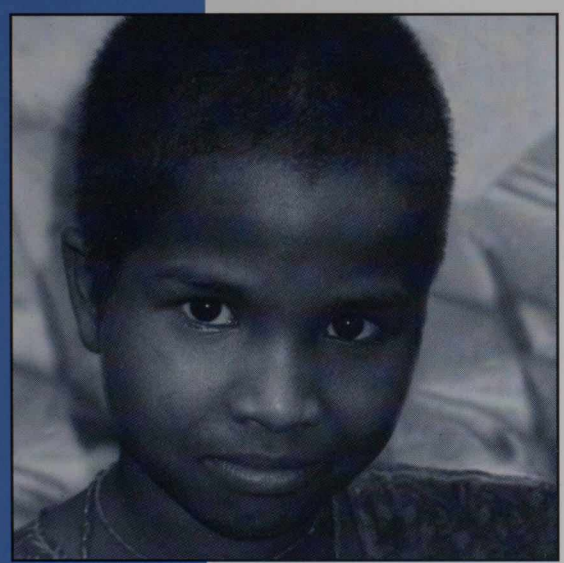


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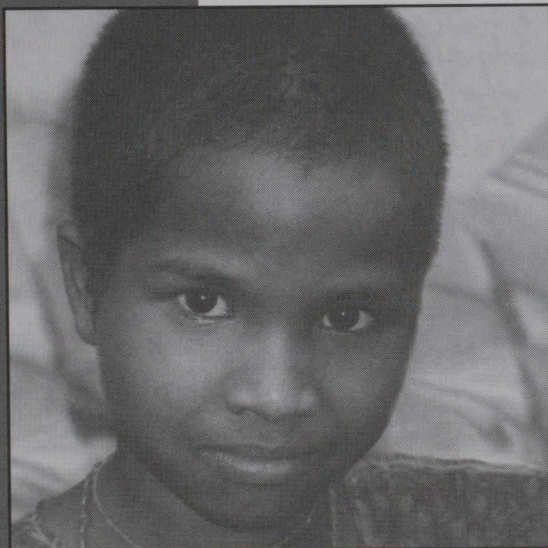
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GLOSSARY OF ACRONYMS

CAT	Committee Against Torture
CCPR	Committee on Civil and Political Rights, also known as the Human Rights Committee (HRC)
CEDAW	Committee on the Elimination of Discrimination Against Women
CERD	Committee on the Elimination of Racial Discrimination
CESCR	Committee on Economic, Social and Cultural Rights
CHR	Commission on Human Rights
CRC	Committee on the Rights of the Child
DAW	Division for the Advancement of Women
CSW	Commission on the Status of Women
ECOSOC	Economic and Social Council
GA	General Assembly
HRC	Human Rights Committee, also known as the Committee on Civil and Political Rights (CCPR)
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

AFGHANISTAN

Date of admission to UN: 19 November 1946.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Economic, Social and Cultural Rights

Acceded: 24 January 1983.

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

Reservations and Declarations: Paragraphs 1 and 3 of article 26.

Civil and Political Rights

Acceded: 24 January 1983.

Afghanistan's third periodic report was due 23 April 1994.

Reservations and Declarations: Paragraphs 1 and 3 of article 48.

Racial Discrimination

Acceded: 6 July 1983.

Afghanistan's second through eighth periodic reports were due 5 August 1986, 1988, 1990, 1992, 1994, 1996 and 1998 respectively.

Reservations and Declarations: Articles 17, 18 and 22.

Discrimination against Women

Signed: 14 August 1980.

Torture

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

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

Reservations and Declarations: Articles 20 and 30.

Rights of the Child

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

Afghanistan's initial report was due 26 April 1996.

Reservations and Declarations: General reservation.

COMMISSION ON HUMAN RIGHTS

Special Rapporteur on the situation of human rights in Afghanistan

A special rapporteur was first appointed to examine the human rights situation in Afghanistan in 1984. The Special Rapporteur (SR) for 1998 was Choong-Hyun Paik.

The report to the 1998 session of the Commission (E/CN.4/1998/71) is centred around two broad themes — political and military developments and the human rights situation — and is based, in part, on information gathered during visits to Afghanistan and Pakistan in July/August 1997 and November/December 1997.

The report states that the conflict continued unabated throughout 1997 and that armed hostilities occurred on a number of fronts resulting in a massive loss of life. Information indicated that both the Taliban and the Northern Alliance, a loose coalition of five parties — the National Islamic Movement of Afghanistan (NIMA), the Hezbe Wahadat party as well as a breakaway faction, the Jamiat Islami party, and the Harakat Islami party — have received large quantities of military equipment as well as other types of assistance from abroad. The point is made that 95 per cent of the population rejects the war and is being held hostage by the five per cent who are armed and profit from it.

Consideration of the political situation is set within a general context fanned by external political and military support, in which the ethnic and religious divide in Afghanistan became deeper during the period under review, with rifts taking place within a single party or grouping, especially the Northern Alliance. The report notes that international UN staff withdrew from the north, resulting in a virtual cessation of the UN's activities, due to threats, chaos and looting on a massive scale.

The context for the review of the human rights situation is established in the report by noting the further deterioration since the submission of the SR's report to the 1997 General Assembly.

With regard to Kabul, the report notes, *inter alia*, that: the city has become a virtual "ghost town"; both men and women prefer to stay home out of fear of being stopped or harassed by the religious police; the drastic reduction in purchasing power as a result of the disastrous economic situation has left the city streets practically deserted in the middle of the day; shopkeepers who are found in their stores at prayer time have been beaten by religious police; some persons are said to have been beaten successively at several religious police checkpoints; and information suggests that gatherings of more than five persons are illegal. The report also notes that: it has also been alleged that the local radio station had broadcast a statement to the effect that no one is allowed to criticize the government; human rights abuses have become more institutionalized, more systematic and more insidious, with some Taliban policies characterized as being intentionally inconsistent; persons may be arrested arbitrarily, at times on a whim, without the Ministry of Justice or the Ministry of the Interior being informed; a direct correlation is reported to exist between arbitrary arrest and Taliban military failure; and persons are reportedly also taken as hostages, at times in connection with their place of origin, and can be released against payment of large sums of money. It is estimated in the report that in Kabul alone, 40 per cent of the requirements for international humanitarian assistance were generated by the policy of the Taliban movement towards women; sexual harassment had increased since the Taliban had declared the wearing of the burqa veil mandatory for women, in part because the burqa is perceived by some to be provocative, leading to women being increasingly subjected to indecent proposals while waiting for transport at bus stops.

The report further notes that: because of the growing division of the country along ethnic lines, persons belonging to the Hazara ethnic minority have difficulty moving around freely and entering hospitals in Kabul; a study conducted by UNICEF showed that 90 per cent of the children in the city believed that they would die during the conflict; most inhabitants are cases of borderline nourishment, the population is suffering psychologically from post-traumatic stress disorders and the suicide rate among women is said to be on the rise; and, purges in the academic community have been based partly on ideological considerations and partly as a means of settling scores.

With regard to Kandahar province, the SR noted, *inter alia*, that: reports indicate that a massive campaign of forced conscription is taking place in Kandahar and Helmand provinces, especially in the villages; inhabitants of Kandahar city are not trusted by the Taliban since the Taliban are viewed by them as occupiers; and, reports from former Taliban prisoners detained by the Northern Alliance indicate that they were forced to give blood, did not receive any medical treatment and some had pieces of cloth with salt placed on their wounds.

Commentary on conditions in Jalalabad notes, *inter alia*, that: there is no education, not even Koranic schools, for girls; some women in the city who were considered immoral had been killed in unclear circumstances; a number of educated women in the city are reported to have been threatened and harassed by the Taliban; and political prisoners are equated to prisoners of war, including persons belonging to ethnic and religious minorities who currently oppose the Taliban movement on the battlefield. The report also notes that: criminal and civil cases have separate judicial proceedings but the division between criminal and military jurisdictions is not clear; the judiciary does not have independent power to decide who is qualified to be a judge, to appoint judges or to implement and monitor the implementation of amnesty decrees; and, in order to become a judge, one must know about Islamic teachings and come from a religious school. The current critical situation in the battlefield and the resulting lack of funds are cited as the reasons why education for women is not available; and, the head of the judiciary has stated that experience had proven that the people of Afghanistan had to be shown the right way by force, as rules and regulations would never be respected if attempts were made to enforce them in a peaceful atmosphere.

With regard to Sheberghan, capital of Jowzjan province, the report notes, *inter alia*, that: mass graves were reportedly found in November 1997, presumed to hold the bodies of as many 2,000 Taliban fighters taken prisoner by the Northern Alliance as well as commanders of the National Islamic Movement of Afghanistan (NIMA), traders and other prominent local personalities, some of whom were allegedly beheaded. The report states that: forensic work on 10 bodies at one site showed that the individuals were all young males dressed in summer clothing; many had serious, probably fatal, gunshot

wounds to various parts of the body; two showed evidence of having received medical treatment; and several still had unspent rounds of ammunition in their clothing. It was concluded that these individuals were battle casualties and not prisoners who had been deliberately executed. The report notes that: at nine unexcavated well sites there were bulldozed tracks up to the well mouth; seven are plugged with earth; two are open with water visible at a depth of about 10 metres; at all nine there are spent cartridges; at three wells there is evidence of the presence of anti-personnel mines as well as one grenade; and two pieces of a human skull were found lying near the earth plugging one of the wells. On a stretch of highway between Mazar-i-Sharif and Hairatan, numerous bodies were found and, the report notes, there was clear evidence that victims had been tied up individually or several together; there were numerous spent cartridges and the bodies were lying largely covered with sand in a row on either side of a ridge; and forensic evidence supports the allegations that at two of the three areas examined human rights abuses were carried out.

In terms of Bamyan province the report notes, *inter alia*, that: in the Hazarajat region, the Taliban has maintained what amounts to a blockade of the region, mostly populated by persons belonging to the Hazara ethnic minority; this *de facto* blockade has led to shortages of food and medicines and starvation because of floods, crop failure and lack of access to food aid; and, a representative of the Taliban denied there is a blockade and pointed to the fact that Bamyan can be reached from the north of the country where he said that the Northern Alliance has looted UN warehouses containing food destined for Hazarajat.

The conclusions of the report refer to, *inter alia*: all types of extrajudicial, summary or arbitrary executions, armed hostilities resulting in massive loss of life as well as all forms of torture and ill treatment and, in particular, killings which have taken place in northern Afghanistan; the widespread non-observance of the international laws of war and humanitarian norms within and outside the battle zones in Afghanistan, resulting in, for example, the ill-treatment of prisoners of war and the imposition of inhumane conditions of detention; the pronounced ethnic and religious dimensions to the armed hostilities among the warring factions, leading to an absence of a distinction in the administration of criminal justice between prisoners of war, political prisoners and persons detained on religious grounds and the failure to make a distinction between combatants and civilians when prisoners are exchanged; and the fact that infringements on women's rights in Afghanistan are such that they pose serious threats to the enjoyment of even the most basic rights, including the right to life, particularly in areas controlled by the Taliban where women continue to be denied access to education and employment. The report notes: the deliberate blockade of roads by the Taliban in areas under their control; the lawlessness and banditry prevailing along the roads controlled by the Northern Alliance that give access to the provinces of the isolated Hazarajat region in central Afghanistan, possibly

resulting in famine and associated inhumane hardships among the civilian population; the aerial bombing, by Taliban forces, of Bamyán airport during the UN food airlift; and the fact that the production, processing and export of narcotics in and from Afghanistan, where the greatest proportion of poppy-producing areas is under Taliban control, pose serious obstacles to the control of narcotics worldwide.

The report states that in the absence of progress towards peace, representative government and respect for human rights all previous recommendations remain valid. The report recommends, *inter alia*, that:

- ♦ all parties to the conflict refrain from committing human rights violations, in particular those amounting to extrajudicial, summary and arbitrary executions and to torture and ill treatment;
- ♦ all armed hostilities cease immediately and a negotiated solution be sought;
- ♦ the international community consider how to conduct a campaign of awareness and education about the international obligations and duties under the laws of war and international humanitarian law; all participants to the armed conflict abide by those provisions with a view to halting or mitigating the suffering inflicted on the population of Afghanistan;
- ♦ the international community, including UN agencies as well as non-governmental organizations, continue efforts aimed at constructive and mutually beneficial dialogue;
- ♦ international aid agencies pay much greater attention and provide assistance on a priority basis to areas where policies of respect for and promotion of human rights for women are followed; and
- ♦ a thorough and full-scale investigation of all killings, including the mass graves in northern Afghanistan, be undertaken by the UN in order to seek out and punish the violators responsible for committing these atrocities.

Resolution of the Commission on Human Rights

At its 1998 session the Commission adopted by consensus a resolution on the situation of human rights in Afghanistan (1998/70). The Commission, *inter alia*: expressed concern at the continued armed confrontation and the increasingly ethnic nature of the conflict; recalled that the UN continues to play a central and impartial role in international efforts towards a peaceful resolution to the conflict; noted with deep concern the further deterioration of the situation of human rights and continuing and substantiated reports of violations of human rights vis-à-vis women and girls, particularly in areas controlled by the Taliban, the intensification of armed hostilities, reports of mass killings and atrocities committed by combatants against civilians and prisoners of war, the sharp deterioration in the humanitarian situation in several

areas of the country, the continued displacement of millions of refugees in Pakistan and Iran, and reports of the destruction and looting of the country's cultural and historical heritage; condemned the widespread violations and abuses of human rights and humanitarian law, the frequent practice of arbitrary arrest and detention and summary trials, the public executions of male convicts which were carried out by burying the victims alive, and actions by all parties that interfere with the delivery of humanitarian aid, including the looting on a massive scale of UN and other warehouses by elements in the Northern Alliance; urged all Afghan parties to cease hostilities immediately and work and cooperate fully with the UN Special Envoy and UN Special Mission to Afghanistan to achieve a cease fire; urged all Afghan parties to end without delay all violations of human rights against women and girls and take urgent measures to repeal legislation and measures that discriminate against women, ensure the effective participation of women in civil, cultural, economic, political and social life throughout the country, respect the rights of women to work and security of person and the right of women and girls to education, health and freedom of movement; urged all parties to respect fully international humanitarian law, provide sufficient and effective remedies to the victims of grave violations and abuses, ensure the safety of UN and diplomatic personnel, provide access to all prisoners for the ICRC, treat all suspects and convicted or detained persons in conformity with international standards, refrain from arbitrary detention — including of civilian foreign nationals — and protect and safeguard Afghanistan's cultural and historical heritage; encouraged the Secretary-General to continue to investigate fully reports of mass killings of prisoners of war and civilians and exert efforts to promote a gender perspective in the selection of staff of the UN Special Mission for Afghanistan; encouraged the SR to continue to pay attention to human rights for women and girls; welcomed the release of prisoners of war and called for the unconditional and simultaneous release of all remaining prisoners of war; appealed to the international community to provide humanitarian assistance on a non-discriminatory basis, intensify the landmine removal programme, ensure that all UN-assisted programmes are formulated and coordinated in such a way as to ensure the participation of women in them, and take urgent measures to prevent the looting of cultural artifacts and ensure that any illegally removed are returned to Afghanistan. The Commission renewed the mandate of the Special Rapporteur for a further year.

Sub-Commission on Prevention of Discrimination and Protection of Minorities

At its 1998 session, the Sub-Commission adopted by consensus a resolution (1998/17) on the situation of women in Afghanistan. The Sub-Commission, *inter alia*: referred to various international instruments in which the right to complete freedom of movement of residents within a territory is guaranteed as well as the freedom to leave any country, including one's own; noted provisions of the Convention on the Elimination of All Forms of Discrimi-

nation against Women and the Convention on the Political Rights of Women; noted a recommendation of the World Declaration on Education for All, stating that the most urgent priority is to ensure access to, and improve the quality of, education for girls; referred to article 28 of the Convention on the Rights of the Child, stipulating that states shall recognize the right of all children to education and to have, on the basis of equal opportunity, universal access to primary education; expressed deep concern at the situation of women in Kabul and the other parts of Afghanistan controlled by the Taliban; expressed dismay at the Taliban's claim that Islam supports their policies concerning women; and recalled that the Cairo Declaration on Human Rights in Islam — adopted by the Organization of the Islamic Conference in 1990 — guarantees the rights of women in all fields. The Sub-Committee also: expressed concern that the Commission on Human Rights has not given the required attention to human rights in relation to women and girls, as requested in the Beijing Declaration and Platform for Action; noted numerous reports dealing with the unprecedented and extremely difficult situation of women in Kabul and the other parts of Afghanistan controlled by the Taliban, in particular widows who cannot support themselves because they are not permitted to work or to benefit from humanitarian assistance, which is given only to men; expressed deep concern at the continuous suffering of Afghan women under the prohibitions placed upon them by the Taliban; considered that the current policies of the Taliban with regard to women in the territories under their control constitute a flagrant violation of the principles of Islam and international law; and called upon Muslim religious leaders and scholars to give special attention to the situation of women in Afghanistan with a view to bringing the policies and practices of the Taliban into line with the true spirit of Islam and human rights law; appealed to all states not to encourage the Taliban by extending diplomatic recognition to them; appealed to commercial enterprises to refrain from entering into financial agreements with the regime until the Taliban ends its discriminatory treatment of women; and decided to continue consideration of this question at its 1999 session.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 76–79)

The report notes that no new cases of disappearance were transmitted to the government. The Working Group (WG) stated that while it is aware that many more cases of disappearance could have occurred in Afghanistan, individual cases have not been brought to its attention to allow it to take action. There are two outstanding cases that concern a Jordanian journalist who reportedly disappeared in Jalalabad, province of Nangarhar, in 1989 while on assignment, and an American citizen of Afghan origin who allegedly disappeared in 1993 when he was on

a visit to Afghanistan. The report notes that in the past the government has provided information on these cases, stating that: in one case the person concerned had never been arrested; in the second case, following a lengthy investigation by the security forces, as well as efforts in the Ministry for Foreign Affairs, the subject's name had not been found in the register of any prison. No new information was received from the government clarifying the fate and whereabouts of the persons reported as missing.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 14, 15, 27, 32, 39, 85; E/CN.4/1998/68/Add.1, paras. 442–445)

The Special Rapporteur (SR) reports that cases were referred to the head of the Taliban Council, not to the government. The report notes the SR's concern with violations of the right to life during armed conflict — the loss of life among civilians resulting from the use of indiscriminate or disproportionate force, anti-personnel mines, or the blockage of goods and services including relief assistance. Some of the cases transmitted involved capital punishment. The SR referred to particularly disturbing reports relating to the imposition and execution of death sentences in that part of Afghanistan under the de facto control of the Taliban movement. The information indicated that: persons were sentenced to death by Islamic courts set up by the Taliban authorities; many of the judges in these courts were virtually untrained in law; such courts often decided many cases each day in sessions which might have taken only a few minutes; there were no provisions for defendants to be assisted by legal counsel; verdicts are final with no mechanism for appeal; defendants are presumed guilty and must prove their innocence; testimonies and statements of convicts in which they accepted their sentences had frequently been extracted under torture; and, death penalties were sometimes imposed and executed on the orders of Taliban commanders or Taliban prison guards.

Freedom of opinion and expression, Special Rapporteur on: (E/CN.4/1998/40, para. 56)

In the section dealing with women and freedom of expression, the report notes information in the 1997 report of the Special Rapporteur on Afghanistan (A/52/493) referring to the fact that: many Afghan women are cut off from the media and other sources of information; their sense of desperation was aggravated because they lived under the impression that the world was not aware of the extent of their plight; and, they felt they did not have the opportunity to raise their voice.

Religious intolerance, Special Rapporteur on: (E/CN.4/1998/6, paras. 48, 50, 60, 63, 66)

The report refers to violations of freedom of religion and belief against Christianity and Islam and notes that the extremism of the Taliban affects the whole of society, including all its religious components, whether Muslim or non-Muslim. The Special Rapporteur stated that some categories of persons seem to be more affected than

others, with women among those who suffer most because of severe restrictions on their education and employment, and the obligation to wear what is described as Islamic dress. On the question of the freedom to manifest one's religion or belief, the report refers to information indicating that non-Muslims are unable to practise their religion freely and Muslims are said to be forced to attend Friday prayers at the mosque. The report also refers to incidents of mistreatment.

Torture, Special Rapporteur on: (E/CN.4/1998/38, paras. 9–10; E/CN.4/1998/38/Add.1, paras. 1–2)

The report notes that two urgent appeals were sent, one concerning the application of amputation as a form of punishment. The Special Rapporteur (SR) expressed concern over the use of extreme forms of corporal punishment often specifically inflicted on women where it was determined that they had been involved in offences of a moral nature.

The SR noted that sentences of amputation may be decreed following summary trials by Islamic Courts or may be carried out on the orders of Taliban commanders or other officials. Amputation was said to be performed by doctors or, in some cases, by Taliban guards. The SR appealed to the Taliban authorities to ensure that no further acts of amputation are carried out. An urgent appeal was also sent on behalf of an opposition general and former governor of Herat province who was reportedly arrested by other opposition forces in May 1997 and handed over to the Taliban authorities in the city of Kandahar.

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

The Special Rapporteur (SR) referred to a number of points relative to Taliban edicts and their impact on the situation of women, including the virtual ban on women in the public sphere which has had devastating consequences for the health care system in Kabul. Women nurses who have gone to help patients have been repeatedly beaten by the Taliban guards. The report states that, though the Taliban has taken the denial of the human rights of women to new lows, laying down rule after rule denying women their basic human rights, all warring factions in Afghanistan are responsible for violating women's human rights. The SR stated that the international community has yet to take concerted action to ensure the protection of women's rights in Afghanistan; and if members of the international community have provided support to the warring factions, as it is alleged, then they have a duty to ensure that women's rights are protected by the factions that receive the foreign assistance.

OTHER THEMATIC REPORTS

Children affected by armed conflict, Special Representative: (A/53/482, paras. 43, 45–48)

The Secretary-General's Special Representative (SRep) made two assessment visits to Afghanistan and

Pakistan in January and March 1998. The report notes the following main problems affecting children: severe poverty, which is manifested in multiple ways such as street children and children being recruited for military purposes; lack of access to education and health services; discriminatory practices against girls; physical disabilities owing to mine casualties and non-existent or poor health-care facilities; and psychological trauma. The SRep stated that in the complex humanitarian emergency situation that prevails in Afghanistan, children and women suffer doubly; they suffer from both the devastations of the ongoing war and by the difficulties of the humanitarian assistance community in providing protection and relief.

The SRep identified the following types of initiatives to guide future efforts: improving children's access to humanitarian assistance, including non-life-saving assistance such as education; encouraging donors and implementing partners to give priority to assistance programmes and provide a coordinated response in such key areas as emergency food and health care, education, mine clearance and awareness, drug control, creation of employment opportunities and support for displaced persons and their voluntary repatriation; highlighting the plight of children affected by the war as part of an effort to mobilize domestic and international pressure on Afghan parties and involved governments to, at the minimum, desist from violating children and, ideally, to undertake meaningful efforts at finding a peaceful solution to the conflict; and advocacy with Afghan political groups and governments of neighbouring countries to ensure that children are not recruited for military purposes.

GENERAL ASSEMBLY

Special Rapporteur of the Commission on Human Rights

The Special Rapporteur's (SR) interim report to the 1998 General Assembly (A/53/539) notes that the security situation, arising from events in northern Afghanistan in August 1998, made it impossible to visit Afghanistan and Pakistan. As an alternative, the SR tried to obtain the most credible information possible from reliable sources on the events that occurred in the city of Mazar-I-Sharif, which was taken over on 8 August 1998 by the Taliban and forces allied with them. A memorandum was drafted containing allegations of violations of human rights and submitted to the representatives of the Taliban movement for comments and observations. The report reproduces, verbatim, both the memorandum and the Taliban's reply.

The memorandum referred to widespread killings and atrocities and noted that the Hazara ethnic minority was principally targeted, although not exclusively. Violations of rights included, *inter alia*: widespread, random and indiscriminate killings without warning (the estimated total number of killings ranging between 5,000 and 8,000), noting that bodies remained on the streets for

between four days and one week before inhabitants were allowed to remove them; an assault on the Iranian Consulate causing the deaths of 10 Iranian diplomats and a correspondent of the IRNA press agency; messages broadcast by Taliban forces over loudspeakers and radio announcing that the population should inform the authorities of any Hazaras and weapons that were hidden; systematic house-to-house searches, resulting in the theft of money and other valuables; imprisonment of one person who was trying to prevent the arrest of a Hazara civilian; numerous summary executions; summary burial of victims in mass graves; the rape and abduction of a number of women and girls, although this form of violence against women was reported not to be widespread; confiscation of homes owned by Hazaras who had fled, were arrested or had been killed; arrest of all male Hazaras who had not been killed; and torture and ill treatment against male Hazaras, including being placed in metal containers that were left in the sun, causing suffocation in most cases.

The memorandum also included information on: summary detention of persons leaving Shia mosques; use of the loudspeakers of all mosques to call on the surviving members of the Shia Moslem community to convert to Sunni Islam and to attend prayers five times a day for their own sake, "unless they wanted to be treated like dogs and shot on the spot"; an apparent statement by the Governor of Mazar-I-Sharif (appointed by the Taliban) that Hazaras should stop following the religion of the Islamic Republic of Iran and become true Moslems; the use of the term "Iranians" to depict all Shia Moslems and not Iranian nationals; an apparent fatwa issued by the Taliban leader, stating that the killing of Shia Moslems is not a crime because they are kafirs (non-believers); segregation of prisoners according to their ethnic group, with Hazaras placed in the "political" section; establishment of numerous checkpoints to prevent people from leaving the city, with vehicles and luggage searched thoroughly; blockage of roads leading to Tajikistan; aerial bombing and rocket attacks against persons who had fled the city and reached the desert to the south of Mazar-I-Sharif; the looting of property belonging to Hazaras and distribution of their land to Pashtuns; and the looting of the premises of international aid agencies and confiscation of radio equipment and vehicles.

Commentary on events in Bamyan province and surrounding areas noted, *inter alia*: massacres of villagers, with men, women and male children shot, and baby girls kicked or beaten to death; and the internal displacement of some 5,000 families, with some 2,000 believed to be lacking food.

The short reply of the Taliban to the memorandum was issued by the Embassy of the Islamic Emirate of Afghanistan at Islamabad. The SR's memorandum was described as "imaginary", derived from anecdotes or baseless reports of the press or on the false stories of opponents. The reply did acknowledge the truth of reports of the killing and detention of military personnel, the collection of arms and the temporary evacuation of

some places, and criticized the SR for not having considered various crimes by "opponents of the Islamic Emirate".

In the section of the report outlining the conclusions, the SR stated that "silence cannot be the strategy of the international community" and the scale of violations in Afghanistan and suffering of the civilian population warrants urgent attention.

The SR called on all sides to put an immediate end to the armed conflict, to show restraint and respect for human rights, to refrain forthwith from any acts that may constitute violations of human rights of both the civilian population and combatants, including those based on ethnicity and religion. The SR recommended or urged, *inter alia*:

- ♦ release of all non-combatants detained by any party; the International Committee of the Red Cross be given unhindered access to all prisoners and detainees;
- ♦ restrictions be lifted that are currently placed on women and girls by the Taliban authorities;
- ♦ the international community to remain vigilant about respect for human rights in Afghanistan and the UN undertake to monitor more closely and systematically to report on the situation of human rights in Afghanistan through an enhanced human rights presence in the field; the UN to create greater awareness and knowledge about international human rights, including gender awareness, by establishing a human rights advisory capacity in the field;
- ♦ the UN to investigate the grave violations of human rights which have taken place in Afghanistan, including reports of mass killings;
- ♦ aerial photographs be taken of reported sites of mass graves in Afghanistan;
- ♦ all parties in the conflict cooperate fully with a neutral and objective investigation into violations of human rights; and
- ♦ those found responsible for the grave human rights violations committed in 1997 and 1998 be brought to justice in keeping with international standards of fair trial.

Resolution of the General Assembly

The 1998 session of the General Assembly adopted by consensus a resolution on the situation of human rights in Afghanistan (A/C.3/53/L.63). The GA, *inter alia*: recalled that Afghanistan is a party to the International Covenants on Human Rights and other instruments; strongly condemned the mass killings and systematic human rights violations against civilians and prisoners of war; noted with alarm the escalating cycle of mass killings; expressed its gravest concern at numerous reports of mass killings in the areas of Mazar-i-Sharif and Bamian by the Taliban; condemned the widespread vio-

lations and abuses of human rights and humanitarian law and, in particular, the grave human rights violations against women and girls; condemned the killing of Iranian diplomats and the correspondent of the IRNA by Taliban combatants, as well as the attacks on, and the killing of, UN personnel in Taliban-held territories; and called upon the Taliban to fulfil their stated commitment to cooperate in urgent investigations of these crimes, with a view to bringing those responsible to justice.

The GA noted with deep concern: the worsening pattern of human rights violations in Afghanistan; the continuing and substantiated reports of human rights violations against women and girls, including all forms of discrimination against them, notably in areas under the control of the Taliban; the intensification of armed hostilities in Afghanistan and the increasingly ethnic and religious nature of the conflict; the continued displacement of millions of Afghan refugees to Iran and Pakistan; the lack of major reconstruction in Afghanistan; and the sharp deterioration of the humanitarian situation in several areas, particularly in Hazarajat, and the worsening security conditions for UN and other humanitarian personnel.

The GA also urged all Afghan parties, *inter alia*, to: cease hostilities immediately, and work and cooperate fully with the Special Envoy and the UN Special Mission to Afghanistan with a view to achieving a ceasefire leading to the establishment of a broad-based, fully representative government through the full exercise of the right to self-determination of the Afghan people; respect fully international humanitarian law, halt the use of weapons against the civilian population, stop the laying of landmines, stop forced conscription and the drafting and recruitment of children as soldiers and ensure their reintegration into society; provide efficient and effective remedies to the victims of grave violations and abuses of human rights and of humanitarian law; bring the perpetrators of such violations and abuses to trial in accordance with internationally accepted standards; treat all suspects and convicted or detained persons in accordance with relevant international instruments; refrain from arbitrary detention, including detention of civilian foreign nationals; and release non-criminal civilian prisoners.

All the Afghan parties, in particular the Taliban, were also urged to bring to an end, without delay, all human rights violations against women and girls and to take urgent measures to ensure: the repeal of all legislative and other measures that discriminate against women; the effective participation of women in civil, cultural, economic, political and social life; respect for the right of women to work and their reintegration in employment; the right of women and girls to education without discrimination, the reopening of schools and the admission of women and girls to all levels of education; respect for the right of women to security of person and that those responsible for physical attacks on women are brought to justice; respect for freedom of movement for women; and reinstatement of full access to health care for women and girls.

The GA also, *inter alia*: invited the Secretary-General and the High Commissioner for Human Rights to proceed without delay to investigate fully reports of mass killings of prisoners of war and civilians, rape and other cruel treatment in Afghanistan; called upon the Northern Alliance and the Taliban to fulfil their stated commitment to cooperate with such investigations; invited the Secretary-General and the High Commissioner for Human Rights to give consideration to the proposal to deploy human rights observers in Afghanistan and to make detailed recommendations to that effect to the General Assembly; expressed deep concern at reports of attacks on, and looting of, cultural artifacts and requested all states to take appropriate measures to prevent the looting of cultural artifacts and to ensure their return to Afghanistan; and urged all the Afghan parties to extend their cooperation to the Commission on Human Rights and its Special Rapporteur on Afghanistan and to all those Special Rapporteurs who are seeking invitations.

SECURITY COUNCIL

Reports of the Secretary General

At its 1997 session, the General Assembly adopted resolution 52/211 in which it requested the Secretary-General to report every three months on the progress of the UN Special Mission to Afghanistan (UNSMIA) which is mandated to facilitate national reconciliation and reconstruction. The Security Council made a similar request.

The reports of the Secretary-General (S/1998/222, 17 March 1998; S/1998/532, 19 June 1998; S/1998/913, 2 October 1998) refer to efforts to establish a political dialogue between the Taliban and the Northern Alliance, various attempts to achieve a cease fire that would hold, and the fact that inter-factional fighting continued to complicate the process. Commentary is also provided on conditions, situations and incidents related to human rights.

The reports note that the humanitarian situation deteriorated sharply in Bamyan Province, where several hundred thousand people suffered from severe food shortages because of poor harvests caused by bad weather, a blockade of the Ghazni-Kabul trade route in the south of Bamyan and the lack of supplies coming in from the northern route owing to insecurity and looting. Other points noted included: the contamination of large areas by landmines and unexploded ordnance continued to be a major hindrance to rehabilitation and development, as well as a deterrent to the return of refugees; earthquakes in Takhar and Badakhshan Provinces, causing destruction of villages, homes, deaths and injuries; severe spring flooding in the central, western and south-western regions, which have wiped out large agricultural areas; the need for rebuilding efforts aimed at education and rural and urban rehabilitation, noting that such improvements are fundamental to the achievement of sustainable peace; and deteriorating security conditions for UN personnel, hindering delivery of humanitarian aid, including much needed food.

Referring to allegations of mass killings, the reports note accusations of mutual atrocities committed by combatants against civilian populations and prisoners of war. The need for urgent action on the part of the UN is emphasized as is the need for credible efforts to separate fact from unsubstantiated rumour. Verification of accusations of human rights violations is characterized as indispensable, not only because of the gravity of the acts, but also to demonstrate UN responsiveness and even-handedness vis-à-vis the Afghan factions. The reports also refer to rape, murder, arson, looting, beatings, abductions, and bombing and rocket attacks on civilian areas, as well as Taliban directives affecting the location and operation of non-governmental organizations based in Kabul.

The reports state that the factions, supported by the uninterrupted supply of arms from outside, keep fighting in defiance of the will of the vast majority of the Afghan people. Foreign interference by countries in the region and beyond, in the form of active political and military support of one faction or another, reinforces the reluctance of the faction leaders to engage in serious political dialogue with one another and remains a major cause of the prolonged turmoil in Afghanistan.

The October 1998 report provides commentary on the fatal attack on UNSMA officials in Kabul, the case of the Iranian diplomats first reported missing (later acknowledged as killed), and the reactions of neighbouring countries. It also refers to concerns about the fate of the Hazara Shiite population in Bamiyan in the wake of allegations of massacres targeting Shiite Moslems after the fall of Mazar-i-Sharif on 8 August. Reports indicated that as many as 2,000 people may have been massacred, although the Taliban have consistently denied these allegations and stated that their troops are under strict orders not to brutalize the population under their occupation.

The October 1998 report also refers to preparatory work undertaken by the OHCHR in order to embark on a full investigation of massive human rights violations that were alleged to have been committed in northern Afghanistan during 1997. In May, OHCHR dispatched an exploratory mission to northern Afghanistan in order to determine the ways and means of launching a full investigation into the allegations. The mission submitted a report to OHCHR in June. A project document for the proposed investigation mission was finalized in July. The report notes that, since security conditions have deteriorated steadily because of intensified fighting, it is difficult to foresee the dispatch of the investigation mission in the near future.

The report notes that the "Six Plus Two" Group (China, Iran, Pakistan, Tajikistan, Turkmenistan, Uzbekistan, Russia, the United States) met in September 1998 and agreed to the following points of common understanding:

- ♦ the Taliban and other parties should declare an immediate ceasefire and undertake negotiations

aimed at achieving a political settlement culminating in the establishment of a broad-based, multi-ethnic, representative government;

- ♦ all forces should immediately release non-combatants in detention, including Iranians;
- ♦ the Taliban should expedite the return of the remains of the three Iranian diplomats in Afghanistan, cooperate fully with an international investigation into the killings of Iranian diplomats and UN staff in Afghanistan, and bring the guilty parties to justice;
- ♦ the UN should investigate the reports of mass killings and mass graves in Afghanistan;
- ♦ the Taliban should fully respect international humanitarian law and human rights, including the rights of women, cease providing a haven to international terrorists residing on its soil, and prevent the production and trafficking of narcotics;
- ♦ UN humanitarian assistance should be resumed as soon as possible, with all factions providing safe and secure conditions under internationally accepted norms; and
- ♦ with a view to reducing tensions in the region, all parties should exercise maximum restraint and resolve their disputes peacefully.

Statements by the President

In 1998, the Security Council agreed to a series of President's statements (S/PRST/1998/9, 6 April 1998; S/PRST/1998/22, 14 July 1998; S/PRST/1998/24, 6 August 1998; S/PRST/1998/27, 15 September 1998). The Council, *inter alia*: expressed grave concern at the continued Afghan war, noting that it is a serious threat to regional and international security and causes extensive human suffering, further destruction, refugee flows and other forcible displacement of large numbers of people; expressed concern at the increasingly ethnic nature of the conflict, reports of ethnic-based persecution, and the threat this poses to the unity of Afghanistan; urged all Afghan parties to stop the fighting, to agree immediately on a ceasefire, and to engage without preconditions in a political dialogue aimed at achieving national reconciliation and the formation of a broad-based fully representative government; deplored the fact that foreign interference in Afghanistan continues unabated in the form of the supply of war-making materials to the factions and reiterated its call to all states to stop such interference immediately; expressed concern at the deteriorating security conditions for UN and humanitarian personnel and called upon all Afghan factions, in particular the Taliban, to take necessary steps to assure their safety; acknowledged the signing of the Memorandum of Understanding between the UN and the Taliban on humanitarian issues and stressed the importance of its full implementation; expressed concern at the unilateral decision by the Taliban to relocate humanitarian organizations' offices in Kabul; expressed deep concern at the continuing discrimination against girls and women and

other violations of human rights as well as violations of international humanitarian law; strongly condemned the murder of Iranian diplomats in Afghanistan by Taliban combatants; recalled its condemnation of the murders of members of the UNSMA and the personnel of humanitarian agencies in areas controlled by the Taliban, demanded that these crimes be investigated, and that the Taliban ensure the safety and security of all international personnel; supported the steps taken by the Secretary-General to launch investigations into alleged mass killings of prisoners of war and civilians in Afghanistan; expressed concern at the sharp deterioration of the humanitarian situation in several areas in Central and Northern Afghanistan caused by the Taliban-imposed blockade of the Bamyan region; strongly urged the Taliban to let humanitarian agencies attend to the needs of the population; and reiterated that the continuation of the conflict in Afghanistan provides a fertile ground for terrorism and illegal drug production and trafficking, and called on the leaders of the Afghan parties to halt such activities.

