Women

Signed: 30 March 1981; ratified: 9 October 1981.

Uruguay's second and third periodic reports were submitted as one document (CEDAW/C/URY/2-3) which is not yet scheduled for consideration by the Committee; the fourth periodic report was due 8 November 1994.

Torture

Signed: 4 February 1985; ratified: 24 October 1986.

Uruguay's third periodic report was due 25 June 1996. *Reservations and Declarations:* Declaration under articles 21 and 22.

Rights of the Child

Signed: 26 January 1990; ratified: 20 November 1990. Uruguay's second periodic report was due 19 December 1997.
Reservations and Declarations: Paragraphs 2 and 3 of article 38.

REPORTS TO TREATY BODIES

Human Rights Committee

Uruguay's fourth periodic report (CCPR/C/95/Add.9, December 1996) was considered by the Committee at its March 1998 session. The report prepared by the government contains information on, *inter alia*: the constitutional prohibition of discrimination; reform of criminal procedure and regulations governing *habeas corpus*; equality between women and men, women in employment, participation in political and public life; violence against women, the Specialized Police Station for the Protection of Women and the Family (established in 1990), the Office of Technical Assistance to Victims of Domestic Violence (established in 1992); provisions related to states of emergency and derogation; the right to life and disappearances of Uruguayan citizens in Argentina between 1973 and 1983; prohibition of torture and ill treatment; medical experimentation and the Medical Ethics Code; liberty and security of person, pre-trial detention, preventive detention; the Police Organization Act and the treatment of prisoners; the Honorary Commission to advise the Executive on matters related to the improvement of the prison system; juvenile justice; due process of law and non-retroactivity of criminal law; the right to privacy; freedom of thought, religion, expression, opinion, peaceful assembly and association; trade unions and workers' rights, including the right to strike; the right to vote and be elected, the electoral process; and the rights of minorities.

The Committee's concluding observations and comments (CCPR/C/79/Add.90) welcomed: generally, the considerable progress related to the enactment of new laws and codes and the strengthening of democratic institutions and processes aimed at promoting and protecting human rights; the enactment of the new Code of Criminal Procedure (Act No. 16.893); the constitutional amendment of January 1997, which makes the electoral system more transparent and in conformity with international norms; various legislative acts to ensure equality between women and men and to prevent domestic violence, including that against women, children and the elderly; the steps taken to improve the training of law enforcement officers and wardens in detention centres; and the agreements between the Ministry of the Interior and the universities aimed at improving police training.

The principal subjects of concern identified by the Committee included, *inter alia*: the Ley de Caducidad de la Pretensión Punitiva del Estado (Expiry Law of the Punitive Powers of the State) and its implications with regard to the right to effective remedy through recourse to the competent judicial, administrative, legislative or other

authority; that in a number of cases the maintenance of the Expiry Law effectively excludes the possibility of investigation into past human rights abuses and prevents effective remedies to the victims of those abuses; that the Expiry Law violates article 16 of the Covenant in respect of the disappeared persons and article 7 in respect of their family members; the constitutional provisions relating to the declaration of a state of emergency.

Concerns were raised with respect to the new Code of Criminal Procedure, including that: article 55 allows suspects to be placed in "incommunicado" detention until a decision is taken as to whether they should be committed to stand trial and, during this period, allows the judge to restrict contact between a suspect and a lawyer; the regulations relating to pre-trial detention, both in respect of suspects (*imputados*) and accused, are not in conformity with article 9 of the Covenant; wide possibilities exist to restrict a suspect's liberty; under the new Code, the trial judge is the same judge who has supervised and/or ordered investigations, and who subsequently charged the defendant, raising serious concerns about possible impartiality of the trial; and articles 89 and 90 of the Code provide that the marriage to the accused of a victim of rape — even statutory rape — and of other criminal offences, extinguishes the criminal offence or the sentence handed down at the trial.

The Committee also expressed concern over: provisions in the new Press Law (Act No. 16,099) that might impede the full exercise of freedom of expression, including those relating to offences committed by the press or other media with regard to false information and slander through the media; inadequate guarantees of the right to seek information; the broad range of sanctions provided for under chapter IV of the Press Law which may hinder the full enjoyment of article 19 of the Covenant; the statement by the government that the future Code Relating to Minors (*Código del Menor*) will discriminate against female minors; provisions in the Code Relating to Minors concerning the protection of a newborn child, noting that unmarried minor mothers may register their children at any age and minor fathers may only do so from the age of 16 onwards; and the statement by the government that there are no minorities in Uruguay.