OTHER REPORTS

Commission on the Status of Women

Office of the Special Advisor on Gender Issues and Advancement of Women

The UN Special Advisor on Gender Issues and Advancement of Women led a seven-member mission to Afghanistan from 12 to 24 November 1997 (Report of the United Nations Interagency Gender Mission to Afghanistan). The mission visited selected areas in Afghanistan and Pakistan, including assistance-supported projects, and interviewed a wide range of assistance agency officials, local authorities, NGO staff, community leaders and Afghan nationals. The focus of the mission was to examine the condition of women in Afghanistan, the contexts within which external assistance is conceived and delivered, the ways that the international community can address gender concerns in the delivery of aid, and indicators that can be used to ensure the appropriate monitoring of assistance activities. The report offers guidelines for strengthening the role of women in Afghanistan, based on a principle-centred approach, and addresses the rights of women at risk, in light of the absence of state structures that promote and protect respect for human rights. Consideration is also given to ways that UN agencies should incorporate principles for gender awareness, mainstreaming and balance in their own personnel and programming practices, noting that the reform of these UN practices is critical to the effective implementation of future assistance. The report specifically includes information on, *inter alia*: background to the interagency gender mission; the principle-centred approach to gender in Afghanistan; the socio-economic environment — health, food security, water, sanitation and environment, education, employment and income-generation programmes; the rights of women at risk; governance; and UN practices. Proposed guidelines and related indicators for implementing the principle-centred approach are also included.

The overall objective of the Mission was to help field operations clarify the context, principles and goals of their work with reference to the principle-centred approach toward gender. The Mission was specifically mandated to: assess the gender situation in Afghanistan; propose practical, field-oriented guidelines to address gender concerns in the implementation of assistance programmes; recommend a code of conduct for all UN, implementing and partner agencies and groups working in Afghanistan; establish key indicators in selected major assistance sectors; and, recommend monitoring and accountability mechanisms for reaching assistance goals.

The report recalls that the principle-centred approach, intended to guide UN operations in Afghanistan, was adopted in the form of recommendations by the Executive Committee on Humanitarian Affairs (ECHA) of the UN, in June 1997. The ECHA also endorsed the establishment of an ad hoc Interagency Task Force on Gender in Afghanistan, under the leadership of the Secretary-General's Special Adviser on Gender Issues and Advancement of Women. The approach includes nine general directives: (a) life-sustaining assistance activities will include all Afghans in need, including women and men; (b) the rehabilitation of Afghanistan's socio-economic infrastructure must benefit women and men equally in participation and results; (c) community-based rehabilitation must benefit women and men equally in participation and results; (d) the Taliban will be urged to guarantee the security of women engaged in assistance activities, and not prohibit their participation on the basis of security concerns; (e) UN agencies will not engage in institution-building until discriminatory practices cease; (f) UN agencies will maintain discussions with the Taliban with a view toward bringing about their adherence to the principles of the Universal Declaration, so that institution-building will be possible at a later date; (g) UN agencies will be sensitive to cultural practices, sensibilities and approaches toward these issues in urban and rural areas; (h) UN agencies will strive to ensure that all staff will be allowed to work effectively, securely and in accordance with their expertise; (i) UN and implementing agencies will undertake to convey a consistent approach to these issues with the Taliban, and UN agency heads will not offer unilateral declarations of UN human rights practices and principles. The approach was intended to enable the continuation of life-sustaining, immediate survival and other humanitarian activities, while, at the same time, recognizing that selective disengagement of some UN agencies from some institutional assistance programmes might be necessary.

The report states that the principle-centred approach can be applied in three different ways, each with related problems, namely:

- ♦ strict application: requiring that programmes be ended if "equal participation and benefit" is not possible; applying principles in this way has adversely affected the people of Afghanistan — and, in particular, women and girls — by removing assistance specifically because women cannot participate in certain programmes — either at all or at parity with men;

the discriminatory policies of Afghan authorities have not (or have not necessarily) been altered in response to this form of conditionality;

- flexible application: emphasizing the alleviation of suffering and concentrating on immediate survival needs and on selected longer-term rehabilitation assistance – without the imposition of any conditionality; called “business as usual”, the method appears to offer assistance without regard to changing the behaviour of authorities so that rights are promoted and protected; and
- field-oriented application: applying the principles within the context of a practical, people-centred approach to assistance; “equality” is interpreted as a process – within strict time limits – by which women and girls would gain equality in participation and benefits, although the interpretation of equality would depend on circumstances and the creative implementation of assistance programmes; when and where discrimination remains a deliberate policy of the authorities, however, conditionalities would be imposed.

The Mission recommended the field-oriented application as the most fruitful way to implement the principle-centred approach but also noted that it requires not only continuing dialogue among agencies, participants, beneficiaries and authorities, but also greater flexibility delegated to field staff so that its own assessments can be used to adjust projects and programmes.

Socio-economic conditions are noted as including: at any one time, thousands of internally displaced persons living away from their homes and lands; more than 2 million refugees outside the country’s borders; development of a pattern of cross-border migration as fighting shifts from area to area; when last calculated, the per capita income was estimated to be US\$280.00; according to the Human Development Index (HDI), and the Gender Disparity Index (GDI), the maternal mortality is ranked as the second highest in the world – women are known to have up to 22 pregnancies with average live births estimated to be 6.9; only 12 per cent of women have access to even the most basic health care; ten million landmines and other unexploded ordnance cause at least 10 people to die or be injured daily; infrastructure in most of the country – ranging from rural irrigation to urban sanitation systems, and transport and communications systems in all regions – has been destroyed, or is in only a rudimentary stage of recovery; the burqa, a traditional dress code, has been imposed on all women; women’s freedom of movement has been restricted; and, there are prohibitions on women’s access to health and education facilities as well as bans on their working in agriculture and livestock production.

The report states that the situation of girls and women in Afghanistan is defined by two primary factors – deprivations caused by continuing war, and policies directed toward the removal of women from public life, and by two secondary factors – traditional customs that often

reinforce their secondary status, and assistance programming that fails to mainstream women. The cumulative result is to reduce the capacities, powers and rights of women to define the conditions of their existence in a society that is already profoundly at risk. The Mission found that women were unable to enjoy even the most basic rights as set out in various human rights instruments, namely: civil and political rights, the right to education, employment, health, movement and personal security, the right to hold and dispose of property, and freedom of association. The report states: the most obvious effects of Taliban policies are edicts that ban women from meeting in public places; women are marginalized in virtually all sectors of life, from the workplace to the marketplace; the consequent psychological and social deprivations are compounded by their exclusion from programmes that assist in the rehabilitation of the country.

Under conditions in which the rights of women are violated at almost every turn, the international assistance community has been unable either to redress specific grievances or find ways to engage Afghan communities on those rights issues that require changes of attitude, institutional response and political will.

With regard to UN practices, the report notes, *inter alia*: the absence of gender sensitivity and awareness creates special problems in a hardship duty station like Afghanistan; UN working environments in-country are not gender sensitive – attitudes toward female staff are neither supportive nor co-equal, and expectations in this regard are vague or absent; women-specific projects exist, but there is little awareness that, as mandated by ECOSOC, gender is to be mainstreamed in all projects and programmes; many agencies do not address gender concerns in the design, implementation or monitoring phases of their work; no projects had been undertaken to make a gender perspective explicit, viz. the impact on women and men had not been anticipated, measured or analysed in any phase of project development or execution; few agencies or individuals were aware of the General Assembly’s goal of filling 50 per cent of professional staff with women by the year 2000 and those that are aware of it seem to ignore its application in the field; at the present time, 100 per cent of heads of agency/chiefs of mission and their deputies are men, and no office had the 30 per cent that is deemed a critical mass of female international staff; with regard to Afghanistan, achieving these goals is not simply symbolic; in order for UN programmes to be implemented effectively, female international staff play critical roles, since they provide vital – and often, unique – links to the community; and poor coordination inhibits the development and implementation of appropriate gender policies and practices.

The Mission concluded, *inter alia*, that:

- the condition of the Afghan people is the result of long years of deprivation, war, and competing traditions and cultures; this situation has been compounded by the policies and behaviour of controlling authorities; for this combination of reasons, changing

- attitudes and behaviour will take a long period of time and effort;
- ♦ the burqa is not considered a major problem for most Afghan women with whom the Mission spoke, but is treated as such by many assistance workers in the country, agency personnel at headquarters and sometimes, opinion-makers outside the country;
 - ♦ in the absence of customary interlocutors in a central government, assistance agencies have been at a loss and have not pursued opportunities creatively in localities;
 - ♦ recent edicts appear to have had fewer direct and pernicious effects in rural areas than in urban localities, but assistance programming has not taken advantage of the programming opportunities that a less restrictive atmosphere may present;
 - ♦ women are often viewed as passive beneficiaries rather than active participants in assistance, by agencies, NGOs and Afghan authorities alike, and their participation in decision-making is very limited;
 - ♦ in policy terms, there is little understanding of the short or long-term goals of gender mainstreaming in assistance programmes, and equally little understanding of the crucial relationship between mainstreaming, on the one hand, and the need for transitional women-specific programming on the other;
 - ♦ although women have customarily had less access to health care services than men, edicts restricting women's work have adversely affected the delivery of health services; where these edicts have been reversed, major obstacles to female health care remain, including the interruption of training of female physicians, the reduced number of female practitioners due to migration, and the absence of health care infrastructure to meet women's needs; rehabilitating the health care infrastructure is as critical a need as providing emergency care;
 - ♦ reproductive health care needs — which constitute 30 to 40 per cent of women's health care problems — are largely ignored in assistance programmes; traditional preferences for the survival of sons has reduced the value of life for women and girls and increased the disease burden of women;
 - ♦ educational opportunities for girls and young women are sharply constrained; traditional low school enrolments due to the favouring of sons has been compounded by recent bans on girls' education; the disparity between female and male literacy rates is therefore growing; bans on female employment have reduced the capacities of a seriously compromised education system;
 - ♦ edicts banning women's work and limiting their movement and free association violate their human rights, and as a corollary, threaten their economic well-being and contributes to the decline in national human capital resources;
- ♦ UN agencies and their implementing partners remain uncertain about their roles in promoting gender equality; there is considerable difference of opinion, and noticeable tension among these partners;
 - ♦ the principles that should frame gender concerns in assistance are not formulated clearly or consistently;
 - ♦ despite the attention paid to discrimination against women, and lip service to their importance in rehabilitation and development assistance, most programmes and projects ignore women at all stages of their design and implementation; women-specific projects are not designed in consultation with women; assistance has paradoxically tended to lock women into traditional and unchanging roles while simultaneously raising expectations about the prospective success of projects;
 - ♦ UN staff are notably unprepared to confront the challenges of reversing gender discrimination; few agencies ensure accountability for gender sensitivity or reward responsiveness to gender concerns;
 - ♦ the recruitment of international women staff to serve in Afghanistan is undertaken in a disjointed and contradictory manner, noting that Afghan women can work only where there are international women staff; the practices of various agencies concerning the segregation of UN premises — seemingly in response to edicts — contravene agreements on privileges and immunities under international law; despite a UN system-wide effort to recruit, train and place senior female staff, many agencies working in Afghanistan have ignored these requirements; and
 - ♦ the recruitment of women UN Volunteers (UNVs) should only be undertaken where there are one or more senior international women staff members on a gender-balanced team since UNVs can neither supervise others nor take major decisions in accordance with the terms of their contract; under no circumstances should UNVs be used as substitutes for professional international women staff.
- The Mission produced a number recommendations, including that:
- ♦ the UN and its partners require a consistent gender policy for working in Afghanistan; an interagency mechanism for coordination and collaboration be created at the field level to monitor the implementation of the gender policy and related activities;
 - ♦ the importance of the principle-centred approach to gender be underscored by a field-oriented application that emphasizes practical, people-centred, process-driven assistance
 - ♦ each agency prepare a gender action plan, including mechanisms for accountability, monitoring and evaluation, and the allocation of human and financial resources;

- ♦ the UN system should appoint a Principal Gender Adviser in the Office of the Resident Coordinator to coordinate the preparation of an overall gender action plan and to assist agencies to develop strategies for gender mainstreaming in all programmes;
- ♦ a Human Rights Adviser be appointed as quickly as possible in consultation with the Office of the High Commissioner for Human Rights, to work with the Resident Coordinator and in close collaboration with the Gender Adviser;
- ♦ time-bound targets to increase the recruitment and placement of women, particularly at senior levels, be set and monitored;
- ♦ gender training — targeted at both men and women — be a mandatory, continuous effort, and include technical support during the preparation and implementation of projects and programmes; training also be conducted in the areas of (a) Afghan history, politics, culture and language and, (b) team-building and interpersonal communication skills;
- ♦ the UN Population Fund (UNFPA) resume its activities on the ground in Afghanistan, given the high incidence of maternal mortality, the sizeable proportion of women's reproductive health problems and the widespread need for basic education in such areas as sanitation, health and child care, pre- and post-natal care;
- ♦ income-generation projects be integrated into overall programming, and include technical and entrepreneurial skills training;
- ♦ educated rural women be actively recruited through incentive programmes for education projects, including teaching and monitoring food distribution, for example;
- ♦ in the absence of any current system of rational long-term planning in any sector by local authorities, UN agencies assist the authorities to develop short- and long-term sectoral plans; and
- ♦ joint technical committees in all assistance sectors — especially health and education — be established and supported to encourage continuing dialogue with Afghan authorities and steps taken to ensure that gender and human rights are included as cross-cutting issues for each committee.

The Mission's proposed guidelines and indicators for implementing the principle-centred approach address such areas and issues as: equal and safe access for women and men to food, health care, water, taking into account local traditions; provision of services to women and adolescent girls in order to meet their reproductive health needs; availability of female staff/service providers to meet the needs of women and girls; participation of vulnerable communities (IDPs, women and men, refugees) in camp management; rehabilitation of socio-economic infrastructure, rural and urban; equal shares of humani-

tarian assistance to women and men; women's participation in identification and formulation of projects — in equal proportion and considered of equal value as men's direct participation in project implementation; steps to ensure that women benefit directly in food distribution, improved nutrition, improved personal health, education and so on; negotiation mechanisms, vis-à-vis the authorities, to promote gender issues including women's security, participation and benefits; conditionality on providing assistance to hospitals for men, as long as comparable quality services are closed to women; conditionality on building schools for boys if schooling for girls is not allowed; conditionality on providing assistance to training for men as long as women are denied access to similar training; and, reconciliation of the UN principles and human rights with the values derived from local traditions and Islamic teachings in order to address gender issues with local authorities and communities.

Resolution of the Commission on the Status of Women

At its March 1998 session the Commission on the Status of Women (CSW) adopted by consensus a draft resolution (E/CN.6/1998/12, Draft Resolution I) on the situation of women and girls in Afghanistan. The CSW commended the resolution to the Economic and Social Council for adoption. The CSW, *inter alia*: expressed deep concern over continuing and substantiated reports of violations of the human rights of women and girls, including all forms of discrimination against them, particularly in areas under control of the Taliban; noted violations have included restrictions upon movement, denial of equal access of women to health care, prohibition of most forms of female employment, restrictions upon education for women and girls, the closing of girls' schools, and severe limitations upon the enrolment of females in institutions of higher education and upon their access to humanitarian assistance; welcomed the ongoing work of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Afghanistan and the focus given to violations of the human rights of women and girls, especially in territories under the control of the Taliban faction; also welcomed the Secretary-General's decision to send a gender mission to Afghanistan; noted the report of the Special Adviser to the Secretary-General on Gender Issues and Advancement of Women on her visit to Afghanistan in November 1997; expressed appreciation for the international community's support of, and solidarity with, the women and girls of Afghanistan; condemned the continuing violations of the human rights of women and girls, including all forms of discrimination against them, in all areas of Afghanistan; called upon all parties within Afghanistan to recognize, protect, promote and act in accordance with all human rights and fundamental freedoms, regardless of gender, ethnicity or religion, and to respect international humanitarian law; strongly urged all of the Afghan factions to end discriminatory policies and to recognize, protect and promote the equal rights and dignity of women and men, with special respect to

the implications of discriminatory policies for the distribution of aid; appealed to all states and to the international community to ensure that all humanitarian assistance to the people of Afghanistan integrates gender concerns and actively attempts to promote the participation of both women and men and to promote peace and human rights; encouraged the continuing efforts of the UN, international and non-governmental organizations and donors to ensure that all UN-assisted programmes in Afghanistan are formulated and coordinated in such a way as to promote and ensure the participation of women in those programmes, and that women benefit equally with men from such programmes; welcomed the establishment of the ad hoc Inter-Agency Task Force on Gender in Afghanistan under the leadership of the Special Adviser to the Secretary-General on Gender Issues and Advancement of Women; encouraged Member States to make particular efforts to promote human rights for women in Afghanistan; and requested the Secretary-General to ensure that reports of future gender missions are made available to the Commission on the Status of Women.

The same resolution was adopted by the Economic and Social Council at its June 1998 session (1998/9).



BAHRAIN

Date of admission to UN: 21 September 1971.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Racial Discrimination

Acceded: 27 March 1990.

Bahrain's initial and second through fourth periodic reports were due 26 April 1991, 1993, 1995 and 1997 respectively.

Reservations and Declarations: Article 22.

Torture

Acceded: 6 March 1998.

Reservations and Declarations: Article 20; article 30, paragraph 1.

Bahrain's initial report is due 4 April 1999.

Rights of the Child

Acceded: 13 February 1992.

Bahrain's initial report was due 12 March 1994.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on:

(E/CN.4/1998/44, paras. 4, 5, 8, 19, 21 ;

E/CN.4/1998/44/Add.1, Opinion No. 15/1997)

The main report simply notes that an urgent appeal and other cases were sent to the government and the government did reply. No details of the cases were provided. The addendum to the main report contains opinions that were adopted by the Working Group (WG) on specific cases.

Opinion No. 15/1997 concerned 33 minors who had been detained between July and November 1996 under the 1974 State Security Law, article 1, which reportedly provides for administrative detention without charge or trial for up to three years. The boys were arrested in connection with protests to mark the first anniversary of a hunger strike undertaken by a jailed member of the dissolved Parliament. Information indicated that the boys had not resorted to or incited violence. The detained minors — including a boy aged 11, two boys aged 13, two boys aged 14 and several others aged between 15 and 18 — were allegedly held incommunicado, denied access to their families and doctors, and were at high risk of torture.

The government's reply to the WG's communications described the allegations as the "recognisable product of the terrorists' propaganda that should be treated with extreme caution". It further stated that: eight of the boys had not been detained arbitrarily but that issues concerning their detention, trial and release were determined by due process of law; four of the others were released; and there was no record that the remaining 21 persons had ever been detained or held in custody. The government also provided details on the rules applicable in Bahrain for the detention of children under 15, and described its cooperation with the International Committee of the Red Cross (ICRC).

In its opinion, the WG restated its previous conclusion that the application of the State Security Law is liable to cause grave violations of the right to a fair trial. It noted the government's reply failed to provide any information about the present legal status of the eight persons whom the government confirmed to be in detention. As a result, it was not known whether they had been tried and, if so, what charges had been brought against them and what sentences were handed down. The WG decided that, with regard to the eight minors, the detentions were arbitrary. The other 25 cases were kept pending.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 14, 17, 32, 36; E/CN.4/1998/68/Add.1, paras. 25–28)

Cases were transmitted to the government regarding deaths in custody and excessive use of force against participants in demonstrations. The cases involved: deaths resulting from a beating by members of the security

forces during an operation to disperse peaceful gatherings and deaths in police custody as a result of lack of medical care. The government replied to several communications sent by the Special Rapporteur during 1996, stating: the person alleged to have died in a military hospital some hours after being shot by security forces had in fact died in a private hospital as a result of a heart attack which occurred at home, and the security forces had no connection with her death; the death was not the result of injuries inflicted by security forces when they intervened in a peaceful demonstration but rather of an epileptic seizure following a known history of epilepsy and, further, the person named had not participated in a demonstration in Daih.

Independence of judges and lawyers, Special Rapporteur on the: (E/CN.4/1998/39, paras. 17, 19, 33–34)

The Special Rapporteur (SR) noted that the government requested clarification on the passage in his report to the 1997 Commission on Human Rights (E/CN.4/1997/32, para. 76) which expressed concern that “the trials before the State Security Court violate article 14 of the International Covenant on Civil and Political Rights owing to the apparent lack of due process in the Court”. The SR informed the government that serious allegations had been received concerning the lack of due process within the State Security Court. The information asserted that: defendants are not allowed access to legal counsel until they are brought to the State Security Court; defence lawyers do not have access to court documents, nor do they have adequate time to prepare a defence for their clients; defence lawyers are given limited access to their clients during the trials before the State Security Court; and the sessions before the Court are held in camera. The SR also noted that article 7 of the Criminal Security Court Law provides that the verdict passed by the court is final and no provision is made for appeal unless the verdict has been passed in the absence of the accused, in which case there is an appeal procedure in place. The information also asserted that, of the three State Security Courts, two are presided over by members of the Al-Khalifa family which governs Bahrain. The SR acknowledged that the State Security Court Law does in fact provide for procedural guarantees that address the allegations contained in the communications sent to the government; however, he stated that the allegations concerning specific cases referred to procedural guarantees which were not followed by the State Security Court.

Racism and racial discrimination, Special Rapporteur on: (E/CN.4/1998/79, paras. 38)

The report refers to information received from a non-governmental organization concerning acts of discrimination and xenophobia, mostly encouraged by legislation which discriminates against Shiites in the country. The Shiites are reportedly excluded from all positions of importance in the state, and account for only 23 per cent of the best-paid civil servants. Shiite students are said to be kept out of the university, even when they have passed the necessary examinations.

Torture, Special Rapporteur on: (E/CN.4/1998/38, paras. 25; E/CN.4/1998/38/Add.1, paras. 21–24)

One individual case and three urgent appeals were sent to the government, which responded to the urgent appeals. The urgent appeals related to arrests, followed by incommunicado detention and beatings during interrogation. The government denied the allegations of mistreatment and reported that, in one case, the person concerned had been released on bail. The case involved the arrest of an individual and his interrogation by two named officers at the Adlya Criminal Investigation Department about his alleged involvement in political activities. During the interrogation, the person was reportedly suspended by the hands, punched in the stomach, subjected to *falaqa* (beatings on the soles of the feet) and threatened with electric shocks and the extraction of fingernails. The information received also indicated that the man and four other detainees were kept in a toilet during a visit by the ICRC and not let out until the delegation had left.

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 arrest and incommunicado detention of eight women, with the associated risk of torture. The report notes that this was possibly in connection with their public demands for the release of political prisoners. Two of the detained women were married to political prisoners.



BANGLADESH

Date of admission to UN: 17 September 1974.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Economic, Social and Cultural Rights

Acceded: 5 October 1998.

Declarations: Articles 1, 2, 7, 8, 10 and 13.

Racial Discrimination

Acceded: 11 June 1979.

Bangladesh's seventh through 10th periodic reports were due 11 July 1992, 1994, 1996 and 1998 respectively.

Discrimination against Women

Acceded: 6 November 1984.

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

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

Torture

Acceded: 5 October 1998.

Reservations: Article 14, paragraph (1).

Rights of the Child

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

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

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

THEMATIC REPORTS**Mechanisms of the Commission on Human Rights****Disappearances, Working Group on enforced or involuntary:** (E/CN.4/1998/43, paras. 102–104)

No new cases of disappearance were transmitted to the government of Bangladesh. The one outstanding case was retransmitted, updated with new information from the source. The case, which reportedly occurred in 1996, concerns the organizing secretary of the Hill Women's Federation — an organization which reportedly campaigns for the rights of the indigenous people in the Chittagong Hill Tracts — who is said to have been forcibly taken from her home in the Chittagong Hill Tracts by security personnel before the general elections of June 1996. Information indicated that her abduction may have been linked to her support of a parliamentary candidate representing the interests of indigenous people.

The report recalls that the Minister of Home Affairs had established a three-member committee to carry out an investigation into the case and to report to the Ministry. The committee was also to suggest legal steps to prevent such incidents in the future. At the time the report was prepared, no new information had been received from the government with regard to the case.

Independence of judges and lawyers, Special Rapporteur on the: (E/CN.4/1998/39, paras. 15, 19, 35–37)

An urgent appeal was sent to the government regarding an arrest on a remand order and reports that: the person concerned was held for five days, during which time she was reportedly tortured to make her confess; the woman was brought before the Chief Metropolitan Magistrate without the presence of her attorney; the charges against her were unclear; and, attempts had been made to manipulate the legal proceedings, for example by misinforming her defence attorney of the dates when she was to appear in court and by denying him access to documents relating to the case. The government responded by stating that: the arrest had taken place in the presence of the woman's attorney; she was prosecuted for possession of illegal arms; the woman was held at a police remand centre for five days and then brought before the Chief Metropolitan Magistrate, who granted further remand for four days; the allegation of torture was false and unfounded; an investigation had established the

woman's involvement in a criminal conspiracy to kill the then President of Bangladesh, Bangabandhu Sheikh Mujibur Rahman, and 32 others, including pregnant women and children; the woman was never charged with any subversive act against the government and never detained under the Special Powers Act 1974; and, the woman had been very well treated in jail and was allowed to receive visitors and lawyers.

Sale of children, child prostitution, child pornography, Special Rapporteur on the: (E/CN.4/1998/101, paras. 140)

In the section on education as a catalyst to raise self-awareness among children and improve their ability to protect themselves, the report refers to an initiative by the government, assisted by UNICEF. This entailed providing support to 35 local NGOs active in a range of alternative programmes for working children, to use their experiences in an education programme for over 350,000 working children.

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

The report notes that preventive detention is frequently used in Bangladesh, through laws that provide for "safe custody" as a mechanism of "protection" for children and women who are victims of certain crimes or circumstances that leave them with no alternative place to go. In Bangladesh, those found in safe custody are usually: girls marrying outside their religious community or against the will of their parents; rape victims; women and girls rescued from brothels; destitute women forcibly evicted from their homes as a result of domestic violence; victims of trafficking; and lost and mentally handicapped children. The Special Rapporteur (SR) stated that to imprison such women is manifestly unjust: it is not only a violation of their human rights since it discriminates on the basis of gender, but it places them at great risk of custodial violence. The report states that numerous cases have been recorded in which women in "safe custody" have been abused and, in some cases, killed.

Referring to custodial violence, the SR cited the case of a 16-year-old garment factory worker who was walking with her boyfriend near the town of Chittagong. Police arrested both on the grounds that a woman may not walk with a man to whom she is not married, despite the fact that there is no basis under Bangladesh law for such an arrest. The couple were first taken to a nearby police camp. The girl was subsequently transferred to another police station, where policemen raped her. The following morning, the victim was taken to a hospital emergency ward and, after the girl disclosed that she had been raped, a medical inquiry board was set up. When the case went to court the police requested that she be sent to "safe custody" and the court agreed. The girl remained in detention without access to a lawyer or visits by her friends or family, developed severe health problems, and died, allegedly from typhoid fever. The four policemen accused of raping the girl were acquitted by a trial court. The judge reportedly deplored the actions of government

lawyers who, in presenting such a weak case, effectively allowed the police to get away with custodial rape.



BHUTAN

Date of admission to UN: 21 September 1971.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Racial Discrimination

Signed: 26 March 1973.

Discrimination against Women

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

Bhutan's initial through fifth periodic reports were due 30 September 1982, 1986, 1990 1994 and 1998 respectively.

Rights of the Child

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

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

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on:

(E/CN.4/1998/44, paras. 4, 5, 19, 21)

The report notes that cases were transmitted to the government, one under the urgent appeal procedure, and that the government responded. No details of the cases were provided.

Torture, Special Rapporteur on: (E/CN.4/1998/38, para. 26; E/CN.4/1998/38/Add.1, paras. 25-28)

Three urgent appeals were sent to the government. One involved five persons, of whom four were monks at the Kheri Gompa monastery, arrested allegedly for supporting previously targeted political organizations. The government confirmed the arrest of the monks and gave assurances that their physical and mental integrity would be protected. There was no record of the arrest of the fifth person. The second urgent appeal related to the arrest of six persons who were subsequently shackled and subjected to daily public floggings. The government confirmed that the persons named had been detained but denied that shackles and flogging were used. The third appeal related to four individuals who were among 26 people arrested by the Royal Bhutan Police in connec-

tion with a peaceful demonstration. Information indicated that those arrested were chained in groups of four and forced to walk to a prison where they were subjected to a form of torture in which the thighs are pressed between two rods (chepua). The detainees were threatened with further torture if they did not cease their activities. The government confirmed the arrest of the four men named but denied the allegations of ill-treatment or torture. Specifically, the government denied that the prisoners had been chained and it gave assurances that torture is prohibited by law. The government stated that detainees have access both to a lawyer and to their relatives and that, in this case, the detainees had been brought before the Samdrupjongkhar District Court.



BRUNEI DARUSSALAAM

Date of admission to UN: 21 September 1984.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Rights of the Child

Acceded: 27 December 1995.

Brunei's initial report was due 25 January 1998.

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

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Religious intolerance, Special Rapporteur on:

(E/CN.4/1998/6, paras. 48, 50, 58, 63, 64)

The report refers to violations of freedom of religion and belief against all religions and all religious groups and communities except the official or state religion. It notes restrictions on non-Muslims in religious matters, such as the prohibition of any proselytizing of Muslims by non-Muslims, the prohibition on the import of non-Muslim religious material, restrictions on the teaching of the history of religions and other subjects related to religion in non-Muslim educational institutions and the requirement that Islam be taught there. The report also refers to refusal by the authorities to grant permission for the building, enlargement or renovation of non-Muslim places of worship.



BURMA

Date of admission to UN: 19 April 1948.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Discrimination against Women

Acceded: 22 July 1997.

Burma's initial report was due 21 August 1998.

Reservations and Declarations: Article 29.

Rights of the Child

Acceded: 15 July 1991.

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

COMMISSION ON HUMAN RIGHTS

Report of the Special Rapporteur

The mandate of the Special Rapporteur (SR) was established by the Commission at its 1992 session. The resolution adopted at the 1997 session defined the mandate as being to: establish or to continue direct contact with the government and people, including political leaders deprived of their liberty, their families and their lawyers; examine the situation of human rights in Burma; and follow any progress made towards the establishment of democratic governance, the lifting of restrictions on personal freedoms and the restoration of human rights. The Commission also called on the government to cooperate with it, in particular by ensuring the SR's access to the country, without preconditions. The SR for 1998 was Rajsoomer Lallah.

The State Peace and Development Council (SPDC), formerly the State Law and Order Restoration Council (SLORC), declined to invite the SR to make a visit during 1997. The report to the 1998 Commission (E/CN.4/1998/70) was therefore prepared without the benefit of a field mission and contains information on, *inter alia*: the reconstitution of SLORC as the SPDC, rights pertaining to democratic governance, extrajudicial, summary or arbitrary executions, arbitrary detention, torture and ill-treatment, women in public life, the situation of refugee women, and women and forced labour.

The SPDC was formally established in November 1997 to "ensure the emergence of an orderly or disciplined democracy" and to establish a "peaceful and modern State ... in the interest of all the national peoples". The report notes that the former top four SLORC leaders, Senior General Than Shwe, General Maung Aye, Lieutenant-General Khin Nyunt and Lieutenant-General Tin Oo, retained their positions within the SPDC and that 13 of the 14 individuals who are members of the Advisory Group to the SPDC are former members of SLORC.

The report acknowledges that a positive attitude had begun to emerge with respect to restrictions on political parties, especially in relation to the activities of the National League for Democracy (NLD) and its right to hold meetings. The report states, however, that the change is purely formal and limited in nature given that the authorities seem to continue to exercise virtually complete control over the venue of meetings, the agenda of the meetings and the number of people allowed to attend such meetings. Difficulties encountered by the NLD are noted, including that: security forces drove some 30 party members to a place about an hour from the capital, dropped them off in small groups and left them to make their way back to Rangoon; permission for meetings is strictly limited to the specific purpose for which the meeting is held and no other subject may be raised; the number of people allowed to attend meetings is specified and limited; and, individuals attending NLD meetings are monitored, registered and photographed, measures which the report characterizes as a restriction on the normal exercise of the basic freedom of assembly and personal freedoms.

On the situation of Daw Aung San Suu Kyi, the report states that, almost two years after her release from house arrest, serious restrictions remain in place relative to her freedom of movement and social and political activities; harassment and vilification of her are constant. The report notes that weekend addresses from her home were stopped, barricades have been erected in the street providing access to her home, and both she and the people who visit her are kept under constant police or military surveillance.

Among the ongoing violations in Burma, the SR's report notes, *inter alia*: the apparent absence of an explicit or systematic government policy of encouraging summary executions; the fact that despite the apparent absence of a policy, frequent allegations of arbitrary killings of civilians and insurgents by members of the Tatmadaw under a variety of circumstances continue to be received; the need for the authorities to conduct a high-level inquiry into alleged summary or arbitrary executions by members of the rank and file, bearing in mind that such acts could not have been committed without the orders of field superiors; and, continuing reports on constant harassment and arbitrary arrest and detention of NLD members and sympathizers on various charges under the Emergency Provisions Act of 1950, the Printers and Publishers Registration Law and the Officials Secrets Act. The SR further stated the decision of the government to commute death sentences passed between September 1988 to December 1992 to terms of life imprisonment. The report also notes: the International Committee of the Red Cross (ICRC) is still not allowed uninhibited access to prisons and places of detention; numerous allegations continue to be received related to acts of torture committed by soldiers, in particular against members of ethnic minorities in Shan and Mon states and in Tanintharyi division, including through forced portering, beatings, deprivation of food, water, rest and medical care; and, beatings by police during the student demonstrations in December 1996.

The report addresses the situation and status of women and welcomes the government's decision to ratify the Convention on the Elimination of All Forms of Discrimination against Women (the Women's Convention). Reference is made to the 1974 Constitution which contained provisions ensuring equality and non-discrimination. Recalling that the SLORC repudiated the 1974 Constitution, the report states that it does not appear that any law, decree, or order of a basic character was subsequently enacted to guarantee the rights of women. Following on this, the commentary on the status of women in specific areas or categories notes that: women who become politically active are harassed and arbitrarily arrested, especially those who belong to parties or movements in opposition to the regime; there appear to be no women in the SPDC, in the Cabinet, or in the 14-member Advisory Group; and, a number of meetings of the Central Women's Work Committee are reported to have taken place in the compound of Daw Aung San Suu Kyi in December 1997, indicating that women are active in the political field, at least in opposition. With regard to refugee women, the report notes that the situation of nursing mothers or women with young children is particularly harsh; there is no doubt that refugee women, particularly those on their own, are more vulnerable than men to exploitation and deprivation of rights at every stage of their flight; in recent years, increasing numbers of women — including young girls and the elderly, pregnant women and/or nursing mothers — have been forced to work on infrastructure projects and to act as porters in war zones; those women who are too weak for the strenuous work must hire another person or face a fine; while away, the women cannot work on their farms, which results in food shortages for the family; on the work site women, like men, risk exhaustion, accidents and lack of medical treatment and are also victims of many other serious human rights violations, such as beatings, rape and murder; and reports indicate that women have not only been used for forced portering but also as human shields and entertainment for soldiers, the latter often resulting in rape.

The concluding observations in the report are placed within the context of the SR's statements that there has been no change in the situation since the reports in 1997 to the General Assembly and the Commission on Human Rights. Extrajudicial, summary or arbitrary executions, the practice of torture, portering and forced labour — particularly in the context of development programmes and of counter-insurgency operations in minority-dominated regions — continue to occur. A number of points are then made including, *inter alia*, that: arbitrary arrest and detention take place on a wide scale in part because, under the laws in place, such violations are legal and may easily occur; there is no independent judiciary and a battery of executive orders criminalize many aspects of normal civilian conduct, prescribe enormously disproportionate penalties and authorize arrest and detention without judicial review or any other form of judicial authorization; because of both visible and invisible pressures, the people live in a climate of fear in which whatever they or their family members may say or do, partic-

ularly in the exercise of their political rights, involves the risk of arrest and interrogation by the police or military intelligence. The report notes that: NLD leaders cannot assemble in a group, cannot freely discuss, and cannot publish or distribute printed or video material, making it difficult to assume that open discussion and free exchanges of views and opinions can possibly take place unless they are in support of the military regime; there are clear violations in both law and practice with regard to freedom of movement and residence and the right to leave and re-enter one's own country; there are also severe, unreasonable and, in the case of the Muslim Rakhine population, racially based restrictions placed on travel inside the country and abroad. The report notes that the government's policy on internal deportations and forced relocations violates freedom of movement and residence and, in some cases, constitutes discrimination based on ethnic considerations; and the laws related to citizenship appear to be discriminatory on the basis of ethnicity, fail to ensure equality before the law, and do not provide special measures of protection to which children are entitled.

The report recommends, *inter alia*, that:

- ♦ steps be taken to allow all citizens to participate freely in the political process, in accordance with the principles of the Universal Declaration and to accelerate the process of transition to democracy, in particular through the transfer of power to the democratically elected representatives;
- ♦ state institutions be constituted in such a way as to ensure that the executive authorities are accountable to the citizenry in a clear and meaningful way;
- ♦ steps also be taken to restore the independence of the judiciary and to subject the executive to the rule of law and render unjust and unjustifiable actions justiciable;
- ♦ all necessary measures be taken to accelerate the process of transition to a democratic order and to involve the representatives elected in 1990 in that process in a meaningful way;
- ♦ genuine and substantive discussions take place without further delay between the present military regime and the leaders of the NLD and other political leaders who were elected in 1990, including representatives of the ethnic minorities;
- ♦ all political detainees, including elected political representatives, students, workers, peasants and others arrested or detained under martial law for the exercise of their normal civil and political rights after the 1988 and 1990 demonstrations, or as a result of the National Convention, be immediately released; and that the government ensure that there are no acts of intimidation, threats or reprisal against them or their families and take appropriate measures to compensate all those who have suffered arbitrary arrest or detention;

- ♦ all laws rendering violations of human rights legitimate be repealed and the laws be brought into conformity with international standards regarding the rights relating to protection of physical integrity — including the right to life, protection against disappearance, prohibition of torture and ill treatment, humane conditions for all persons under detention and minimum standards of judicial guarantees;
- ♦ particular attention be given to conditions in the country's prisons and all the necessary steps taken to allow international humanitarian organizations to have access to and to communicate freely and confidentially with prisoners;
- ♦ urgent steps be taken to facilitate and guarantee the enjoyment of the freedoms of opinion, expression and association, in particular by decriminalizing the expression of opposition views and by relinquishing government controls over the media and literary and artistic works;
- ♦ restrictions relating to the entry and exit of citizens into and out of the country, as well as their movement within the country, be abolished;
- ♦ all discriminatory policies which interfere with the free and equal enjoyment of property cease and adequate compensation be paid to those who have been arbitrarily or unjustly deprived of their property;
- ♦ the government fulfil its obligations under ILO Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize and guarantee by law the right of trade unions to exist and operate freely; the government comply with its obligations under ILO Convention No. 29, prohibiting the practice of forced labour and urgently take appropriate measures to repeal the offending legal provisions under the Village Act and the Towns Act to halt the practice of forced labour;
- ♦ urgent steps be taken to put an end to the enforced displacement of persons and to create appropriate conditions to prevent the flow of refugees to neighbouring states; in those cases where the relocation of villagers becomes necessary that: (a) they be carried out in circumstances which conform with international norms; (b) proper consultations take place with the villagers, including the payment of appropriate compensation, reviewable by independent courts; and (c) measures be put in place to ensure that food, housing facilities, proper medical care and social amenities, including appropriate arrangements for the education of children, are provided in adequate measure in the interest of the displaced persons;
- ♦ the SPDC conduct a high-level inquiry, with broad terms of reference, into the great number of allegations of summary or arbitrary executions and other grave human rights violations, particularly in areas where ethnic minorities live or to which they are being forcibly displaced, specifically to gauge the extent of the violations and to propose remedial measures;
- ♦ in order to promote repatriation of Muslims and other minorities, the government create the necessary conditions of respect for their human rights, including by ensuring in law and practice their safe return and resettlement in their villages of origin;
- ♦ the laws relating to citizenship be revised in order to ensure that they have no unfavourable incidence on the exercise of civil and political rights and are consistent with generally accepted norms, in particular through the removal of all discriminatory features based on ethnicity, legal status and the adverse impact on the right of children to have a nationality; measures be adopted to ensure that citizenship can be obtained without burdensome and unrealistic administrative procedures and requirements;
- ♦ military and law enforcement personnel, including prison guards, be thoroughly trained and informed as to their responsibility to treat all persons in full accordance with international human rights norms and humanitarian law and, further, that such standards be incorporated in law, including the new constitution to be drafted;
- ♦ the government subject all officials committing human rights abuses and violations to strict disciplinary control and punishment and put an end to the culture of impunity that prevails at present in the public and military sectors;
- ♦ the government consider accession to the International Covenants on Human Rights, the Convention against Torture and the two Protocols Additional to the Geneva Conventions of 1949 and, in the meantime, ensure that the principles set out in these instruments are applied; and
- ♦ the government take early steps to amend all existing laws, orders or decrees in order to ensure that its international obligations with regard to the rights of women are effectively implemented, including by the adoption of administrative and other measures as well as the allocation of sufficient funds to necessary programmes; and, in the drafting of a new constitution, take steps to ensure that the rights of women with regard to equality and non-discrimination are guaranteed by the enactment of basic provisions.

Response of the government

The government prepared a memorandum on the situation of human rights in Burma (E/CN.4/1998/150) which was circulated as an official document at the 1998 session of the Commission. The subjects covered in the memorandum included: the emergence of a "new and enduring" constitution; developments in the national reconsolidation process; efforts to combat drugs and drug trafficking; developments in relations with political parties; participation in regional affairs; and cooperation with the United Nations.

Among the many points made were that: the government does not, as a matter of policy, condone human rights violations; the most essential and fundamental right is the right to food, clothing and shelter; priority continues to be given to the promotion of time-honoured values and traditions and to the rights of society as a whole; even though the plenary of the National Convention is not in session, the basic principles related to the question of power-sharing are being reviewed by "responsible persons"; unity among all national races (encompassing 135 ethnic groups) is of paramount importance for the maintenance of independence, preservation of sovereignty and the development of the nation; and the development of the border areas is one of the government's top priorities. According to the government, improvements have been made in such fields as transportation and communications, education, health, energy, agriculture, mineral exploration and mining, trade, and cooperatives and housing; the alleviation of poverty and the eradication of poppy cultivation remain priorities in the border regions; of the 16 armed groups, 15 have returned to the "legal fold"; and the government continues to extend an invitation to the Karen National Union (KNU) to return to the legal fold. The government stated that its national strategy to combat drugs and drug trafficking has two main components: first, to designate drug eradication and prevention a national duty; and second, to eliminate poppy cultivation by improving the standard of living of the national races. The government stated that: political parties may be established in conformity with the law; political parties with legal standing may carry on their work within the limits set in existing laws and the rules and regulations established by the government; and, public assemblies, large and small, are allowed unless they are used "as an excuse for political elements to manipulate large crowds and create chaos in the streets." The government stated that there have been no restrictions on Aung San Suu Kyi — social or otherwise — meeting with members of the NLD or foreign diplomats and the NLD continues to refuse to take part in a constructive political process. The government noted that it pursues an independent and active foreign policy; Burma [as Myanmar] was admitted as a full member to ASEAN in July 1997; and the government has conducted a dialogue with the UN since 1994 aimed at discussion of issues of mutual interest.

On the question of field missions, the government asserted that the reports of the previous SR, Yozo Yokota, only reproduced unfounded and unproved allegations derived from dubious politically motivated sources; as a consequence, the situation in the country was unjustly and negatively drawn and the authorities thus had to assess the situation as to whether visits by the SR would be beneficial to the country at this time. The government also asserted that with those and other points in mind there existed no valid ground for introducing a resolution on the situation of human rights in Burma at 1998 session of the Commission.

Resolution of the Commission on Human Rights

The 1998 Commission adopted by consensus a resolution on the human rights situation in Burma (1998/63). The Commission, *inter alia*: welcomed the cooperation extended by the government to the UNHCR and international NGOs with regard to voluntary repatriation and reintegration of returnees from Bangladesh; welcomed accession to the Women's Convention; welcomed the cooperation of the government with the Secretary-General's Special Envoy; welcomed the remission of sentences for some long-term prisoners and the holding of the Party Congress of the NLD in September 1997; noted the contact between the government and the NLD but regretted the failure of the government to enter into a substantive political dialogue with Aung San Suu Kyi; expressed concern at continuing human rights violations, including summary/arbitrary execution, enforced disappearance, torture, abuse of women and children by government agents, arbitrary seizure of land and property, violations of the freedom of movement of people and goods, oppressive measures against ethnic and religious minorities, and widespread use of forced labour; expressed concern at severe restrictions on the freedoms of opinion, expression, assembly and association as well as restrictions on access to information; expressed concern at the absence of due process of law and the practice of arbitrary arrest and detention, the violations of the rights of women — especially refugees and internally displaced women as well as women belonging to ethnic minorities or the political opposition, and the continuing violations of children's rights and the rights of persons belonging to minorities, including the systematic programmes of forced relocations; expressed concern at the government's refusal to cooperate with the SR, the fact that most of the representatives elected in 1990 are still excluded from participating in the meetings of the National Convention, that one of the objectives of the National Convention is to maintain the participation of the armed forces in a leading role in the future political life of the country, and the restrictions placed on political leaders, including Aung San Suu Kyi.

The commission called on the government to: guarantee an end of violations of the right to life and integrity of person; take urgent and meaningful measures to ensure the establishment of democracy based on the 1990 elections; take all appropriate measures to allow all citizens to participate freely in the political process; improve the conditions of detention; cooperate fully and without conditions with the relevant mechanisms of the Commission and, in particular, the SR; continue to cooperate with the Secretary-General and his representatives, ensure the safety and physical well-being of all political leaders, including Aung San Suu Kyi; fulfil obligations under relevant international human rights instruments and consider becoming a party to the International Covenants on Human Rights as well the Convention against Torture and the Convention on the Status of Refugees; fulfil its obligations under ILO Conventions No. 29 and No. 87; end the enforced displacement of persons and other

causes of refugee flows to neighbouring countries; fulfil its obligations to end the impunity of perpetrators of human rights violations, including members of the military; and to investigate the circumstances that led to the death of James Leander Nichols while detained and to prosecute those responsible. The commission extended the mandate of the SR for a further year.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on:
(E/CN.4/1998/44, paras. 4, 5, 19, Annex III)

The report notes that cases were transmitted to the government and that an urgent appeal was sent on behalf of 300 persons. No details of the cases were provided.

Opinion No. 20/1997 was adopted by the Working Group (WG) at its November/December 1997 session related to the re-arrest of a member of the National League for Democracy (NLD) in July 1996 on a charge of recent activities in support of the opposition, possibly related to membership in the NLD. The person had been previously arrested, in August 1993, and sentenced to 20 years in prison on charges of destabilizing national unity, printing and publishing material without official registration, and improper use of official secret documents. The WG, by its Decision No. 13/1994, had declared his previous detention to be arbitrary.

The government provided the WG with details concerning the charges under which the individual had been sentenced to 20 years' imprisonment and the law under which he was granted amnesty — section 401 (1) of the Criminal Procedure Code — after he had given a solemn pledge to the authorities that he would henceforth abide by the law. The government stated that the man had not abided by his pledge and, as a consequence, the amnesty was revoked and he resumed serving the remainder of the original sentence.

The WG noted that the government did not specify the way in which the pledge was not honoured, what the activities were that led to the revocation of the amnesty, and in what way the activities constituted a violation of the pledge. The WG decided that the renewed detention, just like the first one, was linked to the fact that he peacefully exercised his right to freedom of opinion and expression, guaranteed by article 19 of the Universal Declaration. With that in mind the WG declared the deprivation of liberty to be arbitrary.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 14, 17, 39, 57, 63, 72; E/CN.4/1998/68/Add.1, paras. 283–288)

Cases addressed by the Special Rapporteur (SR) related to deaths due to attacks or killings by security forces, paramilitary groups or private forces cooperating with or

tolerated by the state, and violations of the right to life of women, refugees and villagers belonging to the Shan ethnic minority.

The report refers to attacks on refugee camps in Thailand by members of the armed forces and by members of the Democratic Karen Buddhist Army (DKBA), a Karen militia group reportedly backed by the government. The government replied that the armed forces never violated the territorial integrity of neighbouring countries. It also stated that it cannot be held accountable for the behaviour and activities of the Karen National Union (KNU) or its splinter group, the Democratic Kayin Buddhist Organization, both considered to be armed groups which remain outside the framework of the law.

Freedom of opinion and expression, Special Rapporteur on: (E/CN.4/1998/40, paras. 41)

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

Religious intolerance, Special Rapporteur on:
(E/CN.4/1998/6, paras. 48, 58, 63, 64)

The report refers to violations of the principle of non-discrimination in the matters of religion and belief involving discriminatory policies and/or legislation. It notes that Christians in the state of Chin are alleged to be victims of a discriminatory policy. Specific reference is made to information indicating that the army has tried to conduct campaigns to convert Christians to Buddhism and that, in one monastery, children were forced to repeat Buddhist prayers every day, with some parents being paid sums of money in exchange. Information was also received related to violations of the freedom to manifest one's religion or belief, as well as the freedom to dispose of religious property. In terms of the latter, the report refers to information that construction of a church was stopped by the authorities despite the fact that a building permit had been obtained.

Torture, Special Rapporteur on: (E/CN.4/1998/38, paras. 135–141; E/CN.4/1998/38/Add.1, paras. 249–267)

The Special Rapporteur (SR) reported that he continued to receive information indicating that the army (Tatmadaw) tortured and ill treated members of ethnic minorities in the Shan and Mon States and in the Tanintharyi (Tenasserim) Division. Persons forced to perform portering duties for the army, and villagers suspected of having links with armed opposition groups, were said to be most vulnerable to such practices. Porters unable to carry their required loads of supplies and ammunition were allegedly beaten repeatedly with bamboo sticks or rifle butts and deprived of food, water, rest and medical treatment. The SR had also been informed that a number of persons, who were forced by the army to perform unpaid labour on construction projects, were subjected to ill treatment, which included being held in chains and receiving inadequate food and medical care. The SR also received information reporting that a number of persons were beaten by the police during student demonstrations in Yangon in December 1996.

The government variously responded that: with respect to the student demonstrations, there had been no single incident leading to bloodshed; concerning the general allegations of the treatment of porters by members of the armed forces, civilian labourers were sometimes employed by the army for transportation of supplies and equipment over difficult terrain in remote areas when launching operations against armed groups; the law provided for the hiring of civilian labourers to assist the armed forces on active duty and such recruitment was done after consultations with the local authorities, based on three criteria – the civilians had to be unemployed, physically fit to work as porters, and a reasonable amount of wages had to be fixed and agreed upon before recruiting; civilian labourers were never required to accompany the troops to the actual scene of battle, neither were they exposed to danger; the respective military unit had the responsibility of paying wages and transport charges and providing accommodation, food and medical coverage for the hired labourers; there were also volunteer porters and professional porters who earned their living by offering their services; and, the porters were treated well by the armed forces.

Responding to allegations transmitted in 1996 related to abuses attributed to the Democratic Kayin Buddhist Army (DKBA), the government stated that: the DKBA was the fighting unit of the Democratic Kayin Buddhist Organization (DKBO), which broke away from the armed group Kayin National Union (KNU) in 1994; since the aspirations of the DKBO had revealed the sincerity of their wishes for peace and stability of the region and coincided with those of the government, the army had provided the necessary logistical support; while the DKBA launched its assault on the KNU headquarters, army units secured the rear with the aim of protecting nearby villages from attack by KNU remnants; armed clashes had broken out at times between the forces of the

KNU and the DKBO; since the government had not yet held any official peace talks with the DKBO, and as the DKBO had yet to return to the legal fold, the authorities had no control over the DKBO and could not be held responsible for the group's activities.

Individual cases and urgent appeals transmitted to the government involved, *inter alia*: members of the Akha ethnic minority, reportedly forcibly taken for portering work and subsequently abused, mistreated and, in the case of girls, raped; forced labour with iron bars shackled across the legs; beatings by police during student demonstrations in Yangon involving not only participants but onlookers; the arrest of trade union leaders and members of the NLD and concerns over possible ill treatment while in detention; and, torture during raids by soldiers on villages.

Toxic wastes and products, Special Rapporteur: (E/CN.4/1998/10/Add.1, paras. 2, "Comments received from States")

The addendum to the 1998 report of the Special Rapporteur (SR) summarizes the responses received from governments to information contained in the 1997 report.

The government first stated that illicit traffic of toxic or dangerous products and wastes does not originate in the country and that such trafficked products are not received. In response to allegations related to human rights violations in the context of the construction of a natural gas pipeline, the government stated that: the route selected for the gas pipeline is the one that poses the least threat to the environment and does not pass through any village; the two foreign oil companies involved in the project are actually helping the people living along the route of the pipeline by providing new economic opportunities for the villagers; the government, with the active participation of the people and together with the companies concerned, has undertaken to provide facilities for independent media persons and concerned officials from Western countries to make extensive tours of the areas in question; these sources have not supported any of the allegations related to human rights; and, reports of such violations are, therefore, unfounded and totally untrue, emanating from opponents aimed at denigrating the government and its armed forces.

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, paras. 30, 67)

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 states that sexual slavery also encompasses situations where women and girls are forced into "marriage". Information is cited indicating that women and girls in Burma have been raped and otherwise sexually abused after being forced into "marriages" or forced to work as porters or minefield sweepers for the military.

GENERAL ASSEMBLY

Special Rapporteur of the Commission on Human Rights

The Special Rapporteur's (SR) interim report on the situation of human rights in Burma (A/53/364) contains information on, *inter alia*: the exercise of civil and political rights; the impact of national law on human rights; rights pertaining to democratic governance; deaths in custody; forced labour; and minorities. The report is based on information received by the SR up to 30 August 1998.

The report notes the main concerns of the international community as being: failure of the government to complete the electoral process begun by the general elections of 27 May 1990 and to implement its commitments aimed at the establishment of a democratic order in the context of those elections; continuing deprivation of liberty of many political leaders; continuing extremely serious human rights violations; forced relocation and other violations of the rights of persons belonging to minorities, resulting in a flow of refugees to neighbouring countries; and continuing attacks by the military on ethnic groups. The report notes that, while the government has indicated that a visit by the SR "would be possible at an appropriate time", no authorization for such a visit has yet been given.

With regard to the impact of national law on human rights, the SR recalled that several laws criminalize, or adversely affect, freedom of thought, information, expression, association and assembly. The most commonly employed laws banning the enjoyment of civil and political rights and suppressing dissent against the regime have been the 1923 Official Secrets Act, the 1950 Emergency Provisions Act, the 1957 Unlawful Associations Act, the 1962 Printers' and Publishers' Registration Law, the 1975 State Protection Law (Law to Safeguard the State Against the Dangers of Destructive Elements) and Law No. 5/96 Protecting the Stable, Peaceful and Systematic Transfer of State Responsibility and the Successful Implementation of National Convention Tasks Free from Disruption and Opposition. Further, numerous Executive Orders criminalize many aspects of normal civilian conduct, prescribe grossly disproportionate penalties, and authorize arrest and detention without judicial review. The report provides case examples of the use of these laws and of orders to suppress the exercise of civil and political rights, involving: a Central Executive Committee member of the All Burma Federation of Students Unions; an 80-year-old man who had assisted in the writing of the history of the student movement; and a woman who was a Member of Parliament and had given an interview to the British Broadcasting Corporation in which she was critical of the military regime. The report provides extensive commentary on actions taken against a number of National League for Democracy (NLD) elected representatives, especially in May and June 1998, as well as the widely reported actions against Aung San Suu Kyi.

The SR continued to receive reports indicating that torture and ill treatment, including beatings, in prisons and interrogation centres are commonly practised. In addition, sanitary conditions are described as critical, and there is a lack of medical attention. The report notes that the authorities continue to refuse the International Committee of the Red Cross (ICRC) access to prisons and places of detention. Individual cases cited in this context included: the death of James Leander Nichols; a member of the Yangon Township Organizing Committee of the NLD, who died in hospital reportedly following physical and mental torture in Insein Prison; and U Thein, a former student of Yangon Institute of Technology.

Information also continued to be received, from a wide variety of sources, indicating that the practices of forced labour and forced recruitment of civilians for the purpose of portering remain widespread. Conditions for porters are described as brutal, with forced marches over mountains with heavy loads. The report recalls that, since 1955, Burma has been a party to ILO Convention No. 29 concerning forced labour. In June 1996 the ILO Committee on the Application of Standards noted the persistent failure of the government to implement the Convention. In March 1997, the ILO Governing Body decided to refer the complaint to a Commission of Inquiry. This Commission found, in August 1998, that the obligation to suppress the use of forced or compulsory labour was violated in national law, as well as in actual practice, in a widespread and systematic manner with total disregard for the human dignity, safety and health and basic needs of the people. The Commission concluded that the impunity with which governmental officials — in particular, the military — treated the civilian population as an unlimited pool of unpaid forced labourers and servants was part of a political system built on the use of force and intimidation. The Commission also concluded that any person who violated the prohibition of recourse to forced labour in international law bore an individual criminal responsibility. The SR stated that the attitude of the regime in Burma towards the ILO Commission was the same as that adopted towards the SR, the Commission on Human Rights and the General Assembly — viz. total non-cooperation, in violation of the obligations that Burma has freely undertaken under the UN Charter and relevant ILO Conventions.

Commentary on the situation of minorities refers to the unresolved conflicts between some of the 135 ethnic minorities of the country and the central authorities, giving rise to insurgencies in several regions. In connection with these conflicts, the SR continued to receive detailed reports on human rights violations committed by members of the armed forces (Tatmadaw), including: sexual violence against women, including rape, by members within the Tatmadaw hierarchy; forcible relocation without any compensation or assistance, to new towns, villages or relocation camps in which persons are essentially detained; forced conscription of civilians into compulsory labour for the military authorities, including the practice of forced recruitment of porters; and attacks on

refugee camps along the Thai border by troops allegedly supported by the Tatmadaw.

In its conclusions, the report states that the structure of power under the military regime remains autocratic and accountable only to itself and rests on the denial and repression of most fundamental rights. The SR repeated the recommendations from the report to the 1998 Commission on Human Rights and further recommended that:

- ♦ an independent inquiry be held into the circumstances of the deaths of Mr. Nichols in June 1996 and of U Thein (NLD) in February 1998 while detained in Insein Prison; action be taken against the individuals who may have been responsible for their deaths or harsh treatment;
- ♦ steps be taken by all governmental authorities to put a stop, once and for all, to forced labour and portering and to comply fully with the obligations under ILO Convention No. 29; and
- ♦ the government, with the least possible delay, implement the recommendations of the ILO Commission of Inquiry into forced labour.

Report of the Secretary-General

The report of the Secretary-General (A/53/657) was prepared, as requested in GA resolution 52/137, and reflects a "good offices mission" and efforts by the Secretary-General's Special Envoy to resolve the political issues impeding the establishment of a democratic order in Burma. The report notes that in the context of the July 1998 developments in Burma, the Secretary-General requested that the government receive a visit by a special emissary, Tan Sri Razali Ismail (President of the 51st General Assembly) to discuss matters of mutual concern. The government replied that the time was not appropriate for this visit to take place and also refused a second request for a visit by a special emissary. A visit by the Special Envoy did take place in October 1998.

The discussions with the government focussed on: progress towards the restoration of democracy in the light of the results of the 1990 elections; the opening of a substantive dialogue with political parties, particularly the NLD and Aung San Suu Kyi, and with representatives of the national races; restrictions on the functioning of the NLD and other political parties; and the situation of human rights. The need for the Commission's Special Rapporteur to visit the country was also raised. The government was encouraged to open a genuine dialogue with the NLD and make the dialogue between the government and national races more intense and transparent. The report notes that the mandate is one of discreet good offices and does not include detailed reporting on the factual situation regarding human rights. As such, the good offices mission should not be considered a substitute for the work of the Special Rapporteur.

In response to the efforts made by the Special Rapporteur, the government stated that it would continue to move forward "in a systematic way towards [the] goal of a peaceful, prosperous, modern and developed State with a multi-party democratic system and a market-oriented economy". With regard to the dialogue with political parties, and the NLD specifically, the government stated that the negative approach of the NLD, and Aung San Suu Kyi in particular, made it difficult to establish contacts with that party.

On other points, the government noted: with regard to the freedom of political parties, the prevalence of peace and stability throughout the country was a prerequisite for democratization, as was progress towards development; restrictions on Aung San Suu Kyi's freedom of movement had stemmed out of concerns for her safety; with regard to national races, the Constitution being drafted would give important powers to the states, divisions and self-autonomous areas and zones and adequately reflect their views; and the Commission's Special Rapporteur would be invited to visit at an opportune time.

Points raised and made by the NLD included: an overall deterioration of the situation in the country; continued and widespread harassment against its members and supporters, including forced resignations from the party, arbitrary arrests, torture, suppression of freedom of expression and association, and severe and enforced restrictions on movement, as well as on other normal political activities; denial to the general population of the right to education and economic development; continued forced relocation and labour on a large scale, particularly in the ethnic minority areas; and the June 1998 call for the convening of parliament was neither a confrontation nor an attempt to assume power, but rather an attempt to accelerate the opening of a meaningful dialogue with the government.

Resolution of the General Assembly

The 1998 session of the General Assembly adopted by consensus a resolution on the situation of human rights in Burma (A/C.3/53/L.59). The GA, *inter alia*: recalled that the Universal Declaration states that the will of the people shall be the basis of the authority of government; noted the contact between the government and the National League for Democracy (NLD), but regretted the government's failure to engage in a substantive political dialogue with Aung San Suu Kyi and other political leaders, including representatives of ethnic groups; urged the government to cooperate fully with all UN authorities and bodies, in particular, and without further delay, the Special Rapporteur; deplored the continuing violations of human rights, including extrajudicial and arbitrary executions, rape, torture, inhuman treatment, mass arrests, forced labour, forced relocation and denial of freedom of expression, assembly, association and movement; noted with deep concern the increased restrictions on the freedom of movement and the large numbers of arbitrary detentions and harassment of political activists; urged the government to permit unre-

stricted communication with, and physical access to, Aung San Suu Kyi and other political leaders, and to protect their physical well-being.

The GA urged the government, *inter alia*, to: release immediately and unconditionally detained political leaders and all political prisoners, to ensure their physical integrity and to permit them to participate in the process of national reconciliation; expand and intensify its contacts with the NLD with a view to engaging in a substantive political dialogue with the General Secretary of the League, Aung San Suu Kyi, and other political leaders, including representatives of ethnic and other groups; take all necessary steps towards the restoration of democracy in accordance with the will of the people as expressed in the democratic elections held in 1990; ensure that political parties and NGOs can function freely; take all appropriate measures to allow all citizens to participate freely in the political process and accelerate the process of transition to democracy; ensure full respect for human rights and fundamental freedoms, including freedom of expression, association, movement and assembly, the right to a fair trial and the protection of the rights of persons belonging to ethnic and religious minorities; put an end to violations of the right to life and integrity of the human being, the practices of torture, abuse of women, forced labour, forced relocations, enforced disappearances and summary executions; and fulfil its obligations to end the impunity of perpetrators of human rights violations and to investigate and prosecute alleged violations committed by government agents in all circumstances.

The GA also: welcomed the accession to the Women's Convention; appealed to the government to consider becoming a party to the International Covenants on Human Rights, the Convention against Torture and the International Convention on the Elimination of All Forms of Racial Discrimination; strongly urged the government to fulfil its obligations with regard to the Convention on the Rights of the Child and fulfil its obligations under the ILO's Forced Labour Convention (No. 29), and the Freedom of Association and Protection of the Right to Organize Convention (No. 87); stressed the importance of giving particular attention to improving the conditions in the country's jails; called on the government and other parties to the hostilities to halt the use of weapons against the civilian population, to protect all civilians from violations of humanitarian law and to avail themselves of such services as may be offered by impartial humanitarian bodies; and called on the government to create the necessary conditions to ensure an end to the movements of refugees to neighbouring countries and to create conditions conducive to their voluntary and safe return.



CAMBODIA

Date of admission to UN: 14 December 1955.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Cambodia has submitted a core document (HRI/CORE/1/Add.94) for use by the treaty bodies. The report prepared by the government contains demographic and statistical data and information on the economy and the general political structure. Article 117 of the Constitution provides for the establishment of a Constitutional Council responsible for verifying the constitutionality of laws and the legality of legislative elections. As of September 1998 the Council was not in place because the Supreme Council of Justice, which is responsible for appointing three of its members, had not yet begun to function. The report states that the practice of democracy in Cambodia has faced numerous difficulties but that the government has done all in its power gradually to achieve genuine democracy by strengthening the legal system, enhancing observance of the rule of law, and guaranteeing respect for individual rights.

Economic, Social and Cultural Rights

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

Civil and Political Rights

Signed: 17 October 1980; acceded: 26 May 1992.
Cambodia's initial report has been submitted (CCPR/C/81/Add.12) and is scheduled for consideration at the Committee's March 1999 session; the second periodic report was due 25 August 1998.

Racial Discrimination

Signed: 12 April 1966; ratified: 28 November 1983.
Cambodia's second through sixth periodic reports were submitted as one document (CERD/C/292/Add.2), which was considered at the Committee's May 1998 session. The eighth periodic report was due 28 December 1998.

Discrimination against Women

Signed: 17 October 1980; acceded: 15 October 1992.
Cambodia's initial and second periodic reports were due 14 November 1993 and 1997 respectively.

Torture

Acceded: 15 October 1992.
Cambodia's initial and second periodic reports were due 13 November 1993 and 1997 respectively.

Rights of the Child

Acceded: 15 October 1992.
Cambodia's initial report (CRC/C/11/Add.16) has been submitted and is pending for consideration by the Committee at its May/June 2000 session; the second periodic report is due 13 November 1999.

REPORTS TO TREATY BODIES

Committee on the Elimination of Racial Discrimination (CERD)

Cambodia's second through seventh periodic reports were submitted as one document (CERD/C/292/Add.2, May 1997) which was considered at the Committee's March 1998 session. The report prepared by the government notes that the Khmer make up a majority of the population, and provides demographic and statistical data on the situation of the 17 tribes as well as the foreigners living in Cambodia who make up the balance of the population. Constitutional and legal provisions are summarized, including those related to: equality and non-discrimination, punishment for acts of racial discrimination or incitement to such acts, the prohibition on any organization instigating discrimination, and the prohibition of incitement to discrimination by public authorities. The report refers to constitutional and legal provisions in the areas of civil and political rights — for example, religion, association, assembly, participation in public life, equality before the law, security of person and due process — as well as economic, social and cultural rights, including in such areas as health, housing, education and employment. The report notes the establishment of the national Commission on Human Rights and Receipt of Complaints whose task is to identify human rights violations, receive complaints from victims, and transmit them to the competent authorities for appropriate action. The report also notes that some 30 national and international NGOs have been authorized to engage in activities designed to assist citizens in developing an awareness of their legitimate rights and how to exercise them properly in their daily life.

The Committee's concluding observations and comments (CERD/C/304/Add.54) noted that factors and difficulties hindering implementation of the Convention included: more than 20 years of armed conflict; the legacy of the genocide and other massive crimes perpetrated by the Khmer Rouge regime; the subsequent invasion of the country by Vietnam; the international isolation of Cambodia for many years; the insecurity which still exists in certain areas of the country; the chronic political instability; and the very difficult economic and social situation. The Committee stated that these circumstances created obstacles to bringing to justice the perpetrators of severe violations of human rights which, in a number of cases, have an ethnic dimension.

The establishment, within the National Assembly, of the Commission on Human Rights and Receipt of Complaints and the reported cooperation with the Cambodian office of the Office of the High Commissioner for Human Rights and with NGOs were welcomed.

Principal subjects of concern were noted as including, *inter alia*: the lack of independence of the judiciary; the absence of the Constitutional Council; the impunity of perpetrators of human rights violations which, in some cases, include summary executions and torture; insufficiencies in the legal framework with regard to full imple-

mentation of Cambodia's obligations under the Convention, in particular those related to the prohibition of organizations and activities that promote or incite racial discrimination by both private individuals and public authorities, and provision of remedies for acts of racial discrimination, including through reparation; the fact that provisions in the 1993 Constitution relating to the protection of human rights refer only to the rights of Khmer citizens, noting that such a reference contributes to the ideology of ethnic purity of the Khmer which may lead to racial discrimination and possibly hatred against minority groups, in particular the ethnic Vietnamese; and the 1996 Law on Nationality which states that Khmer nationals are those who have at least one parent who is a Khmer national, noting that the provision makes it difficult for persons belonging to minority groups, in particular ethnic Vietnamese and indigenous people, to establish their citizenship.

The Committee stated that the situation of the ethnic Vietnamese is a matter of concern, in particular with regard to equality of rights, and noted that ethnic Vietnamese are subject to racist propaganda, mainly from the Khmer Rouge, which may incite hatred against them. The Committee noted that the several massacres of ethnic Vietnamese, most of them attributed to the Khmer Rouge, have not been properly investigated, and expressed alarm over reports that the exploitation through prostitution of women of Vietnamese origin, in particular children, is growing. Concern was also expressed over reports of racist attitudes among much of the Khmer population against the Cambodian-born ethnic Vietnamese — who are still perceived as immigrants — and the limited educational facilities in the villages of ethnic Vietnamese, arising from the lack of legislation authorizing the establishment of their schools and resulting in obstacles to their children learning the Khmer language.

The existence of the Inter-Ministerial Committee and its draft National Policy on Highland Peoples' Development was acknowledged, but the Committee expressed concern over the situation of the indigenous peoples — also referred to as Highland Peoples, Khmer Loeu or Hill Tribes Peoples — and their lack of legal status, as well as the insufficient legal framework to protect their rights, culture and traditional lands. The Committee stated that the rights of indigenous peoples have been disregarded in many government decisions, in particular those relating to citizenship, logging concessions, and concessions for industrial plantations. The lack of participation of the indigenous people in the management of natural resources and in other activities of concern to them was also a matter of distress.

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

- ♦ take all appropriate steps, including legal measures, to ensure the independence of the judiciary and to establish the Constitutional Council, with a view to bringing an end to the impunity of perpetrators of racial discrimination, bearing in mind the need to

investigate, prosecute and punish those found guilty of such crimes, and to establish confidence in the rule of law;

- ♦ amend the laws and, in particular, revise the Law on Nationality to reflect more fully the provisions of the Convention, in part to establish a clear reaffirmation by the authorities that racial discrimination is unacceptable;
- ♦ enact as soon as possible the Code of Criminal Procedure and the Penal Code and ensure that the Codes reflect the provisions of the Convention;
- ♦ take action at the legislative, administrative and judicial levels to ensure the enjoyment by everyone, including ethnic Vietnamese, of their rights under article 5 of the Convention, especially the right to security of person and protection by the state against violence or bodily harm, to public health and medical care and to education and training;
- ♦ recognize the citizenship of the indigenous peoples, as well as their use of lands, forests and other natural resources, and their distinct and unique identity, culture and way of life, and ensure that no decisions directly relating to the rights and interests of indigenous peoples are taken without their informed consent;
- ♦ ensure protection against any acts of racial discrimination through the competent courts by, *inter alia*, strengthening the court system, the independence of the judiciary, and the confidence of the population in the justice system, and guarantee in law and practice the right for victims of racial discrimination to seek just and adequate reparation ; and
- ♦ take all necessary measures to provide training and education of law enforcement officers, civil servants, judges and lawyers, as well as teachers and students, at all levels of education, and the public at large, in the field of human rights and prevention of racial discrimination.

COMMISSION ON HUMAN RIGHTS

Report of the Special Representative

A Special Representative (SRep) of the Secretary-General for human rights in Cambodia was appointed in 1993 by the Commission and given the mandate to: maintain contact with the government and people of Cambodia; guide and coordinate the UN human rights presence in Cambodia; and assist the government in the promotion and protection of human rights. The SRep for 1998 was Thomas Hammarberg.

The SRep's report to the 1998 Commission (E/CN.4/1998/95) was based on two missions undertaken in November 1997 and January 1998 and included information on, *inter alia*: preparations for elections and freedom of expression; protection against political violence; impunity; the rule of law, the independence of the

judiciary, and the administration of justice; protection against torture; prison conditions; labour rights, women's rights, and the rights of the child; trafficking in human beings; and ethnic minorities.

The commentary on the preparation for elections and freedom of expression refers to a new election law and notes several areas in which difficulties remain, among them the stipulation that a party seeking to be registered must have at least 4,000 members signed up, with those members' professions noted in the information provided. Another difficulty mentioned was the lack of clarity in the description of what activities may be undertaken by parties that have applied for registration but have not yet been formally approved. A third problem was identified as competing claims by factions within split parties on the right to use the original party name and logo. Consideration was also given to the National Election Committee (NEC), noting that appointments to the NEC were not made in an atmosphere of consensus and were concluded without any discussion of complaints submitted by the two main NGO election monitoring coalitions, raising doubts as to the NEC's impartiality.