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

- ♦ restrict provisions relating to the possibilities of declaring a state of emergency and constitutionally specify those Covenant rights which are non-derogable;
- ♦ revise detention procedures and other restrictions on the liberty of suspects and accused, with a view to facilitating full application of the rights provided for under the Covenant, having particular regard to the principle of the presumption of innocence;
- ♦ modify the provisions of the new Code of Criminal Procedure to conform with the Covenant;

- ♦ ensure that the whole of the text is consistent with the Covenant when drafting the Code Relating to Minors, and provide the Committee with a copy of the text when it is enacted;
- ♦ continue efforts in identifying the minority groups within the country and adopt the pertinent measures to ensure that the rights under article 27 are respected;
- ♦ proceed as rapidly as possible with the Bill before Parliament on the Ombudsman (Defensor del Pueblo); ensure that the Office is independent of the government, has jurisdiction to deal with human rights violations, and is adequately staffed to handle complaints of abuse; and
- ♦ reform current procedures requiring a person found to be a victim of a human right violation to initiate new procedures before the domestic courts to establish the violation, with respect to individual cases considered by the Committee under the Optional Protocol (establishing a violation of the Covenant); and remove the statute of limitations in such cases and provide a remedy in accordance with the views adopted by the Committee on individual cases considered under the Optional Protocol.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 24, 36, 37, 46, 47, 64, 386–390)

On the question of compensation, the report summarizes information provided by the government stating: the legal basis for compensation is established in articles 24 and 25 of the Constitution; four years must have passed before a “presumption of absence” may be established, noting that the notion of “presumption of death” does not exist in Uruguayan domestic law; any individual may initiate proceedings leading to a declaration or presumption of absence; a “declaration of absence” is not required before payment or compensation, but Supreme Court practice recognizes that the existence of this declaration helps to speed up the processing of a claim for damages; and, exhumations have not been carried out to determine the identity of persons who disappeared.

Between 1986 and 1987, 36 actions were brought against the state for human rights violations, including unlawful or prolonged detention, abuse of authority, expropriation, ill treatment, and enforced disappearance. Of these, 33 were settled; three concerned the disappearance of detainees. Two other cases involving the disappearance of detainees were before the courts. The government noted that, in some cases, the relatives of missing persons did not avail themselves of the legal remedy and allowed the time limit for claims to expire. The average compensation paid was between US\$100,000 and

US\$156,000; approximately 20 families had received compensation. At the time the report was prepared there were no cases of missing detainees pending payment before the Uruguayan authorities.

During the period under review, no new cases of disappearance were transmitted to the government. At the same time, the Working Group (WG) deleted five cases from the files of Uruguay since it was determined that the disappearances had actually occurred in Argentina. The majority of the 31 reported cases of disappearance occurred between 1975 and 1978 under the military government, in the context of its fight against alleged subversion. No reports of disappearances in Uruguay were received after 1982.

The government provided information on 10 individual pending cases and two other cases which were not registered with the WG. In three cases, an authenticated copy of the settlement agreed by the families of the missing persons and the state were provided. In one other case the government reported that the proceedings instituted against the state in connection with the person’s disappearance had not yet come to an end and were with the appeals court; in another case, the court had accepted the state’s plea of prescription. The report notes that in all cases the government provided extensive supporting evidence.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, para. 17; E/CN.4/1998/68/Add.1, para. 419)

The report notes that the government provided a copy of the file in the proceedings against the police officers charged in a case previously transmitted by the Special Rapporteur. A judgement in second instance was handed down by an appeal court and confirmed that three police officers were tried in connection with the incidents which caused the death of the person named.



VENEZUELA

Date of admission to UN: 15 November 1945.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Economic, Social and Cultural Rights

Signed: 24 June 1969; ratified: 10 May 1978.

Venezuela’s second periodic report (E/1990/6/Add.19) has been submitted and is scheduled for consideration at the Committee’s April/May 2001 session; the third periodic report was due 30 June 1996.

Civil and Political Rights

Signed: 24 June 1969; ratified: 10 May 1978.

Venezuela's third periodic report has been submitted but is not yet scheduled for consideration by the Committee; the fourth periodic report was due 1 November 1996.

Reservations and Declarations: Venezuela filed a reservation to paragraph 3 (d), article 14 (the right of defendants to be tried in their presence).

Optional Protocol: Signed: 15 November 1976; ratified: 10 May 1978.

Reservations and Declaration: Same as for article 14 (3) (d) of the ICCPR.

Second Optional Protocol: Signed: 7 June 1990; ratified: 22 February 1993.

Racial Discrimination

Signed: 21 April 1967; ratified: 10 October 1967.

Venezuela's 14th and 15th periodic reports were due 4 January 1996 and 1998 respectively.

Discrimination against Women

Signed: 17 July 1980; ratified: 2 May 1983.

Venezuela's fourth periodic report was due 1 June 1996.

Torture

Signed: 15 February 1985; ratified: 29 July 1991.