Additional areas of concern related to the elections and freedom of expression, included: the rules for ballot counting; provision in the election law that non-rehabilitated convicted prisoners could not stand as candidates and, following on this, the lack of a clear definition of the concept of "rehabilitation"; the stipulation that persons in prison may not register as voters, leading to the possibility that certain politicians may be prevented from taking part in the election; and questions related to the possibility of exiled politicians returning and taking part in the elections and the fact that the ability of these politicians to resume their activities depended upon the possibility of their supporters to function. Further concerns related to: reports indicating that the supporters of a number of returning politicians remained reticent and fearful of the future and there is minimal activity in the provinces by those parties in opposition to those in the government; the fact that since July 1997 equal access to the media had not been provided; a trend to restrict the free flow of information in Cambodia through, for example, threats against editors, suspension of opposition newspapers and requests for apologies in response to published stories; and the requirement, introduced in December 1997, that media must cite two government sources when reporting on issues related to national security and political stability.

Narrative on protection against political violence notes that the lack of investigation into politically-motivated acts of violence is one important aspect of the problem of impunity and that impunity has been a long-standing problem and a major obstacle to construction of a functioning system based on the rule of law. The report states that impunity undermines faith in the administration of justice and the moral authority of the courts. The problem is both institutional and political and requires reforms in the administration of justice, the political will to ensure that no one stands above the law, effective

authority for the judiciary to prosecute all offenders and guarantees of the independence of the judiciary. The SRep notes that Article 51 of the 1994 Law on Civil Servants, which institutionalized impunity, remains in effect but, by statement of the Minister of Justice in June 1997, is not applicable to military personnel.

Recalling that the most serious human rights violations in recent history were committed by the Khmer Rouge, the report notes that no Khmer Rouge leader has been arrested or prosecuted by the Cambodian authorities and that none of them has ever admitted guilt or even apologized to the Cambodian people for his or her actions. The SRep expressed concern at the prospect of current and former Khmer Rouge leaders being allowed to participate in the political process without their personal responsibility for the 1975–1979 killings being clarified, and stated that making the Khmer Rouge leaders against whom there is evidence of widespread abuses answerable before the courts may restore some public confidence in official justice. The report notes the June 1997 request by the then co-Prime Ministers for international assistance to bring to justice those responsible for the genocide and/or crimes against humanity.

Concerning the rule of law, the independence of the judiciary and the administration of justice, the report notes a number of developments and ongoing problems, including *inter alia*: the convening for the first time, in December 1997, of the Supreme Council of Magistracy and the appointment of 42 new magistrates, continuing concerns related to the Council's independence and the need for it to demonstrate its impartiality and for all political parties to respect its integrity; preparation of draft legislation to establish the Constitutional Council which will review the constitutionality of legislation and appeals against decisions regarding registration of political parties; the need for measures to ensure the severance of links between judges and political parties; the need for continued international assistance in training and development programmes for court personnel and the reconstruction of Cambodia's dilapidated court buildings; and the public perception that corruption is widespread within the courts, in part because of the low salaries paid to court staff, and thus a need to increase the budget allocation for all court staff and court operations. The report notes: interference by local authorities in judicial matters, for example by organizing court staff into a branch of a political party and instructions to the court to delay the hearing and resolution of any cases filed by persons in opposition to the government until the elections have been held; lack of respect for basic procedures of arrest and detention — for example, arrest without warrant and extension of the period of detention prior to a first appearance in court beyond the 48-hour limit established by law, especially in the case of women detainees; extended periods of pre-trial detention, including that of minors between 13 and 18 years of age, as well as cases of detention of children as young as 9 or 10 years of age; the number of persons detained for lengthy periods because of an inability to pay a debt; the prohibition on torture and ill-treatment under Article 38

of the Constitution and stipulation that confessions extracted under torture are not admissible as proof of guilt, noting continuing reports of alleged torture by police interrogators in the province of Battambang; delays of two to three months in the allocation of funds for feeding prisoners, resulting in malnutrition in several prisons; medical problems arising from food deprivation in prisons, the practice of shackling, the absence of a law regulating the prisons and the failure of the government to grant access to the OHCHR to detention facilities in the country.

On the situation of workers, the report refers to agreements between employers and unions reached since June 1997 to improve labour conditions, including the establishment of a minimum wage of US\$40 per month. The report notes that following the events in July 1997: conditions in factories reverted to those prior to the June 1997 agreement; workers were suspended and wages were not paid; armed soldiers were guarding workers in several factories; workers were dismissed and bribes paid by some workers to get their jobs back; there was intimidation of labour unions as well as dismissal or threats of dismissal against union leaders; the labour movement eventually resumed in November 1997; and the authorities had failed to register several qualifying trade unions (e.g. the Workers Union for Economic Development and the Ladies Garment Workers Union).

The report describes continuing poor working conditions, including: low salaries, long working hours, lack of provision for annual leave, deduction of sick leave and holidays from pay; a total lack of social security; imposition of night work and a failure to provide security for night workers, particularly young women, on their way home; beatings, verbal abuse and other degrading treatment of workers; the continuing practice of workers paying a fee, equivalent to several months' salary, to secure a job; use of internal disciplinary rules that have been unilaterally drawn up by employers; failure to provide workers with a copy of the contract they have signed; unlimited periods of probation; the continuing practice of paying men, who are in the minority of the industrial work force, more than women for the same work — on the assumption that men produce more; and a high number of work-related accidents.

The commentary on women's rights establishes the context in which the issue must be considered, stating that as a result of decades of war and social disturbance it is estimated that over one-quarter of Cambodian families are headed by women who bear the sole responsibility for supporting their families. The report notes that the Constitution protects women against all forms of discrimination and prohibits the exploitation of women in employment and by prostitution and that Cambodia is a party to the Convention on the Elimination of All Forms of Discrimination against Women. The SRep stated, however, that despite the existence of legal protection as provided for by the Constitution and the international human rights treaties, women in Cambodia often live with discrimination and violence which negatively affect their

educational, social, economic and political life. The report notes, *inter alia*, that: women are not encouraged to participate in the political and public life of the country which is dominated by men; educational opportunities diminish for many girls as they grow up; women are victims of widespread domestic violence; women workers often face insults and humiliations, for instance, by being body-searched in the factories where they work; large numbers of women are sold or trafficked for prostitution; the lack of access to public health facilities takes a particularly heavy toll on the reproductive health of women; and, women are not given an active and direct role in decision-making affecting the political and public life of the country.

On the last point, the report notes that: the Council of Ministers does not include a woman; the Ministry of Women's Affairs is headed by a man; only seven of the 120 members of Parliament are women; of the 22 provinces in Cambodia, there is one woman deputy governor and no woman governor; of a total of 175 district chiefs, two are women; of a total of 1,558 commune chiefs, 10 are women; and, in the area of the administration of justice, there is a striking disparity between the number of women and men officials.

The report makes a number of additional points including that: the government should ensure that women have the right to participate in the formulation and implementation of government policy, to hold public office, and to perform all public functions at all levels of government; education is the key to the "empowerment" of women; and the government should take all necessary steps to protect and reinforce the right to quality education and provide opportunities for professional and personal advancement through, for example, training programmes that include women; and, according to a joint statistical study by the Ministry of Women's Affairs and the NGO Project Against Domestic Violence, one of every six women is physically abused by her spouse. The report notes that a draft law on domestic violence has been prepared and should be presented to the National Assembly for adoption without delay; emphasis on domestic violence should be included in the human rights training for police; that rape remains a widely unpunished crime with few cases brought to court and even fewer convictions; out-of-court negotiations remain common with either a financial arrangement reached or the agreement of the rapist to marry his victim; and, reports of marital rape continue to be received.

Commentary on the situation of children notes, *inter alia*, that approximately 30 per cent of the estimated 15,000 prostitutes in Phnom Penh are minors and young victims have been trafficked or lured into prostitution because of poverty, with most coming from rural areas and some from Vietnam. The government has made a commitment to tackle the problems of prostitution and sex trafficking; in response to actions by the authorities to crack down on prostitution, however, the practice is increasingly going "underground", with brothels reopening as massage and karaoke bars, making it more

difficult to investigate abuses and employ programmes for the prevention of sexually transmitted diseases, including HIV/AIDS. The SRep noted that: reports were received related to police abuse during raids; there is a need for protection for NGO staff working in shelters for children and girls who have been freed from brothels; NGOs continue to do important work in the area of improving the health care available for children; the government must make a greater effort to implement the law on the suppression of kidnapping, trafficking, sale and exploitation of human beings and punish public officials found to have taken bribes for the release of suspected traffickers or pimps; child labour remains a problem, with children exploited as construction and factory workers, domestic servants, fish processors or street vendors; estimates indicate that there are more than 10,000 street children living in Phnom Penh alone, the majority of whom have come from the provinces; recruitment and forced recruitment of child soldiers has continued, with the number of child soldiers having increased in both warring factions following the events of July 1997; and problems continue in the area of juvenile justice.

On the issue of trafficking in persons, particularly between Cambodia and Thailand, the report refers to the fact that traffickers exploit the ignorance and poverty of their victims to persuade them to go. Some village boys are encouraged by their own families, and awareness of the negative prospects in such circumstances seems to be low in many areas of the country.

On the situation of ethnic minorities, the report refers to "xenophobic demagoguery" aimed at ethnic Vietnamese in Cambodia and the risks to the communities of Highland Peoples in terms of their cultures and traditional way of living. On the latter point, the report notes that the presence, citizenship and land use of the Highland Peoples have been disregarded in many government decisions, for example in such areas as logging concessions and concessions for industrial plantations on lands and forests which have been inhabited and used by Highland Peoples for many generations. Balancing the criticism and concern, note is made in the report of the preparation of a draft National Policy on Highland Peoples' Development, which integrates international human rights standards.

The recommendations in the report, include that:

- ♦ the National Assembly adopt legislation for the establishment of the Constitutional Council;
- ♦ the independence of the National Electoral Committee be protected and electoral committees on lower levels be appointed in an impartial spirit;
- ♦ political parties be given free and equal access to media, and decisions on disputes between factions on the issues of party names and logos be taken swiftly;
- ♦ decisive steps be taken to address impunity in political crimes, with investigations and prosecutions seriously pursued in the cases of the March 1997 grenade attack and July/August 1997 executions;

existing evidence and propose further measures as a means to bring about national reconciliation, strengthen democracy and address the issue of individual accountability.

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, 18, 39, 40, 57, 61, 62, 68; E/CN.4/1998/68/Add.1, paras. 62–65)

Cases were transmitted to the government related to deaths due to attacks or killings by security forces and paramilitary groups. One communication was in response to a report that a group of six children aged between 2 and 8 years were killed when a member of the "Special Military Region Forces", who was drunk, launched a B-40 rocket in their direction following an altercation with colleagues.

The Special Rapporteur stated that numerous allegations of extrajudicial, summary or arbitrary executions were received following the violent events that took place in July 1997 at Phnom Penh. Communications sent to the government related to the reported extrajudicial executions of at least 35 individuals, including a number of leading political figures, high level generals and ranking officials at the Ministry of National Defence. The report also cites information indicating that at least 17 persons were killed in March 1997 by grenades while participating in a peaceful demonstration of supporters of the "Party of the Khmer Nation" (KNP); soldiers present at the scene reportedly did not help the injured and prevented the arrest of two men identified as having thrown the grenades.

The government did not reply to any of the cases transmitted.

Freedom of opinion and expression, Special Rapporteur on: (E/CN.4/1998/40, para. 25)

In the section on media in countries of transition and in elections, the Special Rapporteur recalled that the report to the 1997 General Assembly on the situation of human rights in Cambodia (A/52/489, annex, para. 51) emphasized that fair and equal access to the media is a crucial requirement of a free and fair election.

Independence of judges and lawyers, Special Rapporteur on the: (E/CN.4/1998/39, paras. 32, 45–48, 184)

The Special Rapporteur (SR) visited Cambodia in June 1997 to address the opening of the training programme for the judges of Cambodia organized by the Cambodian Law Training Project. Discussions with the Minister of Justice covered a number of points, including: the failure of the government to convene the Supreme Council of Magistracy, the constitutional mechanism for the

appointment of judges; the fact that the few appointments of judges made by the government may be unconstitutional and could have very serious implications on the judgements and decisions of those judges; and, the difficulties in convening the Council because of political differences between the two parties that were sharing governmental power at the time.

GENERAL ASSEMBLY

The report of the Secretary-General (A/53/400) contains information on, *inter alia*: the missions of the Special Representative (17-24 April 1998, 2-13 May 1998, 31 May-5 June 1998, and 15-30 July 1998); protection against political violence; human rights in relation to the electoral process; the problem of impunity; rule of law and the independence of the judiciary; protection against torture; prison conditions; workers' rights; women's rights; rights of the child; rights of minorities; and the role of the High Commissioner for Human Rights in assisting the government and people in the promotion and protection of human rights.

The work of the Special Representative (SRep) focussed on three main areas: the problem of impunity, the upcoming elections, and issues surrounding the Khmer Rouge. The report refers to the SRep's previously stated concerns about the grave consequences of the delay in the investigations of the cases of extrajudicial executions and the 30 March 1997 grenade attack, and notes that in April 1998 two international experts were sent to assess progress made in the investigations and to clarify needs for further assistance. The report of the two experts was submitted to the government in May 1998 along with a memorandum documenting further cases of killings and disappearances since July 1997.

The experts noted that no serious investigation had begun in almost all instances, and in the two cases in which inquiries had been started — the grenade attack and the assassination of Secretary of State for the Interior — there was a lack of vigour and determination. In addition to the need for professional training in both the police and the judiciary, and the lack of appropriate material and financial resources, the experts cited a culture of impunity as one of the most serious obstacles to the establishment of a rule of law in the country. The memorandum prepared by the experts noted, *inter alia*: evidence concerning the alleged torture and execution of soldiers by military forces of the National United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia (FUNCINPEC); verified evidence concerning an additional 42 instances of killings and 7 disappearances which appeared to be politically motivated; while there had been no serious efforts to investigate these incidents, government authorities had in many cases promptly concluded that they were robberies, personal disputes or acts of revenge, whereas such motives might have been arranged so as to obscure a political motive and/or there could have been mixed motives; the need for rigorous investigations to allow accurate and credible determinations in each case after consideration of all

aspects; impunity, unless corrected, will continue to undermine efforts to establish the rule of law as well as public confidence in the judiciary; and the violence of the past 10 months and the lack of investigation had particular relevance to the upcoming elections. The report notes that the OHCHR in Cambodia had continued to record and investigate other instances of serious human rights violations, many of them said to be unrelated to politics. Such cases included, for example, the execution of a group of nine villagers by military personnel in Kompong Thom province; and excessive use of firearms, including the frequent lethal shooting by policemen of suspects during arrest or even after they had been apprehended.

Concerning reform of the system of justice, the need to correct the overlap in the mandates of the judicial police and the gendarmerie was noted, stating that the overlap had led to rivalries and refusals to cooperate, tensions and, in some cases, even armed confrontation between the two bodies. Conflicts, including armed threats, had also arisen between the gendarmerie and the courts making it difficult for the latter to work.

In June 1998 a provisional Cambodian Human Rights Committee (CHRC) was formally established by a sub-decree signed by the First and Second Prime Ministers who each appointed two representatives to the Committee as permanent members. The Chairman of the CHRC pledged to investigate all instances of human rights violations brought to its attention and stated that, with regard to the killings which occurred during the electoral campaign, the results of the investigations would be made public after the announcement of the final results of the election by the National Election Committee. The Chairman also stated that the Committee planned to recruit several thousand human rights observers to monitor the human rights situation in villages and mediate local disputes.

With regard to human rights and the electoral process, the report notes: following the military confrontation and the removal of the First Prime Minister in July 1997, political party activities largely ceased; FUNCINPEC radio and television were shut down; a number of parliamentarians went into exile; party signboards were removed; individuals accused of involvement in the July fighting were actively sought; senior and middle-ranking officials close to FUNCINPEC, particularly in the armed forces and the police, were marginalized or pressured to change party affiliation; and there was widespread intimidation and a number of supporters of opposition parties, particularly in the countryside, experienced intimidation and feared for their security. The report refers to a campaign by the Cambodian People's Party (CPP) to boost its membership through, for example, duress, the offer of money and gifts, promises of development and humanitarian aid, and suggestions that the security of non-supporters could not be guaranteed. Irregularities related to a widespread collection of voter registration cards from persons who had registered to vote were also noted. The report states that thumb-printing, registration card col-

lection and mock elections contributed to concerns that voters would not be convinced that their ballot would be secret. Reference is made to the fact that in the days after the election, members of opposition parties were reported to have received threats against their lives and property from local CPP officials and others associated with the party.

The report notes that during the election campaign there was a pattern of discrimination against ethnic Vietnamese, including during the voter registration process. The report refers to ethnic hatred in Cambodia at a critical stage in which, under the wrong socio-political circumstances, devastating consequences may result. Other concerns arising from the electoral process included, a lack of equitable access to the electronic media by all parties contesting the election and allegations of intimidation and violence, some of which were later proved credible.

Commentary on the problem of impunity notes, *inter alia*: it is widespread and continues; impunity is legally protected in article 51 of the 1994 Law on Civil Servants; revisions in June 1997 restricted the scope of article 51 by excluding its application to military personnel; and the crimes committed by the Khmer Rouge in the 1970s have gone unpunished. On the last point, the report recalls that pursuant to resolution 52/135 of the General Assembly, a group of experts was appointed by the Secretary-General to examine existing evidence and make recommendations on how work in this area may proceed. The group was scheduled to undertake a mission to Cambodia in September 1998.

With regard to rule of law and the independence of the judiciary, the report refers to the establishment of institutions called for by the Constitution including the Supreme Council of the Magistracy and the Constitutional Council. The report notes the continuing problem of frequent interference by the executive in judicial matters and the lack of independence of the judiciary, as seen by the public statements of government leaders in the two court cases against H.R.H. Prince Norodom Ranariddh and his co-defendants (March 1998). Information was also received related to, *inter alia*: intimidation, threats or use of violence against the courts by representatives of the executive branch; an incident in June 1998 in which approximately 50 heavily armed gendarmes from Khan Daun Penh in Phnom Penh surrounded the Phnom Penh municipal court, apparently in an effort to reverse the court's decision to release two suspects in a murder case; extraction of confessions under torture and presentation of those statements in evidence in courts; suspension of judges whose decisions did not accord with the government's position; and the need to clarify the role of the Ministry of Justice in relation to the working of the courts. The report states that low salaries of court staff, detention in police custody exceeding the 48 hours authorized by law, disrespect for the pre-trial detention periods foreseen by law for minors, and lengthy periods of imprisonment for debts — which should be recovered through a civil procedure —

are other problems that continue to affect the establishment of the rule of law.

The report further notes that torture and other forms of physical ill-treatment of persons held in police, military or gendarmerie custody continued to be a serious problem, citing cases related to, for example: 30 instances of torture in Battambang's main district-level police station; death in custody; beatings and coercive methods to elicit a confession; denial of access to family or legal counsel; and whipping with electrical cable on several parts of the body. Conditions in prison are described as including: insufficient food rations, potentially leading to an outbreak of beriberi; the decayed state of the buildings; the absence of adequate security measures, overcrowding, insufficient numbers of police guards and their low salaries which make them vulnerable to corruption.

Referring to workers' rights, the report states that the Labour Code of 1997 continued to be ignored and violated by the management of different factories in 1998. Illegal practices and violations included: forcing workers to work overtime and irregularly compensating them for such work; risk of dismissal if overtime is refused; failure to provide paid vacations and basic medical care; failure to respect the rules of minimum wage in a number of garment factories, as well as failure to respect collective bargaining agreements; physical and verbal abuse by management and threats by factory security personnel and management; and efforts by management to control or influence the organizing of unions.

Concerning women's rights, the report notes that, despite constitutional and other guarantees, the situation of women — in particular in relation to their education, health, participation in political life, conditions of work and violence against them — continues to be of deep concern and needs to be addressed as a matter of high priority. The report states that one issue which ought to be a top priority for the new government is education for women and, further, notes: the health of Cambodian women is still very poor with malnutrition, lack of hygiene, frequent pregnancies and lack of access to health services, in particular in the rural areas; women have little knowledge about birth-spacing methods and practices; the difficult access to health services and the cost of services and drugs make women rely more on drug vendors and traditional healers than on private practitioners and health centres, increasing risks of health problems and mortality, especially during birth or when abortions are performed; Cambodia has the second highest rate (after Thailand) of pregnant women affected by HIV/AIDS; that women continue to be the target of violence and discrimination and violence in the home remains of particular concern; few, if any, arrests have been made or penalties given to a husband who abuses his wife; and an increasing number of cases of rape has been recorded, including the rape of children which has sometimes resulted in death.

Other concerns related to children include: child labour, with thousands of children working as prostitutes,

porters and workers in quarries, slaughterhouses, construction and brick factories or working in rubbish-dump areas or for their families; trafficking of children and women for the purpose of prostitution and an underground prostitution industry in the guise of cafés, massage parlours or karaoke bars, noting information indicating that in brothels in Phnom Penh the majority of child prostitutes were of Khmer origin; the problem of police and military protection of brothel owners; poverty and violence in the home, often forcing children onto the streets; police brutality against street children; the sexual abuse and exploitation of street children; and the need to develop non-custodial alternatives and rehabilitation programmes with regard to juvenile offenders.

Commentary on ethnic minorities outlines concerns related to the treatment and status of ethnic Vietnamese, including racist speech against them, discriminatory provisions in the Constitution and the Law on Nationality, massacres of ethnic Vietnamese, most of them attributed to the Khmer Rouge, and failure of the authorities to investigate them properly. The report also refers to concerns expressed by the Committee on the Elimination of Racial Discrimination with regard to the Hill Tribes and notes that the traditional lifestyles and livelihoods of Hill Tribes in the north-eastern provinces have been disrupted by the unabated illegal logging that is taking place, as well as the very large logging concessions the government has granted to timber companies.

An assessment of the implementation of new and previously formulated recommendations is provided at the end of the report as is a description of the activities of the Cambodia Office of the High Commissioner (COHCHR) for Human Rights. The cooperation agreement between the COHCHR and the government was extended to the year 2000.

Resolution of the General Assembly

The 1998 session of the General Assembly adopted a resolution by consensus on the situation of human rights in Cambodia (A/C.3/53/L.39). The GA, *inter alia*: welcomed the agreement by the government to extend the mandate of the OHCHR office in Phnom Penh until March 2000; welcomed the holding of national elections on 26 July 1998; stressed the need for the constructive engagement of all parties in order to fulfil the objective of the elections; welcomed the agreement reached between political parties to convene the national assembly and to establish a coalition government; welcomed the role of national NGOs in educating voters and providing observers at polling stations; encouraged the government to continue to work with NGOs in efforts to strengthen and uphold human rights; noted the formation of a provisional Cambodian human rights committee; encouraged the government, in establishing a new human rights commission, to take into account international standards, notably those on independence; expressed grave concern about numerous instances of violations of human rights, including extrajudicial executions, torture, illegal arrests and detention, and violence in relation to political activities; called upon the government to inves-

tigate urgently and prosecute, in accordance with due process of the law and international standards relating to human rights, all those who have perpetrated human rights violations; expressed grave concern at the situation of impunity in Cambodia and stressed that addressing the continuing problem of impunity remains a matter of critical and urgent priority; welcomed the convening for the first time of the Supreme Council of the Magistracy in December 1997, as well as the adoption of the law on the Constitutional Council in March 1998; condemned the use of racist rhetoric and acts of violence against ethnic minorities, especially Cambodians of Vietnamese ethnicity; strongly urged the government to continue efforts to create a functioning and impartial system of justice and to implement the Prison Regulations signed in March 1998; and stressed the need to improve the implementation of the freedoms laid down in the Cambodian Constitution with regard to the operation of free electronic and print media, the security of persons and the rights of association, assembly and expression.

The GA: endorsed the comments of the Special Representative that the most serious human rights violations in Cambodia in recent history have been committed by the Khmer Rouge; noted with concern that no Khmer Rouge leaders have been brought to account for their crimes; welcomed the appointment by the Secretary-General, in response to the request by the authorities for assistance in responding to past serious violations of Cambodian and international law by the Khmer Rouge, of a group of experts to evaluate the existing evidence and propose further measures; commended the efforts of the government and others to improve the quality of, and access to, education; noted with serious concern the prevalence of child labour and called upon the government to ensure adequate health and safety conditions and access to education for working children and to outlaw the worst forms of child labour; welcomed the development of an action plan to combat child prostitution and trafficking; urged the government to take all appropriate measures to eliminate discrimination against women, to combat violence against women in all its forms, and to take all steps to meet its obligations as a party to the Women's Convention; expressed grave concern at the devastating consequences and destabilizing effects of the use of anti-personnel landmines; and encouraged the government to continue its support and efforts for the removal of these mines and urged the government to give priority to banning all anti-personnel landmines.

FIELD OPERATIONS

The headquarters of the OHCHR in Cambodia is located in Phnom Penh. Rosemary McCreery, Director, #18, Street 400, Khan Chamcar Mon, Phnom Penh, P.O. Box 108, Phnom Penh; Phone: (855-23) 362-585, (855-23) 362-797; Fax: (855-23) 720-030; e-mail: cohchr@worldmail.com.kh.

The original authority of the Office is derived from the Paris Peace Agreements (Part III, Article 17). Resolution 1993/6 of the Human Rights Commission assigned the

mandates of the Office and of the Special Representative. This was accepted by the government in a letter dated 6 November 1993. A Memorandum of Understanding (MOU) between the government and the High Commissioner for Human Rights was signed in 1996, covering the period March 1996 to March 1998. The validity of the MOU was extended for a further two years by an exchange of letters between the High Commissioner and the government in early 1998.

The mandate of the OHCHR in Cambodia is to: manage the implementation of educational and technical assistance and advisory services programmes and to ensure their continuation; assist the government established after the election, at its request, in meeting its obligations under the human rights instruments to which Cambodia is a state party, including the preparation of reports to the relevant monitoring committees; provide support to bona fide human rights groups in Cambodia; contribute to the creation and/or strengthening of national institutions for the promotion and protection of human rights; continue to assist with the drafting and implementation of legislation to promote and protect human rights; and continue to assist with the training of persons responsible for the administration of justice.

As of November 1998, the Office was staffed by 8 international and 10 national professionals, 2 UN Volunteers, 14 international consultants, 29 national project staff and 9 support staff. The Office is funded partly from the regular budget, which covers its operating cost and core staff. The allocation for 1998 was approximately US\$1,250,000. Funding for all project activities comes from the Trust Fund for a Human Rights Education Programme in Cambodia. Trust Fund expenditures in 1998 were projected to amount to about US\$1,750,000. The Judicial Mentor Programme is partly financed by UNDP through UNOPS. Annual reports on the work of the Office are submitted to the Commission on Human Rights and the General Assembly.

Resolution 1993/6 of the Commission on Human Rights also requested the Secretary-General to appoint a Special Representative to Cambodia. Although there is no specific reference to the Office's monitoring role in resolution 1993/6, one of its functions is to provide support to the Special Representative in work related to maintaining contact with the government and people and assisting the government in the promotion and protection of human rights.

The main activities of the Office carried out as of August 1998 included:

- ♦ Director's Office: external and donor relations; monitoring, investigation and protection activities, most recently focussed mainly on political violence; oversight of six Mobile Monitoring teams, monitoring political violence and intimidation in the period leading up to and after the late July general elections; monitoring human rights aspects of election preparation, especially media access for political parties and NGOs; providing support to the Group of Experts

who will assess the evidence available on the Khmer Rouge genocide and make recommendations on possible legal proceedings to the Secretary-General;

- ♦ Legal Assistance Unit: comments on draft legislation with human rights implications and follows the implementation of legislation; the development of electoral laws and regulations; monitoring of the prison system and following cases with major human rights aspects through the courts; assistance to judges through the Judicial Mentor Programme, which places trained lawyers in provincial courts to advise and train judges, court staff and the judicial police;
- ♦ The Education, Training and Information Unit: programme of training in human rights for the police, the armed forces, teachers, monks, trade unionists, women and minorities; training for election officials, political party members, police and the army on the principles of free, fair and democratic elections; distribution of approximately 100,000 copies each year of basic human rights documents in the Khmer language; support to local NGOs, in particular human rights organisations; provision of grants to NGOs working on ethnic minorities, labour rights and women's and children's rights; preparation of a women's and children's rights project; support for the inter-ministerial committee which is responsible for reporting on the human rights treaties to which Cambodia is a party; and
- ♦ Provincial Office Network: serving as outposts of the Phnom Penh office, monitoring human rights violations and prison conditions, supporting training programmes and liaising with local human rights and other NGOs.



CHINA

Date of admission to UN: 24 October 1945.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

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

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

Economic, Social and Cultural Rights

Signed: 27 October 1997.

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

Civil and Political Rights

Signed: 5 October 1998.

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

Racial Discrimination

Acceded: 29 December 1981.

China's eighth periodic report was due 28 January 1997. *Reservations and Declarations:* Article 22.

Discrimination against Women

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

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

Reservations and Declarations: Paragraph 1 of article 29.

Torture

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

China's third periodic report was due 2 November 1997. *Reservations and Declarations:* Paragraph 3 of article 30.

Rights of the Child

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

China's second periodic report is due 31 March 1999. *Reservations and Declarations:* Article 6.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on:

(E/CN.4/1998/44, paras. 19, 21, 22)

The report notes that communications were sent and the government replied, as well as the fact that the Working Group (WG) undertook a field mission to China.

On the basis of a preparatory mission in July 1996, the Chairman and Vice-Chairman of the WG visited China from 6 to 16 October 1997. The mission included visits in

Beijing, Chengdu (Sichuan province), Lhasa (Tibet) and Shanghai and a number of detention facilities. The report of the visit (E/CN.4/1998/44/Add.2) includes commentary on: the organization of courts and tribunals and people's procuratorates, conditions of recruitment of judges and procurators, the revised Criminal Law, reforms related to the revised Criminal Procedure Law (CPL), reforms related to judicial deprivation of liberty, and reform of the administrative procedures and measures for deprivation of liberty. The Annex to the report provides a description of each of the detention facilities visited.

The description of the organization of courts and tribunals notes that the Supreme People's Court, comprised of more than 200 magistrates, includes special criminal, civil, economic and administrative chambers, a special chamber for transport and a chamber for petitions and complaints, as well as a Standing Adjudication Committee. Cases before this court include those assigned to it by law in first and last instance, and cases that the court considers its direct jurisdiction because of their importance in terms of principle or national scope. The Court also functions as an appeal court, ruling on decisions handed down by lower courts, ensuring unity of interpretation of laws and, on request or on its own initiative, giving courts advisory opinions on the interpretation of the legislation applicable, even when cases are already in progress.

Local courts are composed of: higher people's courts and basic-level people's courts. Local courts may, if necessary, set up subsidiary courts, and are divided into civil, criminal, economic and administrative chambers with each one having a standing committee of judges. The local courts judge cases which by law come directly within their jurisdiction in first and final instance, appeals against decisions handed down by the courts immediately below them, as well as applications for judicial review referred to them by the people's procuratorates, and, at the administrative level, monitor the judicial activities of the courts below it.

The third level is the special people's courts — military, marine, and rail transport tribunals — which have jurisdiction in specific sectors of activity.

On the people's procuratorates, the report notes that they are organized on similar lines to the local courts and: act as public prosecutors in serious criminal cases with political implications; investigate criminal cases they receive directly; determine the follow-up to public security investigations; support the prosecution in ordinary criminal cases, with the exception of military affairs; and verify the legality of sentences and their execution, as well as the activities of prison establishments. The WG concluded that criminal investigations are carried out by the Public Security Office (PSO — the police) in 90 per cent of the cases and that the People's Procuratorate investigates the remaining 10 per cent.

The summary of article 9 of the Judges Act and article 10 of the Procurators Act describe the conditions of recruit-

ment of judges and procurators. These articles stipulate that judges and procurators must: be nationals of the People's Republic of China; be at least 23 years of age; uphold the Constitution; have good political and vocational training and a record of good conduct; be in good health; and, have a law degree or have attained a similar standard.

The commentary on legislative reform refers to changes in laws related to criminal and administrative procedures, the prisons and police, and state compensation. The report notes that the sources and ranking of legal texts is not specific and may be inferred from the categories of law, meaning: the Constitution (adopted by the National People's Congress), regularly ratified international treaties, fundamental laws adopted by the National People's Congress, laws adopted by the Standing Committee of the National People's Congress, administrative regulations, decisions and ordinances adopted by the State Council (government), local regulations adopted by local people's congresses, and regulations of ministries and local governments. The WG stated that difficulties of access are compounded by the absence of a single official bulletin. The National People's Congress produces its own official bulletin for laws; administrative regulations are published in the official bulletin; the State Council and the major ministries produce their own official bulletins; and, texts enacted by people's congresses and local governments are registered by the Legal Department of the State Council, which ensures that the texts conform with the law.

Referring to the revised Criminal Law, the WG noted a number of provisions with a particular relevance to its mandate. Article 13 absolves a person of criminal responsibility if the act committed is minor and the harm caused is not great, on the basis that such acts are not considered to be crimes. Article 33 establishes "control" as one of the principal punishments — for a period of not less than three months and not more than two years, and executed by a public security organ. The provision further stipulates that the person: must abide by laws and administrative regulations and submit to supervision; may not exercise the rights of freedom of speech, the press, assembly, association, and demonstration without the approval of the organ executing the control; must report on activities pursuant to the rules of the organ executing the control; must abide by the rules of the organ executing the control for meeting visitors; and, must report and obtain approval from the organ executing the control for a change in residence and departure from the city or country. The report also refers to supplementary punishments and notes that one such punishment involves the deprivation of the political rights: to elect and be elected; freedom of speech, the press, assembly, association, and demonstration; to hold a position in state organs; and to hold a leading position in a state-owned company, enterprise, institution or people's organization. The categories of convicted persons who may be subject to these punishments are those who endanger state security, and those found guilty of serious crimes (e.g., murder or rape) or of seriously undermining the

social order. Articles 102 to 113 are special provisions related to crimes endangering national security and, *inter alia*, prohibit: acts aimed at splitting the country or undermining national unification; acts to subvert the political power of the state and overthrow the socialist system; institutions, organizations or individuals inside or outside the country from providing financial support for organizations or individuals in the country for the commission of such crimes.

The WG's assessment of the revised Criminal Law characterized as salutary the principles of clearly defined crimes and punishment, equality before the law, and proportionality of the punishment to the gravity of the crime. The report notes, however, that these principles will be realized only to the extent that the law is reasonably applied. The report then addresses issues that may mitigate against a reasonable application of the law in practice. Among the points raised were: failure in the revisions to define precisely the concept of "endangering national security", and application of the imprecise definition to a broad range of offences; the fact that acts of individuals in exercise of freedom of opinion and expression may be regarded as acts endangering national security; the fact that institutions, organizations and individuals outside China, working with domestic organizations, may be charged with, and convicted of, "endangering national security"; the lack of precision in the definition of the offence of attempting to subvert political power and overthrow the socialist system, or incitement to such an offence by "spreading rumours, slander or [through] other means" (article 105); and the fact that under article 105, even communication of thoughts, ideas or opinions, without intent to commit any violent or criminal act, may be regarded as subversion. Other points included that: the law makes no attempt to establish standards to determine the quality of acts that might or could harm national security; the national security provision is, in some ways, even broader than the "counter-revolutionary crimes" which, in name, have been abolished; the revised law has reduced the number of offences punishable by prison terms, leading to a reduction in the inmate population, because the punishment of "control" may now be applied to 93 offences instead of 34 as under the previous law; and reduction in the inmate population may be a valid social objective, but it does not justify the imposition of "control" as a punishment under which an individual is liable to lose fundamental human rights.

The commentary on revisions to the Criminal Procedure Law (CPL) are briefly described in such areas as restrictions on the powers of the Public Security Office (police services) related to investigation, and measures intended to restore the balance of relations between magistrate and lawyers in favour of the lawyers. The WG noted and provided commentary on the salient features of the revised Criminal Procedure Law. The areas addressed are: abolition of "shelter and investigation", access of the accused to lawyers, introduction of the concept of "presumption of innocence" of the accused, introduction of an element of neutrality in court procedures, and adoption of the adversarial system of justice.

With regard to the reform of the administrative procedures and measures related to deprivation of liberty, the report reviews: the Administrative Procedures Law — allowing citizens to bring suit against the administration in court, establishing a genuine statutory civil service; the Administrative Penalties Law which, for the first time, regulates state prerogatives in areas most frequently affecting daily life (fines, seizures, withdrawal of permits, refusals of authorizations, arbitrary bureaucracy) and administrative measures of deprivation of liberty, such as re-education through labour; and the State Compensation Law, under which citizens have the right to compensation for losses suffered through infringement of their civic rights, including illegal arrest or illegal application of administrative measures of restraint and illegal imprisonment arising from an illegal application of some other form of deprivation of liberty.

The report provides commentary on the history and application of re-education through labour, and states that even in China the measure is controversial among jurists, lawyers, and academics. Concern was expressed at the fact that no judge is present when the decision is taken to place a person in administrative detention, thus incurring the risk of increasing police abuses. With regard to the supervision of re-education through labour, the report notes that the committee which was supposed to perform that duty very rarely met because of its heterogeneous composition of officials from numerous agencies, and the practical difficulties which that entailed, leaving the police as the only organ to implement and supervise the measure.

The WG's comments on re-education through labour noted, *inter alia*: the authorities stated that the measure was only applied to those who had committed minor offences under the common law and who were not required to be formally prosecuted; the WG's strong belief that if the measure is applied to persons who disturb the public order as indicated, the commitment of such individuals to re-education through labour would clearly be arbitrary but this conclusion may not apply to common law offenders; and, it would be appropriate to state categorically in the law that the measure of re-education through labour should not be applied to any persons exercising their fundamental freedoms as guaranteed by the Universal Declaration of Human Rights.

The conclusions in the report refer to a number of findings of the mission, including that: changes to the Criminal Procedure Law are a step in the right direction; the move from an inquisitorial system of criminal justice towards a more adversarial system will hopefully contribute to the protection of human rights; concerns remain that offences considered counter-revolutionary are still in the statute although now referred to as offences endangering national security; there is no precise definition, however, of "endangering national security" and the absence of a clear definition enabled authorities to arrest and harass persons who may be peacefully exercising their fundamental liberties; concerns remain over the fact that many of the offences are vague and imprecise, jeopardizing the fundamental rights and free-

doms of those who wish to exercise their right to hold an opinion or exercise their freedoms of expression, the press, assembly and religion; and, the absence of an independent tribunal or a judge, at the time of committing a person to re-education through labour, may make the measure fall short of accepted international standards.

On the basis of the information received during the visit and these conclusions, the WG recommended that the government further revise the Criminal Law and the Criminal Procedure to:

- ♦ expressly incorporate in the Criminal Procedure Law a provision affirming the presumption of innocence until proven guilty by a court or tribunal;
- ♦ define the crime of “endangering national security” in precise terms;
- ♦ incorporate in the criminal law an exception, stipulating that the law will not regard as criminal any peaceful activity in the exercise of the fundamental rights guaranteed by the Universal Declaration; and
- ♦ establish a permanent independent tribunal for, or associate a judge with, all proceedings under which the authorities may commit a person to re-education through labour, in order to obviate the possibility of any criticism that the present procedure is not entirely in conformity with international standards for a fair trial.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 13, 130–134)

During the period under review no new cases of disappearance were transmitted, and two cases were clarified on the basis of information previously submitted by the government stating that both persons were in prison. Most of the 73 cases of disappearance reported to have occurred in China took place between 1988 and 1990, although several cases are said to have occurred in 1995 and 1996. The majority of these cases concern Tibetans.

Reportedly, some of the disappearances occurred after the individuals were arrested for writing or singing national poems or songs. Nineteen of the cases concerned a group of Tibetan monks who were reportedly arrested in Nepal, interrogated by Chinese officials while in detention and, allegedly, turned over to the Chinese authorities at the Jatopani border. One of the disappeared persons is said to have been arrested for having participated in a religious ceremony in which a prayer was offered for the long life of the Dalai Lama, and several others were reportedly arrested in Lhasa in 1995 and 1996 for having distributed leaflets containing political messages. Four monks, who reportedly disappeared in 1996, were allegedly accused of having produced pro-independence posters and leaflets containing prayers for the health and safety of the child, Gedhun Nyima, who was recognized by the Dalai Lama in May 1995 as the reincarnation of the late Panchen Lama, and who was reported to have disappeared. Several other persons are reported to have disappeared following celebrations to

mark the 30th anniversary of the founding of the Tibet Autonomous Region, while others were human rights activists involved in pro-democracy activities. One other case is said to have occurred in 1995 in Beijing and concerns a writer who was reportedly arrested two days after signing a petition entitled “Greeting the United Nations Year of Tolerance, We Appeal for the Realization of Tolerance in China”, on the occasion of the sixth anniversary of the 1989 Tiananmen Square incident. Three of the reported cases concerned persons who disappeared after the incidents in Beijing in 1989.

The Working Group (WG) noted reports received during 1996 stating that there was an emerging pattern of disappearances in Tibet which consisted of “recurrent detention”, by which a person is taken into custody for a few days or hours, then released, and the process repeated several days later. The government replied that such allegations were “groundless” and there were no such incidents.

With regard to allegations that the prison system in various parts of the country, in particular Tibet, falls under the jurisdiction of the Ministry of Public Services rather than that of the Ministry of Justice, the government replied that there is no such organ as the Ministry of Public Services, and the prison system is indeed under the jurisdiction of the Ministry of Justice. The government stated the public security authorities are charged by law with the responsibility for criminal investigation and are under the supervision of the People’s Procuratorate, which is also authorized to make investigations into cases directly received by it.

The government also provided information on 23 individual cases of reported disappearance, stating: in seven cases, the persons concerned had been arrested, tried, and were currently serving prison sentences; in five cases, the persons concerned had been detained and released; in two cases, the persons concerned could not be found; and, in six cases, the persons concerned did not exist. Three cases concerned the disappearance of the boy Gedhun Nyima, and his parents. On these cases the government stated that a small number of ill-intentioned people attempted to smuggle the boy abroad and endanger his personal safety. As a consequence, out of fear for his safety, the boy’s parents appealed to the government for protection and security measures had been taken to protect the boy and his parents. According to the government, both the boy and his parents were leading normal lives and enjoying good health.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 14, 17, 27, 32, 39, 57, 68, 94, 114; E/CN.4/1998/68/Add.1, paras. 77–86)

The Special Rapporteur (SR) continued to receive reports related to China’s nationwide anti-crime campaign of 1996, which led to the largest number of executions since 1983, accounting for as many as 80 per cent of executions worldwide during this period. More than 4,300 persons were reportedly executed, a figure believed to fall short of

the actual figure, for crimes including hooliganism, theft, corruption and drug trafficking. In this context, an urgent appeal was transmitted to the government on behalf of the director of a municipal trust company who was reportedly sentenced to death in January 1997 for embezzlement of more than 100 million yuan (US\$12 million). The government replied, informing the SR that the man was sentenced to death in accordance with the law and that his case was pending before the Superior People's Court of Jiangsu province. The government also stated that China's application of the death sentence is in line with the International Covenant on Civil and Political Rights, and that extremely strict constraints have been placed on the application of capital punishment, noting the Penal Code provides that the death sentence applies only to those who are guilty of the most heinous crimes.

Allegations regarding violations of the right to life were also sent in cases related to incidents in Tibet involving: death as a result of injuries sustained in police beatings; death of a monk of Sakya monastery, while in prison, as a result of torture; arrest during a raid on Chamdo monastery, and death as a result of torture five days after release, on medical grounds, from Chamdo prison. One other case unrelated to Tibet concerned a death in custody from beatings by police.

In response to cases transmitted in 1997, the government replied that the person named: did not exist; hanged himself and the suicide was confirmed by a forensic medical examination; died of tuberculosis meningitis and had been taken to hospital immediately when he contracted the disease while undergoing re-education through labour; and died as a result of injuries sustained when the individual jumped out of a prison van, noting that a forensic medical examination confirmed that the death had been caused by a severe skull injury and haemorrhage resulting from the fall.

In reply to cases transmitted in 1995, the government stated that the person named: had been suffering from serious tuberculous meningitis when imprisoned, was paroled in order to receive medical treatment, and died at home; was twice hospitalized during detention for treatment for high blood pressure after which the physical condition normalized, was not subjected to torture, and was released from prison upon completion of sentence; had been released from labour camp, fell ill with a gynaecological ailment and a gastric perforation which caused death after treatment failed, and was not subjected to beatings by prison guards; and, died as a result of beatings from other detainees, noting that proceedings were started against those alleged to be responsible, the responsible officials in the detention centre had received disciplinary punishments, and the allegation that the man's wife was the subject of police harassment was not true. In reply to an urgent appeal that had been sent on behalf of six persons who were executed, reportedly without having been granted the right to appeal or seek clemency, the government stated that three defendants had appealed against the judgement by the court of first

instance and the judgements of the other three were submitted to a higher court for approval. The government also stated that the six criminals all fell into the category of "most heinous criminals" under China's Criminal Law and that their death sentences therefore had a sound legal basis.

The report notes that the government was considering the SR's request for an invitation to China, and had informed the SR of the adoption of the Law on the Role of Lawyers and the Law on Administrative Punishment, the major changes made to the Law on Criminal Procedure, and its commitment to improve further its system of laws and the administration of justice in the light of its economic and social development.

The SR reiterated concern at the wide range of crimes punishable by death and the very high number of executions, and reminded the government that the broadening of the range of capital offences which has reportedly occurred since 1979 counters the international trend towards the limitation, and eventual abolition, of the death penalty. The SR also expressed concern about allegations of unfair trials and, in particular, a lack of respect for safeguards and guarantees for the protection of those facing the death penalty.

Freedom of opinion and expression, Special Rapporteur on: (E/CN.4/1998/40, paras. 76–77)

Cases were transmitted to the government concerning 10 individuals and arbitrary interference in their right to freedom of opinion and expression. The report notes that the persons named were arrested for alleged offences such as conspiring to subvert the government, leaking state secrets or endangering state security. Seven of those named had been sentenced to re-education through labour for periods between one and three years. At the time the report was prepared the government had not responded to these cases.

Religious intolerance, Special Rapporteur on: (E/CN.4/1998/6, paras. 23, 29, 48, 50, 63, 66, 69, 73–76, 95)

The report recalls that the Special Rapporteur (SR) visited China in November 1994 (see E/CN.4/1995/91) and refers to violations of freedom of religion and belief against Christianity and Buddhism. Allegations were received stating that the authorities had imposed controls on, and/or interfered illegally with, the religious activities of religious groups and communities. The report refers to the case of Ghedhun Nyima, who was recognized by the Dalai Lama as the eleventh reincarnation of the Panchen Lama. The report notes that in response to a case taken up during the visit to China, the government informed the Special Rapporteur that the Tibetan monk had been conditionally released from prison for good conduct, in November 1994, after having been sentenced to 10 years' imprisonment for having taken part in uprisings.

Communications were sent to the government with regard to the case of a Tibetan monk and two associates

who were sentenced for "conspiring to split the country" and "leaking state secrets". The government replied: the three had been found guilty of plotting against national unity, after an investigation and trial by the People's Intermediate Court in Shigatse district; in collusion with separatists abroad they had engaged in activities jeopardizing national unity and threatening social stability and the development of Tibet; were also found guilty of divulging state secrets in breach of the rules on security; and all three voluntarily admitted to their crimes. Since the case involved state secrets the Court decided that the trial would not be public and informed the accused of the grounds for its decision at the commencement of the proceedings. Two of the defendants declined the services of lawyers and represented themselves. The government stated: citizens enjoy freedom of religious belief; legislation guarantees the right to participate in normal religious activities and the legitimate rights of the followers of a religion; the law prohibits anyone from using religion to engage in any activities that disturb the social order or jeopardize state security; and, the charges and convictions of the three had nothing to do with religious beliefs.

Sale of children, child prostitution, child pornography, Special Rapporteur on the:

(E/CN.4/1998/101, paras. 6, 21)

The report refers to investigations by the Italian authorities that led to the dissolution of an international paedophile ring. In one case a 12-year-old child was allegedly sold by her parents in China for approximately US\$58,000 and was being trafficked to the United States. The report refers to the possibility that there is a Japanese organized group which allegedly sends Chinese children to the United States for prostitution and paedophilia.

Torture, Special Rapporteur on:

(E/CN.4/1998/38, paras. 49–50;
E/CN.4/1998/38/Add.1, paras. 67–78)

One case transmitted to the government concerned a group of 14 Roman Catholics from Xiao County, Anhui province, who were detained in April 1996 while visiting local authorities to petition for the return of confiscated church property. Information indicated that police beat the petitioners, and that three of them were beaten for refusing to acknowledge being involved in an illegal religion. Another case related to detention for political activities considered to "endanger national security", and assignment to three years of re-education through labour. Information indicated that the person refused to acknowledge guilt and submission to the law in writing and, as a consequence, was kicked, punched and beaten by prison officers, and further that fellow prisoners were said to have been offered reductions in their sentences if they succeeded in extracting the required report from the man through beatings.

Concerning Tibet, the cases transmitted involved, *inter alia*: two students at Dhanak Lomthen High School in Dranang, who were reprimanded by police for stating that Tibet was not a province of China and demanding

more Tibetan teachers, noting that following their expulsion from school, together with 31 other students who had joined their protest, police officers reportedly took the students to a storeroom, branded three students on the bridge of the nose with a hot iron rod, took two of those branded to Lokha prison and held them for three months, and beat them regularly; a teacher at a school in Siling which emphasizes Tibetan language and culture, who was arrested one month after the school had been opened with official permission in June 1993, noting the teacher was repeatedly interrogated as to whether the school had received funding and instructions from the Tibetan "Government in exile" in India; a 16-year-old girl, who was reportedly arrested at her home following the arrest of the headmaster of her school and interrogated at the police station as to whether the headmaster had taught her to demand independence for Tibet; a teacher who protested in March 1994 to the authorities in Meldrogongkar that students were not receiving sufficient instruction in the Tibetan language, led a demonstration for this purpose and was arrested together with 60 other demonstrators, noting the teacher was detained for six months, with his hands and feet shackled, released without having been taken to court, and forbidden from resuming his teaching duties; and a nun who was arrested after she had affixed a poster declaring Tibetan independence and a Tibetan flag to the main government building in Lhoka district, convicted of being a "counter revolutionary", sentenced to a three-year prison term, released for medical reasons, and forbidden to resume her life as a nun.

The Special Rapporteur also sent an urgent appeal on behalf of three persons detained at Shuanghe labour camp, who allegedly began hunger strikes in protest at extensions of their sentences. The government acknowledged the detentions and stated that the extension of the sentences was the result of the prisoners either "instigating social disorder" or because of a serious infringement of the centre's regulations. An appeal was also made on behalf of two brothers detained at the Dafeng penal farm in Jiangsu province near Shanghai. The government stated that the brothers had been committed to, respectively, three and two years of re-education through labour for "reproducing and distributing pornography". The government stated that they never suffered beating, could be visited by their families according to the regulations, were given regular medical check-ups, and on various occasions given leave to seek medical treatment in a hospital.

An urgent appeal was also sent on behalf of a Buddhist monk from Gongkar Choede monastery, near Lhasa, who was arrested in June 1997 after having declared his support for the Dalai Lama. The monk was said to have been beaten during arrest and in detention.

Toxic wastes and products, Special Rapporteur on: (E/CN.4/1998/10, paras. 45–48)

The report refers to information indicating that more than 40,000 tons of mixed plastics have been imported to Jiangxi province, China, from German companies

since 1993, causing serious soil and water pollution. Reportedly the damage could not be properly assessed because of lack of funding to undertake such an exercise. The government replied, stating: environmental protection is taken seriously and strict limits are imposed on the dumping and incineration of toxic wastes and on environmental pollution; since March 1991, the Environmental Protection Bureau and the General Customs Office, among other authorities, have promulgated regulations such as a circular concerning strict controls on the transfer of toxic substances from abroad into China and temporary provisions governing environmental protection during the import of toxic substances; through these regulations the government closely controls imports of toxic substances from abroad and pollution of the environment; the importation of a small number of recyclable materials is authorized only after an appraisal of the environmental risk and when the approval of the Environmental Protection Bureau has been secured; any transfer of materials to China without such approval constitutes illegal importation; and, such cases, when discovered, entail removal of the materials from the country and severe penalties for those responsible.

In response to the specific case raised by the Special Rapporteur (SR), the government noted: between 1993 and 1995, the Hualong ("Splendid") Chemicals Corporation in Jiangxi province illegally imported over 40,000 tons of mixed plastic waste from Germany; the waste polluted the local soil and water, and adversely affected people's health; the Environmental Protection Bureau dealt severely with this case; part of the waste was returned to Germany; and the remainder was appropriately managed under the supervision of the local Department of the Environment.

With regard to information contained in the SR's report to the 1997 Commission on Human Rights (E/CN.4/1997/19, para. 39), the government stated that the National Environment Protection Agency had never approved the shipment of two containers of computer scrap from Australia, nor did regulations allow waste to be imported from abroad in order to be burned.

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

In commentary on violence against women in time of armed conflict, the report refers to the case of a 20-year-old nun in Tibet who was serving a five-year sentence after having participated in a demonstration in 1992. Information indicated: she was beaten, along with other imprisoned nuns, by prison guards after they sang nationalist songs; prison medical staff gave her medication which left her unconscious; she was later diagnosed with tuberculoma and died; and even though the death occurred in custody the authorities did not investigate.



COOK ISLANDS

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

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Rights of the Child

Acceded: 6 June 1997.

Cook Islands' initial report is due 5 June 1999.

Reservations and Declarations: Articles 2, 10 and 37.



CYPRUS

Date of admission to UN: 20 September 1960.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Cyprus has submitted a revised core document (HRI/CORE/1/Add.28/Rev.1) for use by the treaty bodies. The report prepared by the government contains demographic and statistical data and information on the general political structure and the general legal framework within which human rights are protected. The 1960 Constitution is the central instrument that recognizes and protects human rights and, in Part II, incorporates and expands upon the Universal Declaration and the European Convention on Human Rights. The remedies available to individuals who claim that their rights have been violated include: right of petition and hierarchical recourse; recourse to the Supreme Court; challenges to the constitutionality of any law or decision; civil action for compensation, restitution and declaratory judgement; private criminal prosecution; right of appeal in both civil and criminal cases; habeas corpus and other forms of writs; in response to serious allegations, a decision by the Council of Ministers to establish a Commission of Inquiry; and, complaints to the Commissioner for Administration (Ombudsman) who has competence to investigate grievances by an individual that the Administration has violated the individual's rights or acted contrary to law or in circumstances amounting to mal-administration. In cases where domestic remedies have been exhausted, the optional procedures established under various international human rights instruments may be used. Cyprus has also accepted the compulsory jurisdiction of the European Court of Human Rights and the optional clause of compulsory jurisdiction of the International Court of Justice. International conventions ratified or acceded to are incorporated into municipal law and have, as from their publication in the Official Gazette, superior force to any

municipal law. Such conventions are directly applicable and can be invoked before, and directly enforced by, the courts and administrative authorities.

Economic, Social and Cultural Rights

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

Cyprus has submitted its third periodic report (E/1994/104/Add.12) was considered by the Committee's at its November 1998 session; the fourth periodic report is due 30 June 1999.

Civil and Political Rights

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

Cyprus's third periodic report (CCPR/C/94/Add.1) was considered by the Committee at its March 1998 session; Cyprus' fourth periodic report was due 18 August 1994.

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

Racial Discrimination

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

Cyprus' 14th periodic report (CERD/C/299/Add.19) was considered by the Committee at its August 1998 session; the 15th report was due 4 January 1998.

Reservations and Declarations: Declaration under article 14.

Discrimination against Women

Acceded: 23 July 1985.

Cyprus' third and fourth periodic reports were due 22 August 1994 and 1998 respectively.

Reservations and Declarations: Paragraph 2 of article 9.

Torture

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

Cyprus's third periodic report is due 16 August 2000.

Reservations and Declarations: Declaration under articles 21 and 22.

Rights of the Child

Signed: 5 October 1990; ratified: 7 February 1991.

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

REPORTS TO TREATY BODIES

Committee on Economic, Social and Cultural Rights

The 3rd periodic report of Cyprus (E/1994/104/Add.12, May 1996) was considered by the Committee at its November 1998 session. The report prepared by the government contains information on, *inter alia*: constitutional provisions; employment policy and the Strategic Development Plan (1994 to 1998); the Industrial Training Authority (ITA); laws and measures related to women in the workforce; wages, minimum wage; trade unions, the Trade Unions Law of 1965, the right to strike, the Industrial Relations Code; social security, benefits, pensions; the family, the Law for the Prevention of Violence in the Family 1994, the protection of children and

young persons, minimum ages; the standard of living, income distribution and poverty, food and nutrition, housing; health and the health care system, environmental pollution and occupational health and safety, health education, HIV/AIDS; education and the education system; culture, research and development.

The Committee's concluding observations and comments (E/C.12/1/Add.28) welcomed, *inter alia*: the fact that international legal instruments are superior to national law in the legal hierarchy and that the provisions of the Covenant can be invoked directly by individuals before the courts; the efforts of the government in continuing to provide services to the population living in the part of the island that it does not control; the recent establishment of the National Institution for Human Rights, noting however that the Institution has not been formally promulgated into law and that its independence has not been guaranteed; the efforts to include human rights in school and university curricula; the abrogation of the provisions of the Penal Code criminalizing homosexual acts; and the appointment of an advisory committee for the purpose of preventing violence in the family. The Committee acknowledged that the continuing partition of Cyprus hinders the ability of the government to exercise control over its entire territory and, consequently, to ensure the application of the Covenant throughout the country.

The principal subjects of concern identified by the Committee include, *inter alia*: the lack of information on the realization of its economic, social and cultural rights by the Cypriot population living in the area that is not controlled by the government; the continued existence of discrimination between women and men in a number of areas, caused by both structural and cultural factors; lack of protection for domestic workers in terms of hours of work; failure to provide adequate protection against repressive and exploitative measures directed at prostitutes; that the legal minimum wage does not guarantee an adequate standard of living; the incidence of domestic violence against women and children and the failure to adopt an adequate prevention policy and to enforce fully the existing legislative measures; and allegations of inhuman or degrading treatment of mentally ill patients in some health institutions.

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

- ♦ promptly promulgate into law the National Institution for Human Rights and guarantee its independence;
- ♦ intensify efforts to guarantee the equal enjoyment by women and men of their economic, social and cultural rights, through, for example: a large-scale public awareness campaign to eradicate social prejudices concerning gender roles; guaranteeing fully the principle of equal pay for work of equal value, in particular in the private sector of the economy; promulgating the draft regulations concerning the employment and working conditions of pregnant women and

nursing mothers; abrogating the discriminatory provisions of the Social Security legislation; enacting the bill aimed at abolishing discrimination in the acquisition and transmission of nationality;

- ♦ take all necessary steps to improve the understanding of the nature and scope of the problems faced by domestic workers with a view to implement fully existing laws and: initiate campaigns to raise awareness of this issue among trade unions, women's organizations and communities to which the domestic workers belong; to improve the system of complaints of abuses, with a view fully to protect the rights of the complainants;
- ♦ monitor more closely the phenomenon of forced prostitution, with a view to rescuing those victims who are trapped or forced into it and to protect their rights under the Covenant;
- ♦ endeavour to take steps to review the existing minimum wage level in order fully to comply with obligations under article 11 of the Covenant;
- ♦ adopt appropriate policies to prevent and manage the problems associated with domestic violence against women and children and include, in the next report, information on measures adopted; assist financially the "Association for the Prevention of Confrontation of Domestic Violence" (NGO) to establish, as soon as possible, its proposed women's shelter;
- ♦ review thoroughly the health policy towards patients with mental health problems in order best to address all their needs and protect all their human rights;
- ♦ include, in the next periodic report, comprehensive information on the extent of drug-addiction; and
- ♦ submit speedily to Parliament or Cabinet bills and proposed regulations related to: the law on marriage, divorce and family courts; the rights of asylum seekers; the nationality of children born to a Cypriot woman; the right to strike; and the national health system.

Committee on the Elimination of Racial Discrimination

The 14th periodic report of Cyprus (CERD/C/299/Add.19, July 1997) was considered by the Committee at its August 1998 session. The report prepared by the government contains information on, *inter alia*: the legislative proposal related to the protection of refugees, including the establishment of a new mechanism, the Refugee Authority; establishment of a multi-sectoral committee, under the chairmanship of the Law Commissioner, to consider the problem of trafficking and exploitation of women and girls and to recommend appropriate legal and other measures for preventing and combatting the problem; obstacles impeding implementation of the Convention in areas of the country controlled by Turkey; citizenship procedures; the employment of foreign housemaids; treatment of foreign pris-

oners; adoption of a more flexible policy regarding the temporary employment of foreign workers — mainly in the sectors of tourism, construction, clothing/shoe manufacturing and agriculture — and rights and protections afforded migrant workers; education, access to education, the education system; religious schools and the situation of religious groups; information, the mass media and the Press Law 1989; and, government assistance to minorities.

The Committee's concluding observations and comments (CERD/C/304/Add.56) reiterated the Committee's grave concern at the lengthy occupation of 37 per cent of the territory of Cyprus by Turkish forces and the continued division of the country. Reference was made to the fact that the government is still prevented, by the use of force, from implementing the provisions of the Convention in the occupied part of the country and that the continuing artificial division of the country has adversely affected efforts to reduce tension among the various ethnic and religious communities.

The Committee welcomed, *inter alia*: the preparation of a bill for the protection of refugees which would protect the rights of refugees and displaced persons regardless of their ethnic origin; the amendment to the procedure for acquiring Cypriot citizenship, by which Cypriot nationality is now granted to all children regardless of whether the father or the mother is a Cypriot citizen; proposed amendments to laws that will penalize the expression of racist ideas through electronic media; the establishment of language programmes for children of immigrant families and minority groups; the establishment of official subsidies for children belonging to minority communities and the inclusion of human rights in the school curricula; the training programmes for civil servants on the provisions of the Convention; and the intention to establish a National Institution for the Promotion and Protection of Human Rights.

The principal subjects of concern identified by the Committee included, *inter alia*: the insufficient information on the demographic composition of the occupied part of Cyprus, due to the fact that the government is still prevented by the Turkish army from undertaking any census or other relevant data collection on the whole of the territory of Cyprus; and that members of the public, judges and lawyers may not be sufficiently aware of the protection against racial discrimination provided by the Convention.

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

- ♦ provide information on the enactment of legislation for the protection of refugees (Refugee Bill) and the proposed amendments to penalize the expression of racist ideas through the mass media;
- ♦ provide information in the next report on the implementation of recommendations made by the Commissioner for Administration (Ombudsman) to remedy the procedure for employment of foreign housemaids in Cyprus;

- consider measures for improving awareness of the Convention and associated legal and administrative remedies; supply lawyers and administrators with information on the Convention and on available remedies; and
- consider availing itself of any advice and assistance which may be rendered by the OHCHR with regard to the initiative to establish a national human rights institution.

HUMAN RIGHTS COMMITTEE (HRC)

The 3rd periodic report of Cyprus (CCPR/C/94/Add.1, January 1995) was considered by the Human Rights Committee at its March 1998 session. The report was prepared by the Law Commissioner, in cooperation with representatives from the various Ministries concerned with related issues, representatives of the Attorney-General, and other government officials. The report notes that in response to the Committee's consideration of Cyprus's second periodic report remedial measures were taken or are being considered related to the death penalty, conscientious objection, imprisonment for civil debt, political asylum, torture, assembly and public order, and the laws on immigration, citizenship and the status of treaties. Additional information corresponds to the rights set out in articles 1 through 27 of the International Covenant on Civil and Political Rights (ICCPR), including such areas as the elimination of discrimination, the status of women, measures and protections related to religious minorities, the right to life and use of force and firearms by police forces, torture, the rights of prisoners and detainees, conditions of detention or arrest, and the rights of aliens, asylum and expulsion.

The Committee's concluding observations and comments (CCPR/C/79/Add.88) acknowledged that the occupation of part of the territory of Cyprus prevents the government from exercising control over all of its territory and the application of the ICCPR in areas not under its jurisdiction.

The Committee welcomed, *inter alia*: the establishment of a Commissioner for Administration with the mandate to investigate allegations of ill treatment, inhuman and/or degrading treatment and torture as well as other violations; the decision by the Council of Ministers to establish an independent National Institution for Human Rights, responsible for monitoring the government's compliance with its obligations under international human rights instruments; the revision of the legislation and regulations concerning prisons, facilitating the establishment of a register for detainees; the creation of an independent Prison Council; the incorporation of a human rights course component into the core training programme for police officers and government officials; the establishment of a Family court with jurisdiction over civil and religious marriage; and the agreement between the government and representatives of the Turkish Cypriot authorities to resolve the fate of the persons disappeared and missing since 1974.

The principal subjects of concern identified by the Committee included: the persistence of inequality between women and men in law and in practice; discriminatory provisions on the basis of sex that continue to inhibit the full realization of human rights by women, particularly with regard to laws relating to marriage, nationality, immigration, employment and education; discriminatory legal provisions which penalize homosexual acts; the fact that the new law on prevention of violence within the family has not produced the expected positive results; unreasonable delays in the adoption of a proposed new law regulating civil debt; remaining uncertainties as to which provisions of the ICCPR are self-executing within domestic law and which require specific legislation; with regard to assemblies and processions, the conditions which the appropriate authorities may impose regarding the conduct of assemblies and processions and the fact that the advance notice required to be given is too early and may unduly curtail freedom of assembly; the fact that the age for criminal responsibility is still fixed at seven years, and that marriageable age is defined as the onset of puberty; the discriminatory treatment accorded to conscientious objectors, who may be subject to punishment for failure to perform military service; repeated allegations of discrimination against Turkish Cypriot citizens, including issues of employment and identity cards; and the apparent reluctance of victims of violence and ill treatment by police to testify before the relevant instances.

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

- take steps to implement the provisions of the ICCPR more comprehensively at the national level;
- adopt legislative measures to eliminate sex-based discrimination in all relevant areas;
- repeal discriminatory legal provisions which penalize homosexual acts;
- reform the law on evidence so as to eliminate obstacles for a spouse to provide testimony against another spouse on domestic violence;
- ensure fair treatment under the proposed new law concerning conscientious objectors, and eliminate lengthy imprisonment as a form of punishment;
- take firm measures to ensure an effective remedy to any victim of brutality, ill treatment, and torture by the police; take every possible measure with regard to violence and ill treatment by police so as to correct the situation, including increasing public information activities on redress mechanisms available at the national level, their mandates and their functioning; and
- provide to the legal profession as well as the legislative, judicial and administrative authorities adequate information on the provisions of the ICCPR and its optional protocols.

COMMISSION ON HUMAN RIGHTS

Report of the Secretary-General

The involvement of the United Nations in the situation in Cyprus dates back to the decision in 1965 to send a peace-keeping force to intervene in the large-scale fighting between Greek and Turkish Cypriots.

The report of the Secretary-General (SG) (E/CN.4/1998/55) recalls that all the provisions of the resolution adopted by the Commission in 1987 (1987/50) remain valid, including those in which the Commission: called for the full restoration of all human rights to the population of Cyprus, in particular to the refugees; considered attempts to settle any part of Varosha by people other than its inhabitants as illegal; called for the immediate cessation of such activities; and called for the tracing of, and accounting for, missing persons in Cyprus without any further delay and the restoration and respect of human rights and fundamental freedoms of all Cypriots, including the freedom of movement, the freedom of settlement and the right to property.

The report reviews steps taken by the Secretary-General to convene direct talks between the leaders of the Greek and Turkish Cypriot communities, noting that, for 29 years the leaders of the two communities had engaged in discussions about issues that had been identified as the most crucial.

Pending settlement of the dispute, the United Nations Force in Cyprus (UNFICYP) has continued, with a mandate to perform humanitarian tasks on behalf of the Greek Cypriots living in the northern part of the island (477 individuals as of December 1997). Among the tasks performed were: interviews with Greek Cypriots who applied for "permanent transfer" to the southern part of the island, in order to verify that the transfer was voluntary; facilitation of temporary visits by Greek Cypriots from the Karpas area to the southern part of the island for family and other reasons; assistance in arranging contacts between Maronites living on the island, 177 of whom reside in the northern part of the island; delivery to the north of foodstuffs and other supplies provided by the government; periodic visitation to Turkish Cypriots living in the southern part of the island and assisting in the arranging of family reunion visits for Turkish Cypriots; and provision of emergency medical evacuation of civilian members of both communities residing in the northern part of Cyprus.

The report notes that UNFICYP also continued its efforts to encourage contact and cooperation between the two communities and to build trust through actively promoting bicomunal events and activities such as reciprocal pilgrimages to religious sites, bicomunal concerts and fairs, a dart tournament and a go-carting event. The report then notes that throughout 1997 the Turkish Cypriot authorities continued to insist that attendance by Turkish Cypriots at bicomunal events requires specific authorization in each case. For most of the year such authorization was usually granted for events in the UN Buffer Zone and, though less consistently, for events in

the southern part of the island. The report recalls, however, that on 15 December following the European Union's Luxembourg Summit announcement that Turkey was not included in the list of countries being considered for accession, Turkish Cypriot authorities froze all bicomunal activities in Cyprus.

On the question of missing persons, the report refers to a 31 July 1997 statement by the leaders of the two communities, agreeing that: the problem of the Greek and Turkish Cypriot missing persons in Cyprus was a purely humanitarian issue for which a solution was long overdue; no political exploitation should be made by either side of the problem of the missing persons; the communities would provide each other with all information already at their disposal on the location of graves of Greek and Turkish Cypriot missing persons; and they would each designate a representative to meet and exchange this information and to prepare the necessary arrangements to lead to the return of the remains of these missing persons.

Based on previous reports and information provided by UNFICYP, a number of issues of concern were noted related to conditions affecting Greek Cypriots and Maronites living in the north and Turkish Cypriots in the south. The report notes, *inter alia*, that: the Turkish Cypriot authorities have made some improvements, including increasing the number of telephone lines in the Karpas and Kormakiti areas and by allowing UNFICYP humanitarian patrols to meet privately with Greek Cypriots in the Karpas area without the presence of police; two vacant Greek Cypriot schoolteacher positions were filled in Rizokarpaso; travel within the northern part of Cyprus remains restricted for Greek Cypriots and they still cannot bequeath fixed property to their next of kin living outside of the northern part of Cyprus; in February 1998, the Turkish Cypriot authorities announced new procedures and regulations for entry to, and exit from, the north that require Greek Cypriots and Greeks who wish to enter or depart to show passports or identity documents with a visa for which a fee of 15 is required; Turkish Cypriots or residents in the north requiring emergency medical treatment in the south are exempt from the visa requirement; and, the period of stay allowed in the south for those who reside permanently in the north was extended to six months, but visitors must carry a permit, passport or identity papers, and are required to pay a departure fee of 4, the same fee as that levied against tourists. The report further notes that: the age limitation for students studying in the south was lifted for Greek Cypriot and Maronite girls and for Maronite boys, although Greek Cypriot boys (students) are still not allowed to return to their homes in the north after they reach the age of 16; restrictions on UNFICYP's movement in the north continued, notably in the Kormakiti area where UN personnel were refused access to certain areas and restricted in carrying out humanitarian tasks; the government of Cyprus had protested that churches and other religious property in the north had been allowed to decay and that some had been vandalized and property removed; and, concern was also expressed about damage to graveyards.

Decision of the Commission on Human Rights

Maintaining its practice over a number of years the Commission adopted, without a vote, a decision on human rights in Cyprus (1998/109) in which the Commission decided to retain on its agenda an item entitled "Question of human rights in Cyprus", and to give it due priority at its fifty-fifth (1999) session. The decision also stipulated that action required by previous resolutions of the Commission on the subject would continue to remain operative, including the request to the SG to provide a report to the Commission regarding their implementation.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 148–151)

The report notes that the Working Group (WG) continued to be available to assist the Committee on Missing Persons in Cyprus (CMP) and recalls that, during the period under review, the Secretary-General had not initiated the procedure to appoint a new third member of the CMP because there was not a clear commitment by both sides to expedite its work in accordance with the terms of reference and the criteria proposed by the Secretary-General in May 1995. However, the WG welcomed the agreement reached by the leaders of the two communities in July 1997 in which they consented, as a first step to resolving the problem of the missing persons, to provide each other with all information already at their disposal on the location of graves of Greek and Turkish Cypriot missing persons. The leaders also consented to designate a person who would meet to exchange this information and to prepare the necessary arrangements leading to the return of the remains of these Greek Cypriot and Turkish Cypriot missing persons. The report notes that in September 1997 the Greek Cypriot community had completed its work and was ready to proceed. The Turkish Cypriot side indicated that it would be ready by the end of November 1997, but unforeseen technical difficulties delayed completion of their submission which was expected for the end of the year.

The WG noted that in the July 1997 agreement, the two leaders also requested the Secretary-General to appoint a new third member of the CMP in order to expedite the conclusion of the Committee's work. The Secretary-General indicated that, as soon as the implementation of the 31 July agreement had been effectively launched, an appointment would be made.

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.)

The report notes that in a humanitarian spirit, the Special Rapporteur (SR) transmitted to the leader of the Turkish Cypriot community the case of a man who was killed by two Turkish soldiers near the U.K. military base

of Dhekelia while he was collecting snails. Information indicated that the soldiers shot the man twice and then walked closer to kill him with a third shot. The victim was further reported to be of no danger to the soldiers.

The leader of the Turkish Cypriot community responded that the incident should be seen in the context of the very high tensions prevailing in the area. The reply further stated: the man was fired upon after he had crossed the Turkish Cypriot cease fire lines and refused to heed three verbal warnings — issued by a soldier on sentry duty in the area — to stop; the sentries had no way of knowing the intentions of the intruder; and, a post mortem examination carried out in the presence of military and medical officers of the UN Peacekeeping Force in Cyprus showed that the deceased had been hit by two bullets, one of which fatally wounded him, both shot from a distance of approximately 50 metres.

In response to cases previously transmitted, the leader of the Turkish Cypriot community indicated: the victim was killed during a clash in which many casualties occurred; the victim had fallen from the mast which he was climbing to pull down the Turkish Cypriot flag when warning shots were fired in the air by members of the police of the Turkish Cypriot community; in both cases the persons who lost their lives were removed from the territory under Turkish Cypriot control and, as a consequence, the information requested by the SR was not available, including death certificates, autopsy reports or complaints lodged, nor were reliable details regarding the causes of their deaths available.