Venezuela's initial report (CAT/C/16/Add.8) has been submitted and is scheduled for consideration at the Committee's May 1999 session; the second periodic report was due 27 August 1996.

Rights of the Child

Signed: 26 January 1990; ratified: 13 September 1990.

Venezuela's initial report (CRC/C/3/Add.54) has been submitted and is scheduled for consideration at the Committee's January 2000 session; the second periodic report was due 12 October 1997.

Reservations and Declarations: Paragraphs (b) and (d) of article 21 and article 30.

THEMATIC REPORTS**Mechanisms of the Commission on Human Rights****Arbitrary detention, Working Group on:**

(E/CN.4/1998/44, para. 19)

The report notes that an urgent appeal was sent to the government but no details of the case were provided.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 394–396)

No new cases of disappearance were transmitted to the government. Of the 10 reported cases four have been clarified. Three of the six outstanding cases occurred in December 1991 and concern student leaders who had reportedly been intercepted by security forces during a commercial fishing expedition. A fourth case concerned a businessman arrested in February 1991 in Valencia City,

Carabobo, by the police. The fifth case concerns a 14-year-old girl who was allegedly abducted in March 1993 following a military raid on her house in the peasant community of 5 de Julio, municipality of Catatumbo, State of Zulia. And the sixth case concerns a person who was allegedly detained in February 1995 in the vicinity of Puerto Ayacucho, State of Amazonas, by members of the Navy Infantry, following incidents in which eight Venezuelan soldiers were reportedly ambushed and killed by Colombia guerrillas.

The government replied, stating: the person concerned was living in Colombia, but the exact whereabouts were not specified; in three cases it had been impossible to determine the whereabouts of the individuals since the shipwreck of their boat, but they may possibly have drowned or died of natural causes; one case was before the Military Court of Maracay, which had been hearing the case against a number of members of the military suspected of involvement in the disappearance; in one other case the investigations undertaken by the Prosecutor's Office and the police had, to date, proved unsuccessful.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 14, 15, 17, 29, 30, 32, 36, 39, 57, 61, 65, 68; E/CN.4/1998/68/Add.1, paras. 420–427)

The report notes that between November 1994 and October 1995, 274 persons died at the hands of state security bodies. Information indicated that, in many of these cases, police officers killed offenders and then claimed that clashes had taken place. The security bodies alleged to be the most involved in human rights violations are the State Police, the National Guard, and the Metropolitan Police, with the State Police apparently responsible for 33 per cent of deaths attributed to the security forces during the period under review.

An urgent appeal was sent to the government requesting that the necessary measures be taken to protect the right to life of the director of the Apostolic Vicariate's Human Rights Office in Puerto Ayacucho, Amazonas, who was threatened with death during an interview at a local radio station with the director of an industrial company in the area. The Vicariate reportedly launched a campaign on behalf of various Indian communities in the State of Amazonas, whose members were being evicted by industrial company officials acting with the acquiescence of the local authorities.

Complaints transmitted to the government related to: six killings by members of the Metropolitan Police; one killing by members of the Sucre Municipal Police; one killing by members of a police branch, as a result of shots fired by the police during an altercation; one killing by an unidentified branch of the police; the death of a 13-year-old child when members of the police tried to stop a family fight; the killing of a 16-year-old by members of the Metropolitan Police in Calle Estanque, Coche Parish; and, the death of one person who was killed in Caracas by shots fired by a National Guard officer.

The government provided information or complaints transmitted in 1996 and 1997, reporting: the Office of the Attorney General of the Republic had ordered Government Procurator's Office No. 39 to investigate the case of threats and to take the necessary action to determine who was responsible; in connection with the incidents at La Planta Prison in which 27 prisoners died, a fire had broken out in two cellblocks, the cause(s) had not yet been determined but were being investigated, the case was being heard by the Criminal Court of First Instance No. 16, Public Property Protection Court of First Instance No. 49, and the Permanent Military Court of First Instance No. 3 in Caracas, since members of the National Guard appeared to be involved, and three members of the National Guard and a warder were the subject of judicial measures restricting their freedom because criminal liability appeared to exist; and the Guasdalito Sectional Judicial Police's Technical Body had conducted investigations into the case and attempts to locate witnesses had so far been unsuccessful.

Independence of judges and lawyers, Special Rapporteur on the: (E/CN.4/1998/39, paras. 15, 175-176)

In February 1997, an urgent appeal was sent to the government concerning the case of two lawyers, members of the Human Rights Office of the Apostolic Vicariate. According to the information received, the Public Ministry brought charges of "usurpation of functions" against the Office of the Apostolic Vicariate, reportedly because of two complaints that were sent to the General Commander of the State Police, concerning the death of a civilian at the hands of police agents. The complaints contained detailed information on the incident, including the names of witnesses, and requested an investigation. The report notes that the Penal Code defines the felony charge of "usurpation of functions" as the "unauthorized assumption or exercise of public, civil or military func-

tions". According to the source, there was no basis for such a charge. The Special Rapporteur noted that one of the main tasks of the Apostolic Vicariate is to monitor arbitrary acts of violence committed by police forces, especially against indigenous people. Registration of formal complaints is part of its functions and is supported by the constitutional right of petition. The government had not responded at the time the report was prepared.