Torture, Special Rapporteur on: (E/CN.4/1998/38, para. 85; E/CN.4/1998/38/Add.1, paras. 83–84)

The report refers to a case involving an arrest on charges of espionage in southern Cyprus, and subsequent beatings in police custody accompanied by death threats against the person detained and his children. The government replied to the case, asserting that force proportionate to the circumstances was used to restrain the accused at the time of arrest and denying that he was in any way ill-treated while in custody. In response to a case previously transmitted, the government informed the Special Rapporteur that following receipt of a UN medical officer's report, the Attorney-General decided to suspend criminal proceedings that were under way and to open an independent investigation of the complaints of the person arrested. In response to the complaint, the Ombudsman, who is legally empowered to investigate complaints of maltreatment by the police, produced a report in which it was found that the facts complained of violated human rights and may constitute a criminal offence. The government noted that although the Attorney-General was prepared to take criminal action against the perpetrators, this could not proceed without the victim's testimony, which he was refusing to give. The government further noted that complaints had been submitted by the victim to the European Commission on Human Rights and the European Committee for the Prevention of Torture.



Fiji

Date of admission to UN: 13 October 1970.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Fiji has submitted a core document (HRI/CORE/1/Add.76) for use by the treaty bodies. The report prepared by the government contains demographic and statistical data and information on the economic system. There is some commentary as well on the political system, noting that the 1990 Constitution emphasizes fundamental rights and freedoms. The report states that, while guaranteeing special rights of protection and privileges to indigenous Fijians, the Constitution does not deny to others the rights to life, liberty, security of person, expression, assembly and association and protection of privacy. The report acknowledges that some provisions of the Constitution have proven to be contentious. A Constitution Review Commission was established to carry out the required review of the Constitution and was scheduled to present its report by the end of June 1996.

Racial Discrimination

Succeeded: 11 January 1973.

Fiji's sixth through 13th periodic reports (covering the period 1984–1998) have not been submitted; the 13th periodic report was due 11 January 1998.

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

Discrimination against Women

Acceded: 28 August 1995.

Fiji's initial report was due 27 September 1996.

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

Rights of the Child

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

Fiji's initial report (CRC/C/28/Add.7) was considered at the Committee's May 1998 session; the second periodic report is due 11 September 2000.

REPORTS TO TREATY BODIES

Committee on the Rights of the Child

Fiji's initial report (CRC/C/28/Add.7, June 1996; CRC/C/Q/FIJ/1) was considered by the Committee at its May 1998 session. The report prepared by the government contains information on, *inter alia*: constitutional protection of children's rights and constraints on assistance to children; the functions and mandate of the Coordinating Committee on Children (CCC), established in 1993; the age of legal responsibility and the definition of the child; the Juveniles Act and the legal context for the best interests of the child; practical constraints on ensuring the best interests of the child in terms of health,

education and welfare; health issues related to, and health services for, youth and children; respect for the view of the child, freedom of expression, access to appropriate information, freedom of conscience, religion or belief and protection of privacy; name and nationality and preservation of identity, including cultural identity; parental responsibilities, the Matrimonial Causes Act, and the situation of children without families; projects to improve children's health; children with disabilities; education, including technical and vocational training, and the aims of education; children in conflict with the law, the juvenile justice system, and provisions related to children in detention or otherwise institutionalized; child labour; the sexual exploitation and abuse of children; drug and substance abuse; and legal provisions and programmes related to minority and indigenous children.

The Committee's concluding observations and comments (CRC/C/15/Add.89) welcomed the establishment of several administrative, monitoring, and protection mechanisms on children's rights such as the Coordinating Committee on Children (CCC), the Children's Unit within the Ministry of Health and Social Welfare, and the Child Abuse Unit within the Police Department. The participation of NGOs in the CCC and in the elaboration of the government's report was noted positively, as was the 1997 amendment to the Juvenile Act regarding the prevention of child pornography.

In terms of factors impeding the implementation of the Convention, the Committee referred to the fact that Fiji has a geographical configuration comprising 330 islands, with a relatively small population composed of a number of different and isolated communities. Reference is also made to recent changes in the economic structure.

The principal subjects of concern identified by the Committee included, *inter alia*: the need to harmonize legislation fully with the principles and provisions of the Convention; the slow pace in the process of enactment of the Children's and Young Persons' Act; the lack of a systematic, comprehensive, and disaggregated quantitative and qualitative data-collection mechanism for all areas covered by the Convention, especially addressing the most vulnerable groups of children; the lack of an independent complaint and monitoring mechanism for children, such as an Ombudsperson or a Commissioner for Children; the allocation of insufficient human and financial resources for the full implementation of the provisions of the Convention, insufficiencies in efforts to train professionals working for, and with, children in the provisions and principles of the Convention, as well as to translate the Convention into the Fijian and Hindi languages; and the lack of adequate and systematic training for professional groups working with and for children.

The Committee also expressed concern over: the fact that the minimum age for marriage, set at 16 for girls and at 18 for boys, is discriminatory and contrary to the principles of the Convention; insufficiencies in the measures adopted related to access to education and health services; the use of the term "illegitimate children" (ex-nuptial children) in the law, noting this is contrary to the

principle of non-discrimination; the lack of conformity of the birth registration system with all the requirements of article 7 of the Convention; the fact that corporal punishment is still used by parents and that internal school regulations do not contain explicit provisions prohibiting the practice; and, the insufficient awareness of, and lack of information on, ill treatment and abuse, including sexual abuse, both within and outside the family; insufficient legal protection measures and appropriate resources, both financial and human, and the lack of adequately trained personnel to prevent and combat abuse.

Additional concerns identified by the Committee included: the fact that current legislation on adoption does not effectively protect children against illicit transfer and non-return; efforts to reduce the infant mortality rate and the under-five mortality rate, noting the prevalence of malnutrition and high rates of maternal mortality, as well as the limited access to health services on remote islands; the high and increasing rate of early pregnancies, the incidence of sexually transmitted diseases among youth, the occurrence of teenage suicide, the insufficient access by teenagers to reproductive health education and counselling services, including outside schools, and the insufficient preventive measures on HIV/AIDS; the insufficient measures taken to ensure effective access of children with disabilities to health, education and social services, and to facilitate their full inclusion into society; and the small number of well-trained professionals working with, and for, children with disabilities.

The Committee expressed further concern over: the fact that a system of compulsory education is not yet fully in place; the high drop-out rates as well as at the unequal access to quality education; the absence of a public preschool system; the existing low minimum age for access to work, set at 12 years; the lack of data on child labour and economic exploitation, including sexual exploitation of children; the insufficient measures to address issues of drug and alcohol abuse which are increasingly affecting children; the insufficient rehabilitation measures for ill-treated, sexually abused, and economically exploited children, as well as their limited access to the justice system; the lack of legal counselling for children in care centres, the fact that detention is not being used as a measure of last resort, and the poor state of detention centres; and, the low minimum age for criminal responsibility, set at 10 years, and the fact that children aged between 17 and 18 years are not considered under the juvenile justice system.

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

- ♦ take all necessary measures to accelerate the process for the enactment of the Children's and Young Persons' Act, as well as other legislation related to children's rights; ensure that domestic legislation fully conforms with the provisions and the principles of the Convention; and take into account the principles and provisions of the Convention in the Constitutional Amendment Bill (1997), including through a specific reference to the Convention on the Rights of the Child;
- ♦ consider ratifying all other major international human rights treaties — including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Convention against Torture — since they all have an impact on the rights of the child;
- ♦ strengthen its coordination efforts through the Coordinating Committee on Children, and develop a comprehensive system of collecting disaggregated data, in order to gather all necessary information on the situation of children, including children belonging to vulnerable groups;
- ♦ give further consideration to the establishment of an Ombudsperson for Children, or any equivalent independent complaint and monitoring mechanism;
- ♦ ensure, to the maximum extent possible, adequate budget allocations for the implementation of economic, social and cultural rights;
- ♦ harmonize the minimum age for marriage with the principles and provisions of the Convention;
- ♦ further develop a systematic approach to increasing public awareness of the right to participation of children;
- ♦ take a more active approach to eliminate discrimination against certain groups, in particular the girl child, children with disabilities, children in institutional care, children living in rural areas, poor children such as those living in slums, and children born out of wedlock;
- ♦ take all appropriate measures to improve its birth registration system, and launch awareness-raising campaigns regarding the parents' duty to register newborn children;
- ♦ comprehensively prohibit by law corporal punishment and take measures to raise awareness on the negative effects of corporal punishment;
- ♦ take all appropriate measures — including revision of legislation — to prevent and combat ill-treatment within the family, including domestic violence and sexual abuse of children; set up social programmes to prevent all types of child abuse as well as to rehabilitate the child victims; strengthen law enforcement with respect to domestic violence and sexual abuse of children; and develop adequate procedures and mechanisms — such as special rules of evidence and special investigators or community focal points — to deal with complaints of child abuse;
- ♦ accelerate the process of reform of legislation relating to adoption and to illicit transfer and non-return, and envisage acceding to the Hague Convention of 1993 on Protection of Children and Cooperation in Respect of Intercountry Adoption;

- ♦ promote adolescent health policies and the strengthening of reproductive health education and counselling services; undertake a comprehensive and multi-disciplinary study to understand the scope of adolescent health problems, especially early pregnancies; and undertake further efforts, both financial and human, to develop child-friendly care and rehabilitation facilities for adolescents and their families;
- ♦ develop early identification programmes to prevent disabilities, implement alternatives to the institutionalization of disabled children, envisage awareness-raising campaigns to reduce discrimination against disabled children, establish special education programmes and centres for disabled children, and encourage their inclusion into society;
- ♦ undertake all appropriate measures to accelerate the full implementation of the compulsory education system, and to improve the access to education of the most vulnerable groups of children;
- ♦ consider acceding to ILO Convention No. 138 regarding minimum age for access to work; undertake efforts to prevent and combat economic exploitation, or any work that is likely to be hazardous or to interfere with the child's education; pay particular attention to the conditions of children working within their families, in order to protect them fully;
- ♦ strengthen efforts to prevent and combat drug and substance abuse among children, and support rehabilitation programmes for child victims of such abuse;
- ♦ take further measures to prevent and combat sexual economic exploitation of children, including the use of children in prostitution and pornography and the trafficking and abduction of children; make further efforts to establish rehabilitation centres for child victims of ill-treatment, sexual abuse and economic exploitation; and
- ♦ review provisions in law governing legal counselling for children in care centres who are in conflict with the law, ensure that detention is used only as a measure of last resort, and take steps to improve conditions in detention centres; raise the minimum age for criminal responsibility, and raise to 18 years the age of persons considered under the juvenile justice system.



INDIA

Date of admission to UN: 30 October 1945.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Economic, Social and Cultural Rights

Acceded: 10 April 1979.

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

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

Civil and Political Rights

Acceded: 10 April 1979.

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

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

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

Racial Discrimination

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

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

Reservations and Declarations: Article 22.

Discrimination against Women

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

India's initial and second periodic reports were due 8 August 1998.

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

Torture

Signed: 14 October 1997.

Rights of the Child

Acceded: 11 December 1992.

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

Reservations and Declarations: Article 32.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 3, 13, 24, 25, 32, 42, 52, 61, 203–217)

On the question of compensation the report refers to information provided by the government indicating: there is no statutory right to compensation for victims of human rights violations but courts in India have awarded such compensation in a number of cases; compensation for human rights violations is considered part of the public law regime in the country; compensation has also been paid to victims of human rights violations based on recommendations of the National Human Rights Commission; the burden of proof related to presumption of death lies with the person affirming the death; payment of compensation does not require a presumption of death once culpability is established; courts have ordered exhumation to establish the identity of a person reported to have disappeared; and, compensation has been paid to victims of disappearance and their families.

Twenty-eight newly reported cases of disappearance were transmitted to the government, seven of which reportedly occurred in 1997. Two cases were clarified on the basis of information previously submitted by the government. The majority of the 272 cases transmitted to the government occurred between 1983 and 1995, in the context of ethnic and religious disturbances in the Punjab and Kashmir regions. The disappearances in both regions were primarily attributable to the police authorities, the army and paramilitary groups acting in conjunction with, or with the acquiescence of, the armed forces. The disappearances were alleged to have been the result of a number of factors related to the wide powers granted to the security forces under emergency legislation, in particular the Terrorist and Disruptive Activities Act and the Public Security Act. The victims have included shopkeepers, a lawyer who was reportedly well known for defending Sikhs detained in Punjab, journalists, human rights activists, students and others.

The majority of the newly reported cases occurred in Punjab during 1996. One case concerned the Chairman of the Srinagar-based Institute of Kashmiri Studies who attended the 47th session of the UN Sub-Commission. Three cases concerned members of the Jammu and Kashmir Liberation Front who were allegedly taken from the premises of the organization in Srinagar by members of the Special Task Force.

The Working Group (WG) also received allegations related to non-compliance by the government with provisions of the Declaration on the Protection of All Persons from Enforced Disappearance. Serious concern was expressed to the Group about: the number of cases of disappearance in which the fate of the victim remains unknown and in which the perpetrators have not been brought to justice; the fact that members of the security

forces continue to act with impunity; the fact that investigations are carried out usually by the police or army officials rather than by an independent and impartial body; the fact that although there has been a decrease in incidents of police excesses in the Punjab, including disappearances, human rights workers and activists continue to be subjected to threats and abuses by members of the security forces; adoption by police in all provinces of the practice of not filing arrest reports or registering detentions; and, the fact that in Jammu and Kashmir families can only obtain information on the whereabouts of their relatives by bribing prison guards.

The government denied the allegations related to non-compliance with provisions of the Declaration and stated, *inter alia*: instructions were issued to all authorities concerned that inquiries must be conducted into every allegation brought to their attention; various police and armed forces organizations also have their own statutory acts which make it mandatory for them to investigate allegations involving their personnel; whenever a prima facie case of human rights violations is established, exemplary action under the law is taken against offenders and appropriate relief provided to the victims; and, the extensive range of statutory, institutional and judicial remedies that are available domestically ensure that no one enjoys impunity.

The government considered as “completely baseless” the allegation that investigations are rarely carried out into cases of disappearances and when carried out are not conducted by independent or impartial authorities, stating, *inter alia*: investigations are invariably carried out whenever allegations are raised or even *grosso modo* on the basis of media reports; in several instances, the investigation is not entrusted to the police and is carried out by the Central Bureau of Investigation (CBI); whenever the nature of allegations so requires, independent judicial inquiries are ordered; and, in certain cases, the courts have ordered that investigations be carried out under their direct supervision.

The government also stated that there are no restrictions on activities carried out by Indian non-governmental organizations and human rights activists within the framework of the law in any part of the country. On other points, the government stated, *inter alia*: the Criminal Procedure Code requires the police to inform all arrested persons of the grounds of their arrest and to produce them before a Magistrate within 24 hours; all detainees have full rights under existing laws to contact their lawyers and there are no restrictions on legal aid and assistance to those who require it; and, family members are also informed and visit detainees regularly while in judicial custody.

In response to individual cases, the government variously responded that: the persons concerned had been released; no complaint concerning the disappearance of the person had been lodged with the police; and, the person concerned was currently available at his residence.

The WG expressed concern that new cases of disappearance continued to be reported and that very few of the cases on the Group's books had been clarified.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 13, 14, 16, 17, 21, 27, 29, 30, 31, 32, 36, 37, 38, 39, 57, 61, 65, 66, 68, 70, 75, 85, 114; E/CN.4/1998/68/Add.1, paras. 202–212)

The report notes that appeals and cases sent to the government related to: civilians and those suspected of being members of armed opposition groups; witnesses in several human rights cases; death threats from state officials and paramilitary groups; deaths in custody and deaths due to excessive use of force by law enforcement officials; a statement by the government of the State of Tripura reportedly empowering the armed forces "to fire upon or otherwise use force even to the causing of death, after due warning of any person acting in contravention of the law or any order in force prohibiting the assembly of five or more persons or carrying of weapons"; allegations indicating that security forces, including the Border Security Force and the Central Reserve Police Force, were responsible for numerous violations of the right to life; and, imposition of the death sentence following proceedings in which the defendants did not fully benefit from the rights and guarantees for a fair trial.

The Special Rapporteur (SR) referred to the existence of a pattern of killings in the State of Manipur and noted that the Armed Forces (Special Powers) Act of 1958 reportedly gives security forces widespread powers to shoot to kill and protects them from prosecution for any acts carried out under its provisions. The situation in Manipur is further aggravated by government restrictions on access to the region, creating a climate in which security forces are able to use excessive force with impunity.

Urgent appeals were sent on behalf of a philanthropist and human rights activist and three witnesses in a case involving torture. Appeals were also sent related to: imposition of the death penalty on an individual who reportedly was not represented by a lawyer during pre-trial proceedings; death in custody following arrest by members of the security forces; death in police custody and arrest followed by killing by members of the Rashtriya Rifles of the Indian Army; deaths of more than 20 members of the Jammu and Kashmir Liberation Front (JKLF), including two minors, the killing of a 15-year-old child by members of the Rapid Action Police Force of Manipur; the killing of a woman when members of the security forces, allegedly without any warning, opened fire on her house in Manipur, after a person they had been pursuing fled towards it; the killing of three persons when members of the Central Reserve Police Force started firing indiscriminately; killing of one person by members of the Manipur Rifles, allegedly because he did not stop when ordered to halt; deliberate killings of nine persons by members of the security forces after the latter had been fired at by four youths who subsequently escaped; death by shooting by members of the

Central Reserve Police Force (CRPF); death from deliberate shooting by members of the Assam Rifles; abduction followed by death of a human rights defender and editor, by so-called renegades accompanied by members of the armed forces; beating followed by being shot to death at the hands of members of the security forces; death at the hands of members of the CRPF which was allegedly conducting a search operation following an attack on a CRPF post by an armed opposition group; death by shooting, in a case of mistaken identity; and, a beating causing death by four police officers.

With regard to the situation in Agartala and Khowai subdivisions of the State of Tripura, the government stated that the large-scale killing of civilians and burning of homes, by such militant groups as the All Tripura Tiger Force and the National Liberation Front of Tripura, created a situation which required the government to declare the worst affected areas as "disturbed areas" under the provisions of the Disturbed Areas Act and the Armed Forces (Special Powers) Act. The government explained that the measures cannot be interpreted as "shoot to kill" orders and that sufficient checks and balances are present in the legislation to ensure that there is no abuse of authority. The government also indicated that special powers can be exercised only in specific circumstances set out in the Armed Forces (Special Powers) Act.

With regard to the statement by the National Human Rights Commission that 444 persons had died in custody throughout India between April 1995 and March 1996, the SR requested information from the government on, *inter alia*: how many of the deaths in custody had been investigated, how many had led to criminal proceedings against state officials, the results of such proceedings, whether compensation had been paid, and whether the number of deaths in custody had led to any review of the conduct of law enforcement officials so as to further strengthen respect for the provisions of the Code of Conduct for Law Enforcement Officials.

The SR considered an *in situ* visit to be of great importance in view of persistent allegations of deaths in custody, excessive use of force, impunity and failure to take preventive measures.

Independence of judges and lawyers, Special Rapporteur on the: (E/CN.4/1998/39, paras. 15, 16, 17, 19, 74–85)

Cases referred to the government related to: the kidnapping and killing of a lawyer and human rights activist and the status of the investigation into the incident; police threats against and harassment of a human rights lawyer, reportedly because of his defence of suspected terrorists and his human rights work; a lawyer and joint secretary of the Andhra Pradesh Civil Liberties Committee, who was reportedly attacked by police in plain clothes and sustained serious head injuries — noting that the "Green Tigers" claimed responsibility for the attack; the harassment of a lawyer by armed personnel of the 30th Assam Rifles and a police constable; a lawyer and Vice-President

of the Manipur Bar Association who was arrested with his wife and charged with harbouring armed opposition leaders; a lawyer whose house was raided by a team of the Indian Army and the Rapid Action Police Force of Manipur; a judge whose house was raided; and, a lawyer and executive director of the Delhi-based South Asian Documentation Centre, who reportedly received threatening phone calls from someone who identified himself as Deputy Commissioner of Police of Delhi.

The response of the government with regard to these cases variously indicated: an investigation had been conducted by the Special Investigation Team, the Division Bench of the Jammu and Kashmir High Court of Srinagar had issued an order requesting that the Territorial Army Officer be brought in for questioning, and that the authorities concerned collaborate with the Special Investigation Team; the National Human Rights Commission was conducting inquiries into the allegations of harassment; the attack was made by unknown individuals; and, the raid on the home of the judge was brought to the attention of the Chief Justice of the Guwahati High Court and the army officers concerned were directed to file their reply within a week — noting that the Guwahati High Court ultimately concluded that the incident had been the result of confusion arising from mistaken identity. The government informed the Special Rapporteur (SR) that information regarding other allegations raised in the communication would be provided in due course.

The SR welcomed positive steps taken in cases transmitted but expressed concern about the frequent allegations he received of the harassment and intimidation of lawyers by police and security forces. The SR requested the government to investigate systematically, thoroughly and impartially these allegations, to identify those responsible, and to bring them to justice.

Racism and racial discrimination, Special Rapporteur on: (E/CN.4/1998/79, paras. 53, 57–59)

The report recalls that communications concerning the situation of untouchables in India were sent to the government in December 1996 and August 1997. In its reply, the government rejected allegations that it tolerated untouchability, provided the Special Rapporteur (SR) with a list of the measures taken to curb discrimination between castes and maintained that a practice that is so old cannot be eliminated rapidly. The SR noted the discrepancy between the facts alleged and the government's reply and stated that a visit to India would permit him to evaluate the situation in cooperation with the government and the communities concerned.

Religious intolerance, Special Rapporteur on: (E/CN.4/1998/6, para. 23, 29, 48, 50, 62)

The report refers to violations of freedom of religion and belief against Christianity. On the freedom to change one's religion, the Special Rapporteur (SR) noted that legislation banning conversion had been drafted and that, in one case, a Hindu who converted to Christianity was reported to have been attacked by Hindu extremists.

Sale of children, child prostitution, child pornography, Special Rapporteur on the: (E/CN.4/1998/101, para. 107)

In the section dealing with children exposed to sexually explicit material on the Internet, the report notes that the government has attempted to prevent such misuse of the Internet by limiting access to the Internet to the academic world. The Special Rapporteur stated that, as a result, the Internet remains inaccessible to the individual or commercial user. The report also noted that the entry of foreign print and electronic media into the country has provoked a controversy, with the government still undecided about its stand.

Torture, Special Rapporteur: (E/CN.4/1998/38, paras. 4, 111–113; E/CN.4/1998/38/Add.1, paras. 160–173)

The report notes that the government has not responded positively to the Special Rapporteur's (SR) request for an invitation to visit the country. The SR informed the government of reports indicating that the use of torture by police in Punjab was widespread, with the methods including: beatings with fists, boots, lathis (long bamboo canes), pattas (leather straps with wooden handles), leather belts with metal buckles or rifle butts; suspension by the wrists or ankles and beatings; *kachcha fansi* (suspension of the whole body from the wrists, which are tied behind the back); application of electric shocks; burning of the skin; removing nails with pliers; *cheera* (forcing the hips apart), sometimes to 180 degrees and often repeatedly, for 30 minutes or more; and insertion of chili peppers into the rectum.

New allegations concerning 16 persons were sent to the government as were four urgent appeals. The cases and appeals related to, *inter alia*: arrest and interrogation under torture at the police post in Kot Khalsa by officers of the Islamabad police station; arrest followed by detention and torture of a 17-year-old boy at the premises of the Central Investigation Agency (CIA) Staff Nabha; arrest followed by torture and death in which the police reportedly maintained that the victim died of a heart attack; detention and torture — including sexual assault — of a couple for suspected possession of narcotics, noting the government's denial that torture had taken place; beatings against a Nigerian student at Khalsa College Chandigarh and a companion, followed by detention, torture and death threats prior to an appearance before the judicial magistrate on charges of drug trafficking; detention and beatings against five persons following a meeting they had had with a parliamentary committee concerning a threat of forced eviction; beatings of villagers by soldiers in connection with elections which, in one case resulted in the death of a seven-year-old girl — noting the government's claim that the girl had fallen down and was trampled when the arrival of militants caused the crowd to panic; arrest and incommunicado detention of one person with links to the All Parties Hurriyat Conference; arrest and torture of a Bhutanese national and Chairman of the United Front for Democracy in Bhutan following a request by the government of

Bhutan for his extradition; and, the arrest and incommunicado detention of three activists of the Jammu and Kashmir Liberation Front, by members of the Special Task Force (STF).

The report recalls that in March 1996 the SR sent an urgent appeal on behalf of some 180 Bhutanese refugees who were arrested in West Bengal to which the government replied that apprehension as to their ill-treatment in custody was unwarranted. Additional information received from the source documented cases of beatings with some of the refugees requiring hospitalization.

Violence against women, Special Rapporteur

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

The report refers to the case of a woman in the Punjab who was detained, raped while in custody, and kept in wrongful confinement for three days. The Special Rapporteur (SR) also referred to the situation in the village of Kunan Poshpor, Kashmir, in which a large number of women stated that they had been raped by soldiers of the Rajputana Rifles.

The SR stated that although India has a strong legal framework for prosecuting cases of rape by security forces — including provisions relating to custodial rape that provide victim-friendly evidentiary procedures — neither investigation nor prosecution by authorities has been adequately pursued; this suggested a lack of political will to prevent, prosecute and punish such violations. The SR also stated that the counter-violence by armed opposition groups in Jammu and Kashmir is equally to be condemned as being in violation of human rights standards. Reference was made to reports on “forced marriages” where unmarried women are abducted, raped, and then forced to become the brides of members of the armed opposition. Such violations are characterized as constituting wartime sexual slavery as well as rape and torture. On custodial violence, the report refers to section 114A of India’s Evidence Act which provides that in cases of, *inter alia*, custodial rape, where the victim claims non-consent and where sexual intercourse has been proved, there arises a rebuttable presumption of non-consent.

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. 101–104)

The report cites an article in *Le Monde* (12 May 1998) stating: in the Indian Sub-continent, poverty and ignorance have driven millions of parents to suffocate their female babies or to poison them with extracts of plants; for generations it has been quite common for poor families to deprive their young daughters — but not their small sons — of food and care; for South East Asia as a whole it is estimated that this “sexual genocide” has resulted in the death of some 60 million girls; and this “genocide”, which is not regarded as such locally, does not give rise to general indignation.

The Special Rapporteur (SR) also cited an article in *The International Herald Tribune* (30 March 1998) on the situation of India’s 33 million Hindu widows. The article referred to a Hindu widow suffering “social death”. The report notes that it is customary for Hindu wives to live with the family of their spouse, cut off from any link with their own families. The SR also noted that despite being officially banned, the practice of suttee has survived, with occasional instances of widows who immolate themselves, either voluntarily or under compulsion.



INDONESIA

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

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Discrimination against Women

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

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

Torture

Signed: 23 October 1985; ratified: 28 October 1998.

Reservations and Declarations: Article 20, paragraphs (1), (2), and (3); Article 30, paragraph (1).

Rights of the Child

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

Indonesia’s second periodic report was due 4 October 1997.

Reservations and Declarations: Articles 1, 14, 16, 17, 21, 22 and 29.

REPORTS TO TREATY BODIES

Committee on the Elimination of Discrimination against Women

Indonesia’s second and third periodic reports were submitted as one document (CEDAW/C/IND/2-3, February 1997) which was considered by the Committee at its February 1998 session. The report prepared by the government contains general information on the police and the economic framework, as well as commentary on, *inter alia*: constitutional provisions related to equality and non-discrimination; constraints on equality; institutional developments to support the advancement of women, the functions of the Office of the Minister of State for the

Role of Women (MRW); child development programmes; temporary measures to accelerate equality, training and literacy programmes, special measures related to maternity; sex roles and stereotypes and the importance of family education; difficulties in implementing the principle of equality; religious customs and traditional norms; traffic in, and exploitation of, women; participation in political and public life; education and access to education; the government policy on women and employment and mechanisms for its implementation, the Labour Act, social security, retirement, pensions, child care and family support, unpaid work in the home; health and general health care services, family planning, abortion; family benefits, access to loans and credit, the situation of rural women, the Family Welfare Movement (PKK), the Programme to Increase the Role of Women in Small Industries; equality before the law; and marriage and family, the right to a name, divorce, property and alimony.

The Committee's concluding observations and comments (A/53/38, paras. 262–311) noted that as a follow-up to the Beijing Conference, the government had launched a national movement — the Outlook of Harmonious Gender Partnership between Men and Women in the Family, Society and Development — with a view to inculcating values of equality in the citizenry. Reference was also made to the government's core focus in four areas: poverty eradication, education, health, and empowerment. The Committee welcomed, *inter alia*: the fact that the Convention forms part of domestic law and has been cited before courts in discrimination cases; the introduction of an Indonesian National Action Plan to implement the Beijing Platform for Action; and the creation of women's studies at institutions of higher learning.

Factors hindering the implementation of the Convention were noted as including: the current economic crisis; the existence of cultural attitudes that confine women to the roles of mothers and housewives; policies and programmes developed on the basis of those stereotypes, thereby limiting women's participation and entitlements; and the failure to collect data on certain issues that are crucial to the well-being of women, such as the prevalence of violence against women.

The principal areas of concern identified by the Committee included: the existence of laws which are not in accordance with the provisions of the Convention regarding family and marriage — including polygamy, and age for marriage; divorce and the requirement that a wife obtain her husband's consent for a passport; economic rights — including ownership and inheritance of land, access to loans and credits, entitlement to social, health and other benefits in the labour sector, and the requirement that a wife obtain her husband's consent for night employment; and health — including the requirement that the wife obtain her husband's consent with regard to sterilization or abortion, even when her life is in danger.

The Committee expressed concern that, *inter alia*: there is no clear definition of discrimination modelled on article 1 of the Convention in the constitution or other national laws; Muslims may choose whether Islamic or civil law is to be applied to them, raising questions as to who decides this issue, and to what extent Muslim women are able to choose to have civil law applied to their affairs rather than Islamic law; marriages between partners of different religions are prohibited *de facto* in certain regions of the country; existing social, religious and cultural norms recognize men as the head of the family and breadwinner and confine women to the roles of mother and wife, noting that it is unclear what steps the government is proposing to take to modify such attitudes; traditional gender stereotypes are also perpetuated in formal education and textbooks have not been revised to eliminate such stereotypes; and that the full implementation of the national plan of action might be impeded by prevailing religious and cultural norms that constitute the backdrop to Indonesia's legal and policy efforts towards women's equality.

Concern was raised in relation to: women's low rates of participation in education, as well as the high level of illiteracy among women, especially in the rural areas; access to education of all children, including those from minority groups; the fact that women are still employed in lower-paid and lower-skilled work; the predominant view which appears to be that married women might provide supplemental income for a family, parallel to very little emphasis on the right of women to develop a career of their own; and the lack of adequate laws to address violence against women, as well as the lack of systematic sex disaggregated data collection and documentation on the extent, forms and prevalence of violence against women.

The Committee noted its concern with regard to: reports on violations of women's human rights in East Timor and the information provided by the government on the situation of women in areas of armed conflict, which reflects a limited understanding of the problem; the fact that the government's remarks are confined to the participation of women in the armed forces and do not address the vulnerability of women to sexual exploitation in conflict situations, as well as a range of other human rights abuses affecting women in such contexts; information on the situation of migrant women and the failure to include discussion of reports of death as a result of mistreatment and abuses of Indonesian migrant women abroad, as well as cases of trafficking for the purposes of prostitution; and the lack of mechanisms to respond to abuses of Indonesian women abroad.

Additional concerns were expressed related to: reported cases of coercion in the course of the implementation of the family planning programme; the fact that limited information was provided on the problem of HIV/AIDS; attribution of the problem of HIV/AIDS to women in prostitution; programmes designed to "clean the city streets" of prostitutes whenever there is a major international event in Jakarta and reports indicating that

women taken off the streets have been subjected to forced vaginal examinations; inadequacies in programmes to address the issue of prostitution and trafficking in women; insufficient help for these women through socio-economic and health programmes; and the fact that preventive measures and re-socialization efforts are aimed principally at prostitutes and do not address male clients.

The Committee noted concerns over: the extent of unemployment among women, particularly those from female-headed households, with respect to the current economic crisis; wage disparities between female and male workers and job-segregation in the workforce, with women disproportionately occupying low-skilled and low-paying jobs; and women's unequal access to social security, employment and health benefits.

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

- ♦ provide, in the next report, a full description of the results of all measures to implement the Beijing Platform for Action as described in the Indonesian National Plan of Action and the "Outlook of Harmonious Gender Partnership between Men and Women in Development"; take account of the Committee's remarks on religious and cultural values and their effect on the implementation of these initiatives;
- ♦ take appropriate measures to mitigate the negative impact that the current economic crisis may have on women, particularly in the areas of education, health and employment;
- ♦ collect, as a matter of priority, data on the extent, causes and consequences of the problem of violence against women in Indonesia; address the need for the gender sensitization of authorities, including the judiciary, law enforcement officers, lawyers, social workers, health professionals or others who are directly involved in combatting violence against women;
- ♦ provide, in the next report, information about government-supported women's studies programmes and centres as well as information on efforts to revise textbooks to reflect values of gender equality;
- ♦ take immediate steps to eradicate the practice of polygamy and to change other discriminatory laws; take steps to ensure that women have the right to free choice of spouse;
- ♦ take appropriate measures to ensure that women in East Timor are not subject to violations of their human rights; and
- ♦ address the issue of trafficking in women and prostitution and establish, *inter alia*, socio-economic and health programmes to assist women in this context.

COMMISSION ON HUMAN RIGHTS

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

The report of the Secretary-General (SG) (E/CN.4/1998/58) provided an update on the SG's good-offices initiative and a summary of actions taken by the various Commission's thematic rapporteurs and working groups. Information provided by the governments of Indonesia and Portugal, as well as non-governmental sources, was also included.

The report notes that the effort to find a solution to the question of East Timor was intensified and led to an agreement between the Foreign Ministers of Portugal and Indonesia, in June 1997, to continue work with the SG's Representative at the working rather than Ministerial level. Under the agreement, the delegations of the two sides, to be led by senior Foreign Ministry officials, would meet more frequently under the chairmanship of the Personal Representative of the SG and the discussions of the senior officials would be kept confidential. Three rounds of meetings were held in August, October and November 1997. In addition to those discussions held at the UN's headquarters, talks also took place in Indonesia and East Timor (December 1997) and Portugal (January 1998). The report states that during these latter meetings the human rights situation in East Timor had been addressed at some length and also notes that consultations with the High Commissioner for Human Rights were maintained in light of the interdependence of the diplomatic efforts to find a political solution and the human rights situation on the ground. The report also notes that as of July 1997 President Nelson Mandela had become engaged in the issue in support of the SG's efforts. Finally, the report notes that another meeting of the All-inclusive Intra-East Timorese Dialogue (AIETD), an initiative begun in 1995, was held in October 1997. This meeting brought together 34 East Timorese of diverse political trends and, while the participants did not address the issue of the political status of East Timor, they proposed in their final declaration various practical ideas aimed at assisting the search for a long-term settlement to the problem.

The information provided by the Indonesian government (Annex I of the report) referred to the resolution adopted at the 1997 session of the Commission (1997/63) and characterized it as contrary to the principle of objectivity and non-selectivity, maliciously motivated and intended to embarrass Indonesia. The government acknowledged that human rights violations were still occurring in East Timor but stated that they were clearly isolated incidents and did not reflect government policy in any way. The government then cited a number of measures taken to improve fundamental human rights including, *inter alia*: efforts made by the national and "provincial" governments related to social and economic development to improve the quality of life of the people in East Timor — such as development of infrastructures, raising the level of health, housing, education and nutrition and developing public social services; expansion of economic sec-

tors, including industry, agriculture, and services with a priority given to the development of human resources; promotion of religious tolerance through, for example, the Interreligious Youth Dialogue, held in July 1997 in Dili, in which it was agreed that the pluralism of religious life in East Timor should not be seen as a factor of divisions, but as a form of unity in diversity, as in any other part of the country; taking measures to promote the East Timorese, in all sectors of the economy and the administration, even though they may not, in the view of the authorities, always have the necessary skills; creating steps to ensure access to East Timor by air and sea, telecommunications (phone, fax and cyberspace technology), tourism, visits by foreign dignitaries and members of the diplomatic corps, direct access within the province to world news through both printed and electronic media; conducting military civic missions in East Timor aimed at combatting poverty and underdevelopment as well as serving and protecting the people; creating steps to minimize the occurrence of human rights abuses by military personnel and to punish those responsible; and the continuing policy of allowing the International Committee of the Red Cross (ICRC) regular access to prisoners and detainees in Indonesia and East Timor, free access for ICRC representatives to anyone they wish to meet and a joint effort with the ICRC to gather accurate information on the circumstances of prisoners and detainees.

The information provided by the Portuguese government (Annex II of the report) covered a number of points including, *inter alia*, that: no East Timorese political prisoners were released during 1997; East Timorese continued to be persecuted for the peaceful expression of their beliefs; during 1997, a pattern of widespread arbitrary arrests and detentions, following civil disturbances and the increase of the activity of the armed resistance, was registered throughout the territory; a pattern of violence and abuse by police and the military in dealing with peaceful demonstrations or civil disturbances, including beatings, shootings, arbitrary arrest, and detention was observed on various occasions; East Timorese taken into military and police custody were regularly subjected to torture and ill-treatment and routinely denied access to legal counsel, medical treatment, and their families; political trials in East Timor fall short of international standards through, for example, denial of access to independent legal counsel, withholding of information from the defendants, use of testimony extracted under torture or without the presence of lawyers, and refusal to hear witnesses for the defence; articles in Indonesia's Criminal Code, in particular those related to "hate-sowing" — which punish expressions of "hatred" towards the government — were frequently used in East Timor to imprison individuals engaging in peaceful political activities; despite recognition by the authorities of responsibility for the killings in Dili in November 1991, the government has not provided compensation to the families of those killed, the bodies of the victims (except for that of one foreigner who was killed) were never returned to their families and no new efforts were made to account for those still missing; women in East Timor are particu-

larly vulnerable to gender specific human rights violations, including rape and sexual harassment, which often go unreported because of the lack of independent monitoring and because victims of sexual abuse are less likely to report their cases; women who are taken in police or military custody are frequently subjected to sexual abuse; and some women are harassed simply because a family member is suspected of being involved with the armed resistance or the clandestine front. The Portuguese government also noted that: an excessive military presence continues in East Timor, involving regular police, mobile brigade police, troops from Indonesian infantry battalions, units of the Indonesian special forces (Kopassus), at least one air force battalion, local territorial troops, a variety of paramilitary forces, and an extensive intelligence network; East Timorese youths are recruited by such paramilitary organizations as Gardapaksi (Youth Guard for Upholding Integration), for example to mount counter-demonstrations to pro-independence rallies; the government has failed to act on the findings and recommendations of the Indonesian National Human Rights Commission (Komnas HAM); and no new efforts have been made to assign a programme officer from the OHCHR to the UNDP office in Jakarta, with unimpeded access to East Timor.

The information provided by non-governmental sources (Annex III of the report) relates to a number of cases, incidents and concerns, including: waves of violence in East Timor accompanying the May 1997 election; systematic round-ups of large numbers of people by military teams in June and July 1997; imposition of a curfew in Dili following the election; extrajudicial executions and the failure of the government to investigate; arbitrary detention, with one report indicating that some 700 East Timorese were arrested between January and July 1997; endemic use of torture to extract information about suspected guerrilla activity or to force confessions; and the lack of investigation into reports of abuses, thereby contributing to the ongoing cycle of human rights violations in East Timor.

Chairman's statement at the 1998 Commission

In a Chairman's statement the Commission, *inter alia*: noted with deep concern the reports on violations of human rights in East Timor; recalled the undertakings by the Indonesian government to promote human rights in East Timor; stressed the need for implementation of those commitments, including concrete steps on the early trial and release of East Timorese detained or convicted, and for those in custody to be treated humanely; reiterated the need for further clarification of the circumstances surrounding the Dili incident of 1991; welcomed the advanced progress towards concluding the Memorandum of Understanding between the Indonesian government and the Office of the High Commissioner for Human Rights on technical cooperation and agreement on the early assignment of a programme officer to implement the technical cooperation programme; noted the understanding between the government and the High

Commissioner for Human Rights concerning access of the programme officer to East Timor, within the framework of technical cooperation; welcomed the efforts of the Indonesian National Commission on Human Rights to promote and protect human rights and undertake fact-finding enquiries into human rights violations, including through its office in Dili; noted the commitment by the government of Indonesia to continue to allow greater access to East Timor by the international media and international humanitarian organisations; welcomed the intention of the government to continue to cooperate with the Commission on Human Rights and its mechanisms, and, in particular, its decision to invite the Working Group on Arbitrary Detention to visit East Timor prior to the 1999 session of the Commission; noted the government decision to launch a National Plan of Action on human rights in 1998 and, in that context, its intention to ratify the Convention against Torture; welcomed the dialogue under the auspices of the SG for achieving a just, comprehensive, and internationally acceptable solution to the question of East Timor; stressed the need for constructive actions in order to promote a favourable atmosphere for further progress towards a solution; welcomed the report of the SG, the work of the Special Representative, in particular the establishment of regular dialogue at the senior official level, and the continuing all-inclusive intra-East Timorese dialogue; requested the SG to keep it informed on the situation of human rights in East Timor; and decided to consider the matter 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, 19; E/CN.4/1998/44/Add.1, Decision No. 42/1996, Opinion No. 5/1997)

The report notes that cases and urgent appeals were sent to the government but no details were provided.

Decision No. 42/1996 related to an editor and leading member of the "Pijar" human rights group, who was reportedly arrested in March 1995 by policemen at the "Pijar" offices in Jakarta. In September 1995 he was found guilty of "expressing hostility, hatred or contempt of the Government" and sentenced to two years in prison. The sentence was upheld on appeal. The Working Group (WG) noted that the journalist had been at the forefront of the campaign against the suppression of freedom of expression in Indonesia, writing articles for the *Kabor Dari Pijar* (KDP) and that his arrest was the result of an article in the KDP in which he interviewed a leading human rights activist and director of the Indonesian Legal Foundation.

In response to the allegations, the government stated, *inter alia*, that both the Universal Declaration and the International Covenant on Civil and Political Rights acknowledge that the right to freedom of expression and

opinion is not *prima facie* absolute and unlimited; the right is subject to the law of defamation, libel and slander. The government claimed that the defendant defamed the President and Vice-President of the Republic of Indonesia, and the remark attributed to the person interviewed — that Indonesia was destroyed by someone named Soeharto — was not made by him, as he testified at the trial. Rather, the defendant had made up and published his own defamatory remarks under the guise of an interview in his unlicensed publication. The government claimed that the integrity of the defendant was highly questionable as he was clearly violating the code of ethics of journalism as well as the principle of good faith and honesty. Due process had not been denied: a group of lawyers had represented the defendant at his trial; and, the trial court, comprised of a panel of three judges, found him guilty of wilfully defaming the President. This decision was upheld by the Supreme Court.

The WG noted that the only issue requiring determination was whether the publication of an alleged interview — criticising the role of President Soeharto and holding him responsible for the turmoil in Indonesia — ran counter to the protections guaranteed under article 19 of the Universal Declaration. Issues relating to due process were not considered germane nor was the integrity, or lack of it, of the journalist, in violating the code of ethics of journalism. The WG also stated that, even if the journalist's opinion was erroneous, he had the right to believe and to express it. With these and other points in mind, the WG decided the deprivation of liberty was arbitrary.

Opinion No. 5/1997 related to the sentencing of 21 East Timorese, including several minors, for their alleged involvement in riots which took place in Baucau in June 1996. Information indicated that they had participated in riots which broke out as a result of a "religious" conflict between Catholics and Muslims which was apparently provoked by a member of the Indonesian army. The defendants were reportedly convicted of violence against people and property under article 2, Part 1 of the Emergency Laws No. 132 of 1951. It was alleged that their right to a fair trial was not respected denying each of them their right to: legal representation, presumption of innocence, be tried within a reasonable time, have the court's judgement published, and not be compelled to testify against themselves or confess their guilt.

The WG noted that the government did not respond to the case and decided, on the basis that fair trial guarantees had not been respected, that the deprivation of liberty was arbitrary.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 3, 13, 218–225)

During the period under review, 57 newly reported cases of disappearance, 30 of which were said to have occurred in 1997, were transmitted to the government. Fourteen previous cases were clarified.

The majority of the 485 cases of reported disappearance occurred in 1992 following the incident at Santa Cruz cemetery in Dili, East Timor, when security forces opened fire on peaceful demonstrators during a memorial service for two youths who had been killed in a clash with the police.

All of the newly reported cases occurred in East Timor in circumstances which included: arrest by the Indonesia military or security forces on suspicion of being involved in subversive activities; incommunicado detention, with the associated risk of torture or extrajudicial, summary or arbitrary execution; and, unsuccessful attempts by family members to locate the disappeared individual by making inquiries with government officials.

The government replied that the majority of the 55 named persons had never been arrested and were leading normal lives. In 12 of the cases, the government informed the Working Group that the subjects had been arrested on charges of being involved in subversive activities.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 14, 17, 39, 57, 68; E/CN.4/1998/68/Add.1, paras. 213–220) The Special Rapporteur (SR) received reports indicating that violations of the right to life continued to occur in East Timor as a result of excessive use of force by police and security forces. Allegations related to violations of the right to life were sent, involving killings in East Timor by members of the armed forces, the police, the special armed forces and a member of the Indonesian Intelligence Service. One case involved the killing by police, in Jakarta, of a person reportedly recruited by the Tiara Foundation — an organization allegedly linked to the military which was reported to recruit hundreds of young East Timorese.

The government's response to cases transmitted during 1997 variously stated: the persons named were killed by members of a group or groups seeking to disturb the security and peace in East Timor; the persons named either do not exist or cannot be located in the areas mentioned; the person named was wrongly killed by a member of the Mobile Police Brigade, and the latter was tried and found guilty of murder; and, the person named was a well known gang leader who was killed in a dispute with another gang.

The SR noted that despite repeated requests, the government had not provided a reaction to the recommendations made following the SR's visit to Indonesia and East Timor in 1994 (E/CN.4/1995/61/Add.1, paras. 77–88).

Independence of judges and lawyers, Special Rapporteur on the: (E/CN.4/1998/39, paras. 14, 17, 19, 86–95)

The report notes that a communication was sent to the government concerning an October 1996 decision of a Supreme Court panel to overturn an acquittal that was previously issued by another Supreme Court panel. The

process by which the reversal took place was "judicial review" under article 263 of the Indonesian Criminal Procedural Code. Information indicated that it was the first time in the legal history of Indonesia that this provision of the Code had been invoked by the prosecutor to apply for review of an acquittal ordered by the Supreme Court. Information also indicated that the defendant had not been notified that a decision was to be handed down; consequently, he was not present in court, and was only notified of the decision about a month after it was made. Information suggested that the decision may have been related to rivalries within the judiciary, and specifically the two judges who had headed the Supreme Court panels. The Special Rapporteur (SR) also referred to information indicating that the defence counsel in the case had been threatened by the prosecution that he could be called as a witness to testify against his own client.

In September 1997 the government responded in detail to the SR's communication. It noted that the defendant was found guilty of publicly inciting the people, both verbally and in writing, to infringe the law or to defy the public authority, or to commit punishable acts sanctioned by article 160 of the Indonesian Penal Code. For this, he was sentenced to three years' imprisonment. The court of the second instance increased the sentence to four years. Then, the Supreme Court of appeals cleared him of all charges. Subsequently, a review of the case (i.e., an appeal of the acquittal) led the Supreme Court to reinstate the four-year sentence with immediate effect. The government provided the texts of the articles in the Code of Criminal Procedure that were used in the appeal against acquittal and stated that, in acquitting, the first Supreme Court panel had, *inter alia*, considered the case in the context of the prevalent social transformations in Indonesia while overlooking existing law. The Attorney General based his request for a review on the principles of balance, public interest, Common Law and Former Law. The government asserted that the decision of the Supreme Court to overturn its former decision and to reimpose the four-year sentence did not violate Article 263 of the Code of Criminal Procedure but instead found its legal basis in that article. The government denied that the defendant and legal counsel were not notified of the decision promptly enough to enable them to challenge the ruling. The government stated that the defendant, legal counsel, and all the witnesses were given a fair hearing and that the rights of all parties were respected; at no time and under no circumstances was there any interference from the executive in the proceedings. The government also stated that the allegation that defence counsel was threatened with having to testify against his own client was totally without foundation.

One other case sent to the government related to lawsuits initiated by an individual who had been removed as the democratically elected leader of Partai Demokratik Indonesia (PDI). As well, there were reports that judges had received direction from government officials on how the lawsuits should be dismissed on technical and other grounds. With regard to this case, the government denied

the allegation that the judges in charge acted under the direction of the government, on the basis that the decision of the Court favoured the accusers against government officials.

Religious intolerance, Special Rapporteur on:

(E/CN.4/1998/6, paras. 17, 19, 24, 59)

In commentary on violations of the principle of non-discrimination the report cites legal bans against Jehovah's Witnesses in Indonesia.

Torture, Special Rapporteur on: (E/CN.4/1998/38, paras.4, 114–117; E/CN.4/1998/38/Add.1, paras. 174–207)

The Special Rapporteur (SR) informed the government that allegations continued to be received stating that the use of torture and other ill-treatment by police and military personnel was widespread. According to the information, persons detained for political reasons were frequently first held incommunicado and interrogated in military custody, where many incidents of torture reportedly occur, before being transferred to police custody. The report notes that the government contested allegations of widespread torture, though it acknowledged that ill treatment can sometimes occur, especially where individuals are injured as a result of resisting arrest. The SR stated that the persistence and consistency of the allegations justify continuing concern and simple denials by law enforcement or security agencies of torture or ill treatment during detention cannot be taken as conclusive.

The cases transmitted to the government referred to, *inter alia*, in Indonesia: arrest and ill treatment of a university student in Jakarta who was accused of wounding a policeman with a stone; arrest of a student activist during a peaceful demonstration, followed by five days in incommunicado detention in military custody and interrogation under torture; arrest of a member of the Indonesian Democratic Party (PDI) followed by ill treatment before release; and, arrests of students participating in a demonstration, followed by torture and forced confessions of membership in the People's Democratic Party (PRD). In a number of cases the government admitted the arrests or detentions but generally denied the allegations or torture, ill treatment and incommunicado detention.

The cases arising in East Timor referred to, *inter alia*: a severe beating by soldiers of the son of an East Timorese leader — noting the government's statement that an investigation was under way to establish the facts; arrest by two members of District Military Headquarters (KODIM) from Liquica, followed by beatings — noting the government's reply, that the person had been arrested but was later released for lack of evidence, and the government's failure to address the allegations of torture and other ill-treatment; detention of three persons by soldiers, including two commanding officers, followed by beatings and detention in military facilities — noting that the government acknowledged the temporary detention but denied torture or ill treatment; detention of six

persons by military personnel followed by five days of torture — noting that the government confirmed the temporary detentions but denied allegations of ill treatment; detention of a woman and seven members of her family who alleged that she was raped by an Indonesian Armed Forces soldier who threatened to kill her if she reported the rape, and that she was raped again after being transferred to a Rajawali battalion camp at Luli Rema — noting that the government acknowledged the temporary detention but said that there was no evidence that the woman had been raped; and, arrest of a teacher accused of having provided food to guerrillas, by members of the Rajawali battalion, followed by torture and ill treatment — noting the government's reply that an investigation was still under way.

The government's response to cases previously transmitted variously stated: the case against the officers had been closed due to lack of evidence, but that efforts were continuing to find those responsible; the named person had been arrested but was never subjected to torture; the two named individuals could not be traced and the East Timor authorities had denied that any arrests were made in the area and on the date mentioned; and, an investigation had been conducted into the alleged rape which concluded that the officers were not guilty.

The SR also transmitted 14 urgent appeals, 11 of which concerned East Timor. The cases referred to, *inter alia*, arrests and reports of torture and ill treatment against: student political activists, noting the government's assertion that the suspects had been arrested, but that their rights were being respected; 32 students, during political demonstrations in Yogyakarta, Central Java; members of the Ekari tribe, in the context of clashes between local people and security forces in the Timika area of Irian Jaya; eight persons in East Timor, allegedly in connection with the killing of a military commander in the Indonesian armed forces — noting the government's reply that all eight were in custody and awaiting trial on criminal charges; eight persons, between 26 and 30 December 1996 in the aftermath of violent incidents in Dili; about 109 persons, in the Viqueque district of East Timor, following disturbances between 7 and 11 February 1997; about 45 East Timorese youths, during a peaceful demonstration outside the hotel where the Special Representative of the Secretary General was staying, with a confrontation between demonstrators and security forces resulting in injuries; four persons, on suspicion of links with the armed opposition group Falintil, noting the government's reply that these persons had never been arrested or detained and were leading normal lives as free citizens; five persons in East Timor, in connection with an attack on Mobile Police Headquarters; four persons, by soldiers in connection with attacks by Falintil — noting the government's reply stating that there were no records of the arrest or even the existence of the named persons; three persons, by members of the Special Forces, Kopassus, during house-to-house searches in the village of Soru, near Los Palos, East Timor; five persons following a confrontation between the Indonesian Armed Forces and Falintil; nine persons, on suspicion of posses-

sion of explosives; and at least five students, reportedly shot and wounded in a confrontation with Indonesian police in Dili, East Timor.

Toxic wastes and products, Special Rapporteur on: (E/CN.4/1998/10/Add.1, "Comments received from States")

The report summarizes the government's response to information that was included in the Special Rapporteur's report to the 1997 session of the Commission (E/CN.4/1997/19).

The government referred to copper and gold mining companies in Irian Jaya and stated that PT Freeport Indonesia (PTFI) had committed itself to taking the necessary measures in "tailings" and "overburden" management with a view to maintaining and promoting environmental protection in the area where it operates and eventually preventing it from becoming a ghost town; and, had shown a more responsive business attitude towards the surrounding situation and conditions and contributed positively to the promotion of public health services, training and education, economic and community development, agriculture and cultural conservation, out-stripping the negative aspects.

With regard to reports of pollution caused by the operations of Texaco's Caltex company in Riau, Sumatra, and IMLI on Java, the government stated that: the allegations lacked clarity, making their credibility questionable; it was irrational that the source of the allegations should bring the attention of the Special Rapporteur to alleged misdeeds committed by the companies back in 1992; the fact that the allegations were directed against Indonesia and not against the respective companies was evidence of their being politically motivated and, the government considered it possible that anti-Indonesian elements working in collaboration with certain NGOs were behind the allegations.

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

In the section on violence against women in times of armed conflict, the report states that the Special Rapporteur (SR) received a large number of submissions regarding sexual violence in East Timor by Indonesian security forces. Among the violations cited were sexual violence, rape, forced marriage, forced prostitution and the intimidation of female relatives of suspected activists. The SR stated that the authorities had not responded in accordance with their international obligations and no cases had, at the time the report was written, resulted in prosecution.



IRAN, ISLAMIC REPUBLIC OF

Date of admission to UN: 24 October 1945.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Iran has submitted a core document (HRI/CORE/1/Add.93) for use by the treaty bodies. The report prepared by the government contains a section on history, land, people, government and administrative divisions. Information is also provided on the structure of government, management of the economy, social conditions, and literacy and education. Article 4 of the Constitution stipulates that all civil, penal, financial, economic, administrative, military, political and other laws shall be based on Islamic standards. Chapter 3 of the Constitution declares that the dignity, lives, property, rights, homes and occupations of all people shall be immune from encroachment.

Economic, Social and Cultural Rights

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

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

Civil and Political Rights

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

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

Racial Discrimination

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

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

Rights of the Child

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

Iran's initial report (CRC/C/41/Add.5) has been submitted and is pending for consideration by the Committee at its May/June 2000 session; the second periodic report is due 11 August 2001.

Reservations and Declarations: General reservation.

COMMISSION ON HUMAN RIGHTS

Special Representative of the Secretary-General (E/CN.4/1998/59)

The mandate of the Special Representative (SRep) was established by the Commission at its 1984 session and has been renewed annually. The SRep in 1998 was Maurice D. Copithorne.

The report to the 1998 Commission was prepared without benefit of an in-country visit and, as a consequence, reflects information gathered during discussions with representatives of the government on postings outside Iran, as well as non-governmental and other sources. The report covers the period from September to December 1997 and addresses such topics as freedom of expression, executions, apostasy and conversion, torture and ill-treatment, the status of women, the fatwa against

Salman Rushdie, the situation of the Baha'is and certain religious minorities, the Islamic Human Rights Commission, and religious dissidents. The SRep describes the most striking development in Iran in the period under review as: the efforts of the new Government of President Khatami to give substance to his pre- and post-election commitments to develop a society that cherishes the rule of law and personal freedoms, and that the Government has taken measures to this end and with the objective of creating an "Islamic Civil Society" — described as "a space for intellectual, political and cultural expression free from State interference". However, the SRep notes that, parallel to this development, there continue to be violations of human rights. He also notes that his report seeks to highlight some of the positive as well as the negative developments; it is not and cannot be an exhaustive commentary on the state of human rights in the country.

The commentary on freedom of expression notes that efforts by the government to move towards a more open society have met significant opposition. The report states that the most serious problem is the need to bring the activities of various elements of the judiciary and the security services, as well as extrajudicial groups such as the Ansar-e Hezbollah — which are resisting change and the strengthening of human rights in Iran — into line with announced government policy on freedom of expression. Positive trends related to freedom of expression were identified as including, *inter alia*, that: bans on a number of publications were lifted; the number of licences for new publications had nearly doubled; the "Council on Exhibition Arts and Plays" was abolished; a press syndicate or association of some 2,000 members was established, and at least one editor of a liberal newspaper had been included on the executive; a permit for the film "Snowman" was issued, a film which was reportedly considered by some to be contrary to Islamic values and had been previously banned by the Ministry of Culture and Islamic Guidance; the Minister of the Interior decided, and defended, the decision in the Majilis (Parliament) to grant permission to the Union of Islamic University Students to hold a rally in October 1997 to discuss the issues facing the country, including the civil society concept as well as some academic issues; following from the above point, at the October rally there were apparently speeches that some considered anti-Constitution and anti-Velayat and the Minister of the Interior used the occasion to express dismay at some of the unlawful measures used by some groups against newspaper publishers, university organizations and seminaries; and condemnation by the government of violence intended to curtail freedom of expression is being heard more often.

Balancing the references to these developments, the report notes continuing problems and cases, including: the unexplained death, allegedly in custody, of an editor; the preferring of charges of "spying for a foreign government" against an editor; threats and attacks against the offices of *IranFarda*, a monthly publication, and *Salaam*, a daily in Tehran; the arrest by the Mashhad of a well-known Kurdish scientist and writer and the fact that he had not been heard from since the arrest; the beating and abduction of officials of the Union of Islamic

Students and the vandalizing of the organization's offices, apparently in retaliation for statements made at the October student meeting at the University of Tehran; attacks on patrons and the vandalizing of movie theatres which were showing the film "Snowman"; and successful efforts by members of Ansar-e Hezbollah to prevent individuals holding dissident views from delivering speeches at universities in Tehran. The report does note that in several of the cases mentioned the government had either begun an investigation into the incident or arrested those who the investigations indicated were responsible.

Concerning the status of women, the report states that the dominant theme of scholarly and popular articles seemed to be that change was both necessary and possible within the context of Iran's Islamic system of governance. The report also cites a statement by President Khatami, quoted in a foreign wire service report in early December 1997, calling for a re-evaluation of religious attitudes towards women. Reference is made to the adoption by the Majilis of a new law allowing a woman to receive custody of her children if she can show that her spouse is an unfit father. Reference is also made to the showing of the film "Leila" in Tehran and the debate that followed related to the status of married women and multiple marriage in particular. With those points in mind, the report nevertheless states that the system remains discriminatory and incidents continue to occur, perhaps at a reduced frequency, that clearly offend the plain meaning of equality, as well as the international standards involved.

The narrative on other areas of continuing concern, notes that: the upward trend in executions continued through 1997 with a total of 199 carried out, 95 in public; that the SRep has received statements to the effect that many of the executions were related to drug trafficking and considered "a reasonable response" to the threat posed to both Iran and other countries; a number of stonings were carried out not only in rural or remote areas but also larger cities; stoning as a form of punishment must always be endorsed by the Supreme Court and therefore cases cannot be considered as random incidents; amputations (fingers and hands) are carried out for such repeat offences as theft, robbery and forgery; with regard to Baha'is, reports continued to be received related to discrimination and persecution, including extrajudicial executions, arbitrary detentions, refusal of entry to universities, confiscation of property and dismissal from employment; the policy of categorizing being active in the Baha'i community and gathering for Baha'i meetings as offences also continued; and, with regard to certain religious minorities, the policy of the government recognizing as minorities only those groups defined as such in the Constitution leading, in some cases, to religious discrimination and, in others, to ethnic or linguistic discrimination.

The report concludes by noting that despite its apparent overwhelming mandate from the people of Iran, the government does and will face many challenges, the immediate one being the significant resistance to its declared policies that seems to exist in powerful quarters.

Resolution of the Commission on Human Rights (1998/80)

At its 1998 session the Commission adopted by roll call vote a resolution on the situation of human rights in Iran in which it, *inter alia*: recalled that Iran is a party to the International Covenants on Human Rights; welcomed the stated commitment of the government to encourage respect for rule of law and the emphasis on the development of a society in which human rights are respected and civil society flourishes; welcomed improvements in the area of freedom of expression related to media and cultural fields and the willingness of authorities to allow more public demonstrations; noted the holding of presidential elections in 1997, the establishment of the Commission for Ensuring and Supervising the Implementation of the Constitution, positive statements by the government of the need to review laws and attitudes that discriminate against women, the increased willingness of the authorities to criticize and clamp down on extrajudicial groups attempting to curtail freedom of expression, the investigations carried out by the Islamic Human Rights Commission and the registration of certain non-governmental organizations and a journalists' association; expressed concern at continuing violations of human rights, including torture and ill-treatment, amputation, stoning, public executions and shortcomings in the administration of justice and due process of law; expressed concern at the lack of transparency in the judicial system and continuing violations against members of the Baha'is and other religious minorities; expressed concern at the lack of continuity in the cooperation extended by the government to the mechanisms of the Commission on Human Rights and the failure to invite the SRep to conduct an in-country visit; expressed concern at the continuing threats to the life of Salman Rushdie and individuals associated with his work as well as the government's failure to condemn the bounty offered by the 15 Khordad Foundation for the assassination of Salman Rushdie; expressed concern at the apparent reluctance of the government to prosecute and punish those who commit violence against critics of the government and the continued harassment and intimidation of some journalists and writers, as well as political and religious dissidents; expressed concern at the continued lack of full and equal enjoyment of human rights by women; called on the government to take all necessary steps to end torture, amputation, stoning and other forms of cruel, inhuman and degrading treatment; called on the government to resume its cooperation with the mechanisms of the Commission and allow the SRep to conduct an in-country mission; called on the government to implement the recommendations of the Special Rapporteur on religious intolerance with regard to the Baha'is, Christians and other religious minorities; called on the government to eliminate discrimination against women in law and practice; called on the government to refrain from violence against members of the Iranian opposition living abroad, provide satisfactory written assurances that it does not support or incite threats to the life of Salman Rushdie, ensure that capital punishment

will not be imposed for non-violent crimes or apostasy, and begin a process to bring the Islamic Human Rights Commission into line with the 1993 Principles relating to the status of national institutions for the promotion and protection of human rights; and, extended the mandate of the SRep for a further year.

The resolution was adopted by a vote of 23 in favour, 14 opposed, 16 abstentions.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on:

(E/CN.4/1998/44, paras. 6, 14, 19)

The report notes that the government provided information related to Decision 14/1996 and that two appeals were sent to the government on behalf of five persons. No details were provided.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 3, 11, 13, 226–232)

The report notes that in November 1997 the government invited the Working Group (WG) to visit the country and that mutually convenient dates were under discussion.

During the period under review, one newly reported case was transmitted to the government and one case was clarified when the person named was released from detention. The newly reported case concerned an Iranian writer, who is said to be an outspoken critic of the government and who was detained at Mehrabad Airport in Tehran as he was leaving the country to visit his family abroad. The majority of the 510 cases of reported disappearance occurred between 1981 and 1989 and some of the missing persons were reportedly arrested and imprisoned for their alleged membership in armed opposition groups.

In discussions with the Working Group the government stated its desire to cooperate with the Group and further that: the similarity of names was one of the problems encountered in examining the outstanding cases; there was lack of enough personal information concerning the individual's identity card number, father's name or work address; and, the government was encouraging families of the disappeared persons to contact directly the Iranian judiciary system or the recently created Iranian Working Group on Enforced Disappearances, and to provide them with factual and detailed information. With regard to 12 cases, the government reported that seven persons had been executed, two had been killed in street clashes with the police, one person had been found in detention, one had been released, and no records existed of the alleged detention of the last one. In the cases of execution and deaths in clashes with police, the WG requested documentation in order to consider them finally clarified.

Extrajudicial, summary or arbitrary execution, Special Rapporteur: (E/CN.4/1998/68, paras. 12, 14, 17, 27, 36, 39, 45, 57, 60, 68, 69, 70, 71, 85, 91, 92, 94; E/CN.4/1998/68/Add.1, paras. 221–227)

The Special Rapporteur (SR) was informed that between January and September 1997, 137 persons had been executed in Iran. The SR noted further that he continued to receive reports regarding the imposition of the death penalty on minors, as well as for crimes which cannot be considered to be “most serious”, and also reports concerning the lack of procedural safeguards in trials before Islamic Revolutionary Courts leading to the imposition of the death penalty.

Urgent appeals were sent to the government related to death sentences against: two Baha'is, for apostasy; two minors, aged 16, for murder; one person, on various charges including an alleged trip to Israel in 1979, membership of the Freemasons and purchases of American agricultural material more than 17 years ago, following a trial in which his choice of a lawyer was rejected by the court; a writer and editor, on various charges, including espionage; and one person, on charges of swindling, corruption and embezzlement. Allegation of violations of the right to life were also sent with regard to: a Christian pastor of the Assemblies of God Churches, reportedly killed by Iranian State agents because he converted from Islam to Christianity; a journalist, editor and manager of the Ebtekar publishing house, reportedly killed by officials of the Ministry of Information, noting that the magazine he had edited had been forced to close after it published an article criticizing the government; a journalist who was found dead, allegedly after having been questioned by security officials; and 27 persons reportedly killed in the course of a demonstration in Bonab, East Azerbaijan province, noting reports that the special anti-riot forces opened fire on the demonstrators, killing 27 and wounding at least 80 persons.

The SR expressed grave concern over the imposition of the death penalty in contravention of international norms, including the imposition of the death penalty on minors and for crimes which cannot be considered to be “most serious”, as well as in breach of the right to a fair trial.

Freedom of opinion and expression, Special Rapporteur on: (E/CN.4/1998/40, paras. 42, 55, 80–82)

The Special Rapporteur (SR) referred to legislation in Iran that makes it illegal to import, distribute, possess or use satellite antennae. The government informed the SR that the law had been enacted “for the purpose of safeguarding the cultural identity of the Islamic Republic of Iran against unwarranted influence by the international mass media through the broadcasting of destructive and indecent satellite programmes, and not for the purpose of obstructing or hampering the possibilities for the general public to obtain information”. Commentary on women and freedom of expression refers to the 1995 Penal Code under which women may be imprisoned for up to two months or punished with 74 lashes for not respecting the

dress code. The SR referred to the case of the writer and editor, Faraj Sarkouhi, who had reportedly been sentenced to death on charges of espionage and attempting to leave the country illegally. Subsequent information indicated that Sarkouhi had been tried, convicted in camera of carrying out propaganda against the Islamic Republic of Iran and sentenced to one year in prison, less time already spent in detention.

Independence of judges and lawyers, Special Rapporteur on the: (E/CN.4/1998/39, paras. 16, 19, 96–98)

The report notes that the Special Rapporteur had joined with the Special Rapporteurs on freedom of opinion and expression, and extrajudicial, summary or arbitrary executions, in the appeal on behalf of Faraj Sarkouhi (see “Freedom of opinion and expression”).

Religious intolerance, Special Rapporteur on: (E/CN.4/1998/6, paras. 23, 29, 48, 50, 66, 95)

The report refers to violations of freedom of religion and belief against the Baha'is. No details are provided.

Torture, Special Rapporteur on: (E/CN.4/1998/38, paras. 118–119; E/CN.4/1998/38/Add.1, paras. 208–210)

Three urgent appeals were sent to the government. The first concerned four individuals who were reportedly arrested in Qom in January 1997 and whose whereabouts were unknown, noting that two of them were said to be followers of the Grand Ayatollah Shirazi. The second concerned several hundred political prisoners in Shiraz, Isfahan, Ahwaz and Tehran, who were on a hunger strike to protest against their conditions of detention. The third case was sent on behalf of an individual whose sentence for conviction of illegitimate relationships with three women and illegal drug use reportedly included 170 lashes.

GENERAL ASSEMBLY

Special Representative of the Commission on Human Rights

The Special Representative's (SRep) interim report to the 1998 General Assembly (A/53/423, A/53/423/Corr.1) covers the period between January and August 1998 and contains information on, *inter alia*: freedom of opinion and expression, the status of women, the legal system, the Independent Bar Association, executions, the prison system, torture and ill treatment, the situation of the Baha'is, the Islamic Human Rights Commission, the situation of certain religious minorities, narcotics control, extraterritorial violence, and democracy.

The executive summary to the report states: the public and private debate about change in governance and in the judicial system has become more open and more sharply focussed; such change would have a direct or indirect impact on the promotion and protection of human rights; there is a significant commitment to such

change in many quarters including, in particular, the executive; some human rights sectors are already benefiting from this commitment to change including, in particular, in the area of freedom of expression; comprehensive plans for change in other areas have been announced including, in particular, the prison system and, to a lesser extent, the court system; there have also been positive developments with regard to the Independent Bar Association and the Islamic Human Rights Commission; in other areas — notably the status of women and the status of religious and ethnic minorities — there appears to be no comparable commitment to change and human rights violations continue to occur; the situation of the Baha'is has not improved in the period under review; the progress made in the field of human rights is uneven and a number of sectors are being left behind; and the government needs to broaden its agenda for change and to declare a strong commitment to achieving certain goals within specified time-frames. The SRep expressed disappointment that, despite repeated statements to the High Commissioner for Human Rights and others, no invitation was extended by the government for the SRep to visit Iran.

Concerning freedom of opinion and expression, the report acknowledges the continuation of government efforts to make progress but refers to cases and incidents related to, *inter alia*: commutation of the death sentence against a highly regarded and well-connected journalist who was tried and convicted on charges of spying and of committing adultery with a married woman; continuation of a ban on a leading reformist paper, *Jameah*; detention of the director of the weekly *Khaneh* for "offending Islam", the Shiite clergy and Imam Khomeini, and for publishing photographs that violated public modesty; the ban on the daily newspaper *Tous* and attacks by militants on two reporters outside the offices of *Tous*; and start-up of a successor publication to *Tous*, *Attab-e Emrouz*. The report also refers to a statement by the Deputy Minister of Culture and Islamic Guidance for media affairs who said that "nobody has the right to exert pressure on the press and the statements made on the basis of personal taste have no legal basis". Reference is made to: student rallies at Tehran University during which strong criticism of the system was expressed and, in general, lack of intervention by the government; the fact that the extrajudicial group *Ansar-e Hezbollah*, which has a record of trying to break up reformist public meetings, appears to have been less in evidence; and reports of unidentified groups disrupting Friday prayers in Isfahan, and of the failure of the judiciary to prosecute those concerned. The SRep noted that, while in practice there is widespread freedom of expression, the lawful constraints upon that freedom have yet to be defined clearly and to be regulated by a truly independent tribunal committed to the application and enforcement of the law.

With regard to the status of women, the SRep stated that, between January and August 1998, the status of women did not appear to improve significantly. Points noted included: there continued to be occasional harassment of

young women by Tehran police and extrajudicial groups for failing to conform to the appropriate dress code; stricter dress code requirements for women were issued as well as provisions for prison terms of three months to one year, fines and the inflicting of up to 74 lashes; the Majlis had rejected a bill that would have provided for equal inheritance rights for women and men; the Majlis adopted a law for the compulsory segregation of health-care services for women and men, noting the measure would compromise health care for women and girls because there were not a sufficient number of trained female physicians and health-care professionals to meet their needs; the Majlis had approved a law imposing more restrictions on the use of photographs of women in newspapers and magazines; a statement by a spokesman for the judiciary that courts were not to accept cases brought before them for the registration of marriages between Iranian women and foreign nationals that lacked the necessary legal authorization of the Ministry of the Interior; the provision that any foreign national who married an Iranian woman without prior authorization was subject to one to three years in prison; the February 1998 decision of the Supreme Council that Iran would not accede to the Convention on the Elimination of All Forms of Discrimination against Women; publication of *Zan*, the first women's daily paper devoted to women's affairs; continuing uncertainties related to the role of women in the judicial system, noting that to date no woman presides over trials or pronounces verdicts; continuation of the right to *mahr*, the bridal price roughly comparable to a dowry, or, in rural areas, *shirbaha*, a payment to the bride's father which effectively deprives rural women of all bargaining power; with regard to divorce, the stipulation that men can divorce at will while women must meet one of 12 specific criteria, and discriminatory provisions for minor indiscretions; the implementation of the dress code by a variety of judicial and extrajudicial agencies, and the excesses of punishment meted out for sometimes minor infringements; and the reported lack, in practice, of a prompt and effective avenue through which a wife can circumvent a husband's withholding of consent which, in medical situations in particular, can jeopardize successful treatment and sometimes the life of the wife. The SRep stated that in terms of women's everyday needs change remains both urgent and necessary.

Concerning reform of the justice system, the report notes an intense public debate about the conduct of trials and the appropriate role of judges which has produced the conclusion that the existing process has major flaws and that the system must be reformed. The government indicated that amendments to the existing law on the public and revolutionary courts were to go to the Majlis; training of judges was to be improved by requiring prospective judges to have an undergraduate degree before entering the judicial college; and a judicial inspectorate of very senior judges had been established with a "sweeping mandate" for review and reform in each judicial complex of matters such as procedure, treatment of offenders and prioritization of court cases. With regard to the right to a lawyer, the government acknowledged that

some judges had resisted this development and stated that allegations that lawyers had failed to defend their client vigorously or independently would be received and considered by the Prosecutor-General.