Torture, Special Rapporteur on: (E/CN.4/1998/38, paras. 204-206; E/CN.4/1998/38/Add.1, paras. 464-472)

Cases transmitted to the government related to arrest or detention followed by torture and/or ill treatment by: judicial police officers at the San Juan police station; two members of the municipal police of Sucre, Miranda; and, in Baruta, near Caracas, two individuals identifying themselves as members of the Directorate of Intelligence and Prevention Services (DISIP).

In response to cases previously transmitted, the government stated: the metropolitan police reported that the person named had not been tortured, had not been given any medical examination because his physical state was normal, and showed no signs of injury and, in the absence of any complaint, no investigation was initiated; the metropolitan police reported that the persons named had not been tortured and had been taken to, and received at, the headquarters of the homicide division of the judicial police with no kind of protest being made; and, the metropolitan police reported that the person named had not been tortured, had been taken to, and received at, La Vega intelligence division of the judicial police with no kind of protest being made and, in the absence of any complaints of ill treatment, no investigation was opened.

APPENDIX: HUMAN RIGHTS TREATY BODIES

DRAFT SCHEDULES FOR CONSIDERATION OF STATE REPORTS

The following schedules of the treaty bodies was prepared after the country profiles were completed. This accounts for any discrepancies that may appear between information in the profiles, related to consideration of state reports, and the information contained below. Please note: the following schedule was compiled at the beginning of February 1998 and is subject to change at short notice.

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (CESCR)

The provisional schedule of reports and/or situations to be considered by the Committee is:

21st Session: 15 November-3 December 1999

Argentina	2nd periodic report	E/1990/6/Add.16
Mexico	3rd periodic report	E/1994/104/Add.18

23rd Session: November 2000

Honduras	Initial report	E/1990/5/Add.40
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24th Session: April 2001

Venezuela	2nd periodic report	E/1990/6/Add.19
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HUMAN RIGHTS COMMITTEE (HRC OR CCPR)

The provisional schedule of reports and/or situations to be considered by the Committee is:

64th Session: March 1999

Chile	4th periodic report	CCPR/C/95/Add.11
Costa Rica	4th periodic report	CCPR/C/103/Add.6

65th Session: 12-30 July 1999

Mexico	4th periodic report	CCPR/C/123/Add.1
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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION (CERD)

The provisional schedule of reports and/or situations to be considered by the Committee is:

54th Session: 1-19 March 1999

Costa Rica	4th periodic report	CERD/C/338/Add.4
Peru	12th and 13th periodic reports	CERD/C/298/Add.5

COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN (CEDAW)

The provisional schedule of reports and/or situations to be considered by the Committee is:

20th Session: 19 January-6 February 1999

Chile	2nd periodic report	CEDAW/C/CHI/2
Colombia	4th periodic report	CEDAW/C/COL/4

21st Session: June 1999

Belize	Initial and 2nd periodic reports	CEDAW/C/BLZ/1-2
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COMMITTEE AGAINST TORTURE (CAT)

The provisional schedule of reports and/or situations to be considered by the Committee is:

Venezuela Initial report CAT/C/16/Add.8

COMMITTEE ON THE RIGHTS OF THE CHILD (CRC)

The provisional schedule of reports and/or situations to be considered by the Committee is:

20th Session: January 1999

Barbados Initial report CRC/C/3/Add.45
Belize Initial report CRC/C/3/Add.46

21st Session: May 1999

Honduras 2nd periodic report CRC/C/65/Add.2
Nicaragua 2nd periodic report CRC/C/65/Add.4
Saint Kitts and Nevis Initial report CRC/C/3/Add.51

23rd Session: January 2000

Costa Rica 2nd periodic report CRC/C/65/Add.7
Grenada Initial report CRC/C/3/Add.55
Mexico 2nd periodic report CRC/C/65/Add.6
Venezuela Initial report CRC/C/3/Add.54

24th Session: May 2000

Peru 2nd periodic report CRC/C/65/Add.8

25th Session: September 2000

Surinam Initial report CRC/C/28/Add.11

26th Session: January 2001

Colombia 2nd periodic report CRC/C/70/Add.5

27th Session: May 2001

Guatemala 2nd periodic report CRC/C/65/Add.10

28th Session: September 2001

Paraguay 2nd periodic report CRC/C/65/Add.12

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