With regard to reform of the prison system, the report notes a decision to transfer narcotics-related prisoners, if they agree, to newly established dedicated centres. The Prisons Organization was: establishing a five-year plan for development; establishing or strengthening human resource development such as academic scholarship programmes for social work training; gradually recruiting professionally trained guard staff; introducing workshops with all the provincial directors of prisons focussing on legal matters and, in particular, the UN Standard Minimum Rules for the Treatment of Prisoners; and preparing a new prison law which would emphasize rehabilitation and introduce the UN Standard Minimum Rules into Iranian law. Efforts were also being made to identify illegal detention centres and eliminate the mistreatment of prisoners on the basis, *inter alia*, that such treatment was anti-Islamic.

In terms of punishments, the SRep again called on the government to prohibit stoning. Referring to decisions of the courts sentencing persons to blinding, the report states that even as retribution for a crime there can be no justification for such a punishment that so clearly falls within the international definition of cruel, inhuman or degrading punishment. The government stated that this sentence has been revoked. With regard to amputation, information indicated that it continues to be a judicially imposed punishment, mainly for those convicted of repeated theft. The government stated that, in practice, no amputation punishments are being carried out.

On the issue of torture, the report states that there appears to be much credible evidence to support the allegations of torture. Several positive developments were noted, including that: allegations of torture, apparently used to elicit information or a confession, are being openly reported in the Iranian press; 152 deputies in the Majlis sent a letter to the Supreme Leader Ayatollah Khamani requesting a high-level inquiry into these allegations; the Islamic Human Rights Commission recently seemed to be taking allegations of torture seriously; and an Iranian paper reported in July that the Commander of the State Security Forces Protection and Intelligence Department had declared that 10 or 12 suits had been filed against the security forces for torture and physical and psychological violence.

Reports continued to be received on violations of the human rights of Baha'is, including: execution of a Baha'i prisoner who had served nine months in solitary confinement reportedly on charges of unlawfully attempting to convert a woman to the Baha'i faith; the death sentences against three other Baha'is on the same charge, noting that the sentences were lifted; detention on such charges as holding meetings and teaching their faith, or allegedly engaging in espionage activities of one sort or another; and violations of the basic human right to enjoy free and peaceful association, to be free from the confiscation and

destruction of individual and community Baha'i property, and to be free from discrimination with regard to access to education, employment, pensions and other public benefits, as well as reports of the denial of other fundamental rights and freedoms, including, *inter alia*, the freedom of movement. The SRep urged the government to: improve its treatment of the Baha'i community and, specifically, to refrain from ordering the death penalty for religious offences; to lift the ban on Baha'i organizations, put an end to discrimination against Baha'is in all spheres of public life and services; effect the return of confiscated personal and community Baha'i property; institute the reconstruction of destroyed places of worship wherever possible or, at a minimum, ensure the provision of appropriate compensation to the Baha'i community; lift restrictions regarding the burial and honouring of the dead; and eliminate from passport application forms questions concerning religion so as to avoid undue infringements on the freedom of movement.

Comments related to the Islamic Human Rights Commission noted, *inter alia*: there had been 2,450 complaints to the Commission in the past year, half of them from women and 50 per cent of them against the police; complaints were received from religious minorities, notably the Bahá'is; the Commission acknowledged there were widespread human rights violations in Iran, including torture and violence; the Commission had begun to educate police and security officers as well as prison guards and judges about international and Islamic concepts of human rights; and the Commission stated that there is a need for reform, particularly with regard to the use of coercion to obtain confessions. The SRep welcomed what seems to be a new openness on the part of the Islamic Commission and, in particular, a greater focus on the human rights situation within Iran. The SRep recommended that these trends be appropriately institutionalized and publicized as part of the process of the Commission's becoming a truly independent national agency for the promotion and protection of human rights. The SRep also recommended that a national action plan for human rights be developed.

On the general subject of minority rights, information was received related to Zoroastrians and Christians and discrimination against them in civil society, including: difficulty in obtaining government employment; the requirement placed upon shops to have a window sign reading, "Designated for religious minorities"; the awarding of substantial damages in automobile accident claims if the driver was a person of a religious minority and the victim a Muslim, but very low awards for cases where the reverse exists; by law or practice prohibitions on being elected to a representative body (except as regards the reserved seats in the Majlis), from becoming a school principal and from holding senior government or military positions; the destruction of Sunni schools and mosques, and the imprisonment, execution and assassination of Sunni leaders; socio-economic discrimination and repression, and transmigration policies that risk turning the Baluch into a minority in their traditional lands.

Appendix I of the report summarizes cases related to freedom of expression. Appendix II addresses the situation of the Baha'is. Appendix III summarizes correspondence between the SRep and the government with regard to individual cases.

Resolution of the General Assembly

The 1998 session of the General Assembly adopted a resolution by roll call vote on the situation of human rights in Iran (A/C.3/53/L.38). The resolution was adopted by a vote of 63 in favour, 35 opposed, 60 abstentions. The GA, *inter alia*: noted that Iran is a party to the International Covenants on Human Rights; noted the conclusion of the Special Representative that a political will exists to move Iranian society to a more tolerant and more peaceful condition but that, while some sectors are already benefiting from this progress, significant violations of human rights continue to occur; welcomed the commitment made by the government to promote respect for the rule of law, including the elimination of arbitrary arrest and detention and reform of the legal and penitentiary system; welcomed the more open debate in Iran on issues of governance and human rights, as well as governmental efforts to make progress in the area of freedom of expression; expressed concern at instances of arbitrary closure of publications, widely reported cases of harassment and persecution of persons, including writers and members of the press; welcomed the more positive approach by the government with regard to freedom of assembly, as well as the support given to the development of NGOs, and expressed the hope that freedom for political activities will become more effective; noted the increasing focus of the Islamic Human Rights Commission on the situation of human rights in Iran, including the examination of individual complaints and training activities; expressed the hope that the Commission will become a truly independent agency for the promotion and protection of human rights; and expressed concern at the continuing violations of human rights, in particular executions in the apparent absence of respect for internationally recognized safeguards, the use of national security laws as a basis for derogating from the rights of the individual, cases of torture and ill treatment — including sentences of stoning and amputation, as well as the failure to meet international standards in the administration of justice and the absence of due process of law.

The GA: also expressed concern at the discrimination against religious minorities; expressed grave concern at the unabated pattern of persecution against the Baha'is; called upon the government to eliminate religious intolerance relating to the Baha'is and to other religious minorities; noted the government's statements about the need to review laws and attitudes which discriminate against women and called upon the government to take substantive and effective measures to eliminate discrimination in law and in practice against women; called on the government to ensure that capital punishment will

not be imposed for other than the most serious crimes, for apostasy, or otherwise in disregard of the provisions of the International Covenant on Civil and Political Rights; welcomed the willingness of the government to introduce international human rights standards into the curricula of universities; and deplored the fact that no invitation has yet been extended to the Special Representative to visit the country, and called upon the government to extend an invitation and resume its full cooperation with the Special Representative.



IRAQ

Date of admission to UN: 21 December 1945.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Economic, Social and Cultural Rights

Signed: 18 February 1969; ratified: 25 January 1971.
Iraq's fourth periodic report is due 30 June 2000.
Reservations and Declarations: General declaration.

Civil and Political Rights

Signed: 18 February 1969; ratified: 25 January 1971.
Iraq's fifth periodic report is due 4 April 1999.
Reservations and Declarations: General declaration.

Racial Discrimination

Signed: 18 February 1969; ratified: 14 January 1970.
Iraq's 14th periodic report (CERD/320/Add.3) has been submitted but has not yet been scheduled for consideration by the Committee; the 15th periodic report is due 13 February 1999.
Reservations and Declarations: General declaration; article 22.

Discrimination against Women

Acceded: 13 August 1986.
Iraq's second and third periodic reports were due 12 September 1991 and 1995 respectively.
Reservations and Declarations: General declaration; article 2; paragraphs 1 and 2 of article 9; article 16; and, paragraph 1 of article 29.

Rights of the Child

Acceded: 15 June 1994.
Iraq's initial report (CRC/C/41/Add.3) was considered at the Committee's September 1998 session; the second periodic report is due 14 July 2001.
Reservations and Declarations: Paragraph 1 of article 14.

REPORTS TO TREATY BODIES

Committee on the Rights of the Child

Iraq's initial report (CRC/C/41/Add.3, August 1996; CRC/C/Q/IRAQ/1) was considered by the Committee at its September 1998 session. The report prepared by the government contains information on, *inter alia*: the definition of the child under the Civil Code and the Juvenile Welfare Act No. 76; the protection of the child, the responsibilities of parents and legal guardians; legislation and enactments in force guaranteeing the economic, social, cultural, educational and legal interests of children; name and nationality; family environment and alternative care; freedom of expression and respect for the views of the child; freedom of religion and association; access to appropriate information; juvenile welfare and social assistance; the administration of juvenile justice; measures and protections related to refugee children; children with disabilities; health and health care; education, access to education, the education system; exploitation of children; and the rights and protections related to children belonging to minority groups. The report also includes extended commentary and comparative data related to the effects of the economic embargo on the rights of the child.

The Committee's concluding observations and comments (CRC/C/15/Add.94) welcomed: the development of a National Plan of Action for Children; the programme for reproductive health applied by the Association for Family Planning and the Ministry of Health; the Mother and Child Unit established within the Central Statistical Office; and the introduction of compulsory education and the development of a programme to combat illiteracy.

With regard to factors hindering implementation of the Convention, the Committee referred to General Comment No. 8 adopted by the Committee on Economic, Social and Cultural Rights (1997) and Decision 1998/114 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, both of which noted that the existence of an embargo does not absolve the government of its responsibilities to promote and protect human rights to the maximum extent possible. However, the Committee noted that the embargo imposed by the Security Council had adversely affected the economy and many aspects of the daily life of its citizens, particularly with regard to the rights to survival, health and education. Noting that the Northern territory of Iraq is not administered by the Iraqi authorities, the Committee expressed concern about the absence of information relevant to the implementation of the Convention in that area of the country.

The principal subjects of concern identified by the Committee included, *inter alia*: that the provisions and principles of the Convention are not fully reflected in domestic law; the limited power of the Child Welfare Authority; the insufficient coordination between the different bodies and agencies working with and for children; and the absence of an independent mechanism to register and address complaints from children concerning violations of their rights under the Convention.

Concern was expressed over: the early legal minimum age of voluntary enlistment into the armed forces; the fact that domestic legislation does not explicitly prohibit discrimination on the basis of national or ethnic origin, political or other opinion, or disability; despite the prohibition of discrimination on the basis of sex, the fact that in practice there are still disparities between girls and boys, particularly with respect to inheritance rights and the right to education; the legal stipulation that nationality may only be obtained by a child from her/his Iraqi father, except in cases where the father is unknown or stateless; the failure expressly to prohibit corporal punishment; the insufficient awareness of, lack of information on, and societal attitude toward, 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 the lack of adequately trained personnel to prevent and combat such abuse.

Reference was also made to: the deteriorating health situation of children, the high and increasing infant and child mortality rates, and serious long term malnutrition, aggravated by poor breast-feeding practices and common childhood diseases; the absence of data on adolescent health, including on teenage pregnancy, abortion, suicide, violence and substance abuse; noting recent economic conditions in the country, the number of children leaving school prematurely to work, particularly girls; the existing gap between the age at which compulsory education ends (12 years old) and the minimum legal age for access to employment (15 years old); the situation of children living and/or working on the streets and, in particular, their vulnerability to economic and sexual exploitation; the presence of land mines, noting the importance of educating parents, children and the general public about the dangers they present and of implementing rehabilitation programmes for victims of land mines.

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

- ♦ take all appropriate measures to engage, where necessary, in a law reform process and enact a children's code to ensure full conformity with the Convention;
- ♦ consider introducing policies and programmes that guarantee law enforcement and implementation of the existing legislation through adequate services, remedies and rehabilitation programmes and, when appropriate, within the framework of international cooperation;
- ♦ strengthen the Child Welfare Authority by increasing its budgetary allocations, as well as its power and authority to implement the Convention;
- ♦ take further steps to strengthen coordination between the various government bodies involved in children's rights at both the national and local levels, and make greater efforts to ensure closer cooperation with NGOs working in the field of children's rights;

- ♦ make an independent mechanism accessible to children to deal with complaints of violations of their rights and to provide remedies for such violations;
- ♦ give priority to budgetary allocation to ensure the protection of the economic, social and cultural rights of children, and seek to eliminate the disparities between urban and rural societies and between provinces;
- ♦ make greater efforts to ensure that the principles and provisions of the Convention are widely known and understood by adults and children alike; translate the Convention into all minority languages; organize systematic training and retraining programmes on the rights of the child, as well as in the areas of international human rights and humanitarian law, for professional groups working with and for children; incorporate the Convention in school and university curricula;
- ♦ raise the legal minimum age of voluntary enlistment into the armed forces in light of international human rights and humanitarian law;
- ♦ take all appropriate measures, including those of a legislative nature, to ensure non-discrimination at all levels of society and to encourage equality between girls and boys; take additional measures to ensure the school enrollment of girls, especially in rural areas, and to limit their drop-out rate, particularly during the compulsory education period;
- ♦ encourage children to take an active role in the promotion and implementation of the Convention, with regard to the participatory rights of children, and give NGOs — such as the National Federation of Iraqi Students and Youth — a more significant role in promoting the Convention;
- ♦ take all appropriate measures, including of a legislative nature, with the aim of prohibiting corporal punishment at all levels of society; conduct awareness-raising campaigns to ensure that alternative forms of discipline are administered in a manner consistent with the child's dignity and in conformity with the Convention;
- ♦ undertake studies on ill treatment and abuse, including sexual abuse; adopt adequate measures and policies, with a view to, *inter alia*, changing traditional attitudes of abuse; ensure proper investigation of cases of abuse and ill treatment of children, including sexual abuse within the family; apply sanctions to perpetrators and give publicity to decisions taken in such cases of abuse, with due regard given to protecting the right to privacy of the child;
- ♦ take further measures to ensure the provision of support services to children in legal proceedings, the physical and psychological recovery and social reintegration of the victims of rape, abuse, neglect, ill treatment, violence or exploitation, and the prevention of criminalization and stigmatization of victims;
- ♦ develop comprehensive policies and programmes to promote and improve breast-feeding practices, and prevent and combat malnutrition, especially in vulnerable and disadvantaged groups of children;
- ♦ promote adolescent health policies and the strengthening of reproductive health education and counselling services; undertake a comprehensive and multidisciplinary study to understand the scope of adolescent health problems; make further efforts, both financial and human, to develop child-friendly prevention, care and rehabilitation facilities for adolescents;
- ♦ develop early identification programmes to prevent disabilities, implement alternatives to the institutionalization of children with disabilities, envisage awareness-raising campaigns to reduce discrimination against children with disabilities, establish special education programmes for children with disabilities, and encourage their inclusion into the regular school system and into society;
- ♦ take all appropriate measures to provide equal access to education, encourage children, particularly girls, to stay in school and discourage early entry into the labour force;
- ♦ conduct research on child labour, including the involvement of children in hazardous work, to identify the causes and the extent of the problem; ensure that legislation protecting children from economic exploitation also covers the informal labour sector; consider raising the age for ending compulsory education to coincide with the minimum legal age for employment;
- ♦ increase preventive measures with regard to street children, and improve efforts to ensure their rehabilitation and reintegration;
- ♦ review the situation in relation to land mines within a framework of international cooperation, including from UN agencies, and ratify the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and of their Destruction; and
- ♦ take additional steps to reform the administration of the juvenile justice system; pay particular attention to considering deprivation of liberty only as a measure of last resort and for the shortest possible period of time, the protection of the rights of children deprived of their liberty, due process of law and the full independence and impartiality of the judiciary; and organize training programmes on relevant international standards for those professionals involved with the system of juvenile justice.

COMMISSION ON HUMAN RIGHTS

Special Rapporteur on the situation of human rights in Iraq

The mandate of the Special Rapporteur (SR) was established by the Commission at its 1991 session. The enabling resolution expressly referred to such violations as summary and arbitrary executions, arbitrary detention of political and religious opponents, enforced or involuntary disappearances, the practice of torture, denial of freedom of expression and freedom of the press, and forced displacement and deportation of Iraqi citizens. The resolution also expressed concern over the use of chemical weapons against Kurdish civilians as well as the destruction of their towns and villages. The SR for 1998 was Max van der Stoep.

The report to the 1998 Commission (E/CN.4/1998/67), which was prepared without benefit of an in-country mission, contains information on, *inter alia*: summary, arbitrary and extrajudicial executions, forced displacement, the government's compliance with the International Covenant on Civil and Political Rights (ICCPR), the rights to food and health care, rights of the child, and compliance with — and responsibilities derived from — the Covenant on Economic, Social and Cultural Rights to which Iraq is a state party.

The commentary on summary/arbitrary executions recalls allegations related to an execution campaign in Abu Ghraib prison in spring 1997 and the fact that similar allegations continued to be received by the SR. These allegations have asserted that hundreds of prisoners were executed in Abu Ghraib and Radwanayah prisons since August 1997 as part of a so-called "Prison Cleansing Campaign" aimed at detainees either sentenced to death or condemned to 15 or more years of detention. The reports state that the executions were carried out by shooting, hanging or electrocution, and that, in order to recover the bodies, relatives of those executed had to pay for the bullets used in the executions. Persons reportedly executed during the "Prison Cleansing Campaign" included members of the Da'wa Party, the Patriotic Union of Kurdistan, the Iraqi National Council, the Supreme Council for Islamic Revolution in Iraq, and the Al-Wahabi Party. Other persons reportedly executed were those sentenced to death for plotting to kill an official or officials of the government, or for plotting against the regime. Members of ethnic minorities were alleged to be at particularly high risk, including members of the Shiite tribe Bani Hjeim, Kurds affiliated with Kurdish parties, and Iraqi Turkomans. The report states that, on the basis of all available information, it is highly probable that more than 1,500 summary, arbitrary, or extrajudicial executions for political purposes were carried out, most of them during the "Prison Cleansing Campaign" of November and December 1997.

With regard to forced displacement, the report notes that the government's policy of Arabization has continued, particularly in such areas as Kurkuk, Khanaqin and Douz. Persons targeted for displacement include families

who are perceived to be opposed to the regime, families who have relatives outside Iraq or in southern Iraq, and those who have relatives in detention or relatives who were executed. The report states that the practice of forced displacement is an extralegal use of self-ascribed authority and, to the extent that the ostensible authorities permit the practice to occur, the Baath Party and its members are effectively granted impunity.

Concerning compliance with the provisions of the ICCPR, the report recalls that at its October 1997 meeting, the Human Rights Committee considered Iraq's fourth periodic report (see HRC concluding observations and comments, CCPR/C/79/Add.2), in which the government argued that continuing international sanctions had created an economic and social situation conducive to imbalances in social relations and increased crime, and had forced the government to take punitive action of a deterrent nature. The SR noted that the Committee responded to this assertion by reminding the government that, whatever the difficulties, a state party remained responsible for fulfilling its obligations under the Covenant. The SR further asserted that most provisions of the Covenant (e.g., freedom from torture, freedom of thought, freedom of expression) have no conceptual or practical link with the existence of economic sanctions. The report also notes that the Committee expressed deep concern that, *inter alia*: the separation between the executive, legislative and judicial powers in Iraq is unclear; all government power is concentrated in the hands of one executive which is not subject to scrutiny or accountability, either politically or otherwise; the executive operates without any safeguards or checks and balances intended to ensure the protection of human rights and fundamental freedoms in accordance with the Covenant; article 42 of the Constitution gives power to the Revolution Command Council to issue laws, decrees and decisions without being subject to independent scrutiny or review to ensure their compliance with the provisions of the Covenant; members of the Revolution Command Council, acting as a legislative body, are not elected by universal and equal suffrage under article 38 (c) of the provisional Constitution of Iraq; special courts, which may impose the death penalty, do not provide for all procedural guarantees required by article 14 of the Covenant; and in addition to the list of offences which are under the jurisdiction of the special courts, the Minister of the Interior and the Office of the President of the Republic have discretionary authority to refer any other cases to these courts.

Bearing in mind these and other points, the report restates that the Iraqi political structure is the most significant factor underlying human rights violations.

With regard to various rights set out in the Covenant, the report notes a number of restrictions and practices, including that: law imposes severe punishments for vaguely defined crimes, such as "criticizing" and "insulting" the President, with the former potentially resulting in life imprisonment and the latter potentially leading to the death penalty; there are prohibitions and

ensorship imposed on the creation and functioning of independent broadcasting media, as well as on the dissemination and broadcasting of foreign media, leading to a situation in which the press cannot function in Iraq as a check or balance on the three institutional powers of government; there remain arbitrary restrictions on the right to freedom of movement within Iraq and freedom to leave the territory which cannot be explained other than by assuming that these restrictions reflect the government's desire to control the population; decrees recently enacted by the Revolution Command Council are incompatible with the right to life, the prohibition of torture, and the principle of non-retroactivity of criminal laws; the categories of crimes punishable by the death penalty are still increasing; inhuman and degrading punishments, such as amputation and branding, remain in force; concerning the situation of women, discriminatory family and inheritance laws continue to be applied; and members of religious and ethnic minorities, as well as other groups, continue to fear discrimination in Iraq, in particular the Shiites in the Southern Marshes and the Kurds.

On areas related to economic and social rights, the report recalls the government's decision in the past not to accept the "food for oil" arrangement offered by the Security Council, choosing instead to rely only on domestic production to meet the humanitarian needs of its people. The report notes a number of conditions related to the situation following agreement on the "food for oil" deal, including that: there has been some improvement in the overall food supply situation; UN humanitarian observers continued to be granted access to facilities and records on request and enjoyed movement throughout the country upon request; beneficiaries of the agreement continue to report, however, a low quality and quantity of some foodstuffs, and the continuing shortage of medicines, educational supplies and electricity; the population continued to face a serious nutritional and health situation and there remained an urgent need to contain the risk of further deterioration; and there remained an exceptionally serious deterioration in the health infrastructure that has hindered the benefits of new equipment and other resources made available following the government's agreement with relevant Security Council resolutions.

In commentary on the rights of the child, the report states that the most alarming situation relates to food, and cites a November 1997 report by UNICEF showing that 32 per cent of children under the age of 5 — some 960,000 children — are chronically malnourished and 23 per cent are underweight. In addition to these concerns, information has indicated that: about 25 per cent of children are absent from primary school; only 68 per cent of six-year-olds actually entered school in 1996, with a large disparity between rural and urban areas; the conditions of education are deplorable with regard to infrastructure; children in rural areas have less access to safe water and safe sanitation; immunization rates are 10 to 15 per cent lower in rural areas; there are evident disparities in the levels and extent of education enjoyed by girls

and boys; there is an increasing rate of illiteracy, especially among women in rural areas; no measures have been taken by the government to address the problem of the increase in child labour; and there is an increasing problem of juvenile delinquency, with juvenile court cases increasing from 2,600 in 1991 to 4,420 in 1996.

The report recalls that in November 1997 the Committee on Economic, Social and Cultural Rights considered Iraq's third periodic report under the Covenant (see the Committee's concluding observations and comments E/C.12/1/Add. 17). At that time, the Committee noted that sufficient measures had not yet been taken by the authorities to alleviate the extremely difficult living conditions of the population and the deprivation of their basic economic, social and cultural rights. Among the specific points considered by the Committee were: reports of discrimination against members of certain minorities, especially the Kurds, Marsh people, Assyrians, Shi'a Muslims and Turkomans; discrimination against women, in law and in practice, concerning inheritance rights, freedom of movement, family law, equal remuneration for equal work, and access to employment; provisions in law enabling a person to be condemned to compulsory labour as part of a prison sentence in cases of expression of political opinions or ideological opposition to the political, social or economic system, for breach of labour discipline or participation in strikes; the prohibition on independent trade unions and severe restrictions on the right to bargain collectively and the right to strike; and reports of discrimination related to the right to adequate housing, especially with regard to forced relocations of members of certain minorities.

The report refers to the Committee's general comment No. 8 on the relationship between economic sanctions and respect for economic, social and cultural rights (see E/C.12/1997/8) and, on the basis of the Committee's comment, states that irrespective of difficulties caused by sanctions or embargo, the government still remains responsible for implementation of its obligations relating to the rights to food and health care to the maximum of its available resources.

Concern is expressed on a number of related points including, *inter alia*, that: information indicates a disproportionate and harsher effect of the embargo on members of ethnic and religious minorities; there exists discrimination in the allocation by the authorities of the limited resources available between rural and urban areas, and against the southern region with respect to the Marsh people; and rather than taking every opportunity to facilitate the distribution plan in order to alleviate the people's suffering, the government has insisted on arguing about procedural mechanisms. On the last point, the report recalls that the government: categorically refused to endorse any plan for the distribution of increased income prepared by any party other than itself; refused to be held responsible for any problems of implementation, including suspensions in oil sales which it unilaterally ordered; rejected the recommendation of the Secretary-General of a single ongoing distribution plan

which could be amended, on the basis that the memorandum of understanding provided for an arrangement which was an exceptional and temporary measure; insisted that all additional revenue earned from an increase in the "food for oil" programme go directly to humanitarian relief efforts with no part of the funds raised to be allocated for costs, Iraqi compensation of war victims or other stipulated payments; and as of 1 February 1998, had rejected most of the Secretary-General's proposals for projects in the areas of health, food, agriculture, water, sanitation, education, resettlement, demining and electricity and refused to cooperate on the elaboration of a distribution plan, to plan it on an ongoing basis, and to assure uninterrupted sales of oil, all of which contribute to undermining the effective implementation of the "food for oil" arrangement, to the detriment of those in need.

A final point made in commentary notes that the government has continued to ignore the problem of landmines and rejected the help offered by the UN through its demining and mine-clearance programmes.

The general conclusion within which the recommendations of the report are placed states that, during 1997, the situation of human rights in Iraq did not improve and had, in fact, deteriorated.

The recommendations in the report include that, *inter alia*, the government:

- ♦ act immediately to end summary or arbitrary executions, arbitrary arrests and detention, and torture and ill-treatment by members of security and military forces, as well as disappearances of many named individuals and of thousands of people in northern Iraq and in the southern marsh area, together with forced relocations;
- ♦ ensure that the persons responsible for these acts be brought to justice without delay;
- ♦ bring all laws and policies into conformity with international obligations, in particular those contained in the ICCPR and the ICESCR, which Iraq has freely signed and ratified;
- ♦ take all necessary measures, to the maximum extent of its available resources, to address the needs of the population, and in particular the most vulnerable groups such as children and the elderly; and
- ♦ cooperate with the Secretary-General in devising a distribution plan which differentiates on the basis of the real needs of the most vulnerable and, in so doing, allows for adequate food and medicines to flow to the intended beneficiaries.

As well, the report reiterates the previous recommendation that UN human rights monitors be sent to such locations, including throughout Iraq, where they could receive and verify information on the situation of human rights in Iraq.

Resolution of the Commission on Human Rights (1998/65)

At its 1998 session the Commission adopted by roll call vote a resolution on the human rights situation in Iraq. The Commission, *inter alia*: recalled previous resolutions of the General Assembly and UNCHR, as well as Security Council resolutions calling for the release of Kuwaitis and other nationals who might still be held in detention, demanding an end to repression of the civilian population, and insisting that the government cooperate with humanitarian organizations and respect the human rights of all Iraqi citizens; referred to the concluding observations and comments of the Human Rights Committee, the Committee on Economic, Social and Cultural Rights and the Committee on the Elimination of Racial Discrimination; strongly condemned systematic, widespread and grave violations of human rights, suppression of freedom of thought, expression, belief, information, association, assembly and movement; condemned summary and arbitrary executions, including political killings, disappearances, arbitrary arrests and detention and failure to respect due process of law; condemned widespread and systematic use of torture; called on the government to abide by freely undertaken obligations under relevant international human rights instruments; called on the government to bring the actions of military and security forces into line with the standards in international law; called on the government to restore the independence of the judiciary and abrogate all laws granting impunity; called on the government to abrogate all decrees prescribing torture and ill-treatment; called on the government to abrogate all laws penalizing free expression; called on the government to cooperate with the Tripartite Commission to establish the whereabouts and resolve the fate of the remaining missing persons, including prisoners of war, Kuwaiti and third country nationals; called on the government to cease repressive practices against the Kurds, Assyrians, Shi'a, Turkmen and the population of the southern marsh areas, end without delay forced displacement, and cooperate with international aid agencies and NGOs to provide humanitarian assistance and monitoring in the northern and southern regions; called on the government to ensure equitable distribution of humanitarian supplies purchased with the proceeds of the sale of oil; called on the government to cooperate in the identification of minefields to facilitate their marking and eventual clearance; extended the mandate of the SR for a further year; and, requested the Secretary-General to approve the allocation of adequate human and material resources to send human rights monitors to locations that would facilitate an improved information flow and assessment and help in the independent verification of reports on the situation of human rights in Iraq.

The resolution was adopted by a vote of 32 in favour, none opposed, 21 abstentions.

Sub-Commission on Prevention of Discrimination and Protection of Minorities

At the 1998 session, the Sub-Commission took a decision (*s1998/114) on the humanitarian situation in Iraq. The Sub-Commission, *inter alia*: recalled previous decisions and resolutions stating that measures such as embargoes should be limited in time and lifted even if the legitimate objectives of the measures have not yet been attained; noted with grave concern the immense suffering endured by the Iraqi people, and by children in particular; drew attention to the alarming accounts concerning the situation of innocent people who are suffering an unacceptable decline in levels of health, nutrition, health care and employment and in agriculture; referred to a statement by the Secretary-General in February 1998 that infant mortality in Iraq was rising, the water supply situation continued to deteriorate, and farm output would be able to meet only 10 per cent of required nutritional levels; noted non-governmental efforts to organize humanitarian convoys for Iraq; and stated that any embargo that condemns an innocent people to hunger, disease, ignorance and even death without attaining the objectives for which it was declared, to be a flagrant violation of the economic, social and cultural rights and of international law. The Sub-Commission decided to appeal to the international community, and in particular to the Security Council, to lift the embargo provisions affecting the humanitarian situation of the population in Iraq; and urged the international community, and all governments, including that of Iraq, to alleviate the suffering of the population, in particular by facilitating the delivery of food, medical supplies and the wherewithal to meet their basic needs.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on:

(E/CN.4/1998/44, paras. 4, 7; E/CN.4/1998/44/Add.1, Opinion No. 1/1997)

The report notes that cases were transmitted to the government but no details were provided.

Opinion No. 1/1997 concerned 30 persons — most of whom were residents of Arbil and included students, labourers, soldiers, an athlete, a male nurse, and a teacher — who were arrested after an uprising of March 1991 and were still being detained in the Abu Ghraib prison, allegedly without ever having been put on trial. Information further indicated that the families of these prisoners had not had any news from them and considered them as disappeared. The government neither challenged nor expressed reservations about the allegations. As a consequence, the Working Group (WG) considered them to be substantiated. Given that the persons had been detained for more than six years without trial, without the assistance of a lawyer, and without their families being informed of their fate, the WG decided the deprivation of liberty was arbitrary.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 8, 13, 233–239, 417)

The report notes that the government has not responded to the July 1995 request by the Working Group (WG) for an invitation to visit.

A total of 283 newly reported cases of disappearance were transmitted to the government during the period under review. The great majority of the 16,496 cases of disappearance reported to have occurred in Iraq concern persons of the Kurdish ethnic group who allegedly disappeared in 1988, in the course of the so-called operation “Anfal”, when the government reportedly destroyed villages and towns throughout Iraqi Kurdistan. A significant number of other cases concern Shi’a Muslims who are reported to have disappeared in the late 1970s and early 1980s when their families, alleged to be of “Persian ancestry”, were expelled to Iran. Other cases occurred following the March 1991 uprising by Arab Shi’a Muslims in the south and by Kurds in the north. Earlier cases took place in 1983, when Iraqi forces arrested a large number of Kurds from the Barzani clan, near Arbil. Some 30 cases which reportedly occurred in 1996 concern members of the Yazidi community who were allegedly arrested during a wave of mass arrests in Mosul by members of the security forces. Victims of disappearances include suspected political opponents, those arrested because of a family tie to a political opponent, those held hostage in order to force relatives sought by the authorities for their political opposition to surrender, and those arrested because of their ethnic origin. The report notes that most of the cases transmitted in 1997 are said to have occurred in the early 1980s and 1990s and concerned ethnic Shi’a Muslims and Kurds. Some cases concerned Shi’a Muslims who were reportedly detained in Karbala in 1996 as they were going on a pilgrimage.

The WG referred to information provided by non-governmental organizations indicating that: disappearances continue to occur, especially against members of minority groups; the government has failed to address conditions which still allow such disappearances to take place; detainees reportedly have no access to their families or lawyers; trials, when they occur, are conducted in secret; the vast number of unresolved disappearances remain a concern as is the total impunity with which the perpetrators continue to act; and reportedly no redress from the government is available to the victims or their families.

The government responded to some cases either: requesting that the WG provide it with the new address, mother’s name, and the number and date of the person’s identity card; or stating that the allegations of disappearance were “baseless”, the persons named were not detained, and that the Working Group could contact them directly. The report notes that the government provided information on 15 individual cases in which it reported the addresses of the persons concerned, and in some cases their telephone numbers. However, efforts by the WG to contact these individuals were fruitless.

The report notes that Iraq remains the country with the highest number of reported disappearances and that the efforts of the government to investigate the over 16,000 outstanding cases and to cooperate with the WG are totally inadequate. The WG stated that, in order to prevent further cases of disappearance, the government should, in particular, cease its practice of arbitrary detentions and provide all detainees with at least the minimum right of prompt access to their families, legal counsel and independent judicial authorities. The WG further stated that the total impunity with which the perpetrators continue to act clearly violates the government's obligation to make all acts of enforced disappearance an offence under criminal law, to investigate all such cases, and to bring the perpetrators to justice.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 13, 14, 17, 27, 29, 30, 39, 57, 68, 69, 85; E/CN.4/1998/68/Add.1, paras. 228–234)

An urgent appeal was sent to the government on behalf of 519 children, 245 women and 750 men in the town of Zakho, which is in the hands of the Iraqi opposition, requesting the authorities to ensure effective protection of the right to life and physical integrity of these persons. Fears for their lives had been expressed when two alleged members of the Shi'a opposition were reported to have been killed by members of the Iraqi secret service. It was also reported that hundreds of persons, including many members of opposition parties, were killed when security forces entered northern Iraq in September 1996. A second urgent appeal was sent on behalf of the members of the Iraqi opposition in Zakho, then estimated to stand at more than 3,500 persons, following the killing of an opposition member by government agents.

The government replied to these appeals, stating: the allegations regarding the execution of two members of the Shi'a opposition were not true since no state agency was present in any of the northern Iraqi governorates which are under the control of armed Kurdish factions; no information was available on the persons living in the town of Zakho, an area outside the control of the central government; with regard to the allegations concerning the killing of hundreds of persons belonging to the opposition, security forces had entered northern Iraq to provide support at the request of one of the principal Kurdish parties and that it was a limited action which did not lead to any noteworthy casualties.

An urgent appeal was sent on behalf of six persons who were reportedly sentenced to death in July 1997 by a special court of the Ministry of Interior for being involved in organized prostitution and smuggling alcohol into Saudi Arabia. Trial proceedings of such special courts were reported to fall short of international standards for a fair trial with lawyers being court appointed, trial sessions held in camera and sentences pre-determined. Sentences issued by such courts can reportedly not be appealed.

The Special Rapporteur (SR) also sent the government a copy of a report alleging the violation of the right to life of

a member of the Mujahedeen Khalq of Iran, who was reportedly killed in March 1996 in Baghdad by Iranian agents. (The same information was transmitted to the Iranian government.)

Religious intolerance, Special Rapporteur on: (E/CN.4/1998/6, paras. 48, 60, 62, 66, 69, 79)

The report refers to violations of freedom of religion and belief against Christianity and Islam and refers to reports indicating that two Christians were murdered following a fatwa to that effect issued by an imam. The case of a young Christian woman who was reportedly forced to marry a Muslim and convert to Islam was also cited.

In response to cases transmitted, the government stated that legislation in Iraq guaranteeing freedom of religion and belief is consistent with relevant international law, refuted allegations of attacks by Republican Guards on pilgrims travelling to the holy town of Karbala', and stressed that there were no restrictions on visits to holy places.

Torture, Special Rapporteur on: (E/CN.4/1998/38, para. 120)

The report notes that the Special Rapporteur (SR) has not been in a position to transmit specific cases to the government but has noted the "particular concern" of the Special Rapporteur on the situation of human rights in Iraq and that "the practice of torture continue[s] to occur in Iraq" (A/52/476, para. 56). Reference is also made to the "grave concern" of the Human Rights Committee about "reports from many sources concerning the high incidence of... torture and ill-treatment" (CCPR/C/79/Add.84, para. 8).

GENERAL ASSEMBLY

Special Rapporteur of the Commission on Human Rights

The Special Rapporteur's (SR) interim report to the 1998 General Assembly (A/53/433) contains information on, *inter alia*: extrajudicial, summary or arbitrary executions; arbitrary detention and conditions of detention; cruel and unusual treatment and punishment; and the rights to food and health care. The report notes that in the absence of cooperation on the part of the government, the SR has continued to rely on information from governmental, intergovernmental and non-governmental sources. The report covers the period up to 31 August 1998.

Concerning extrajudicial, summary or arbitrary executions, the report notes again the "prison cleansing campaign" and refers to an execution campaign taking place in Abu Ghraib prison near Baghdad and executions carried out as death penalty sentences for participation in mob incidents." This accusation is alleged to cover up the politically motivated intention to punish those persons who took part in the popular uprisings of March 1991 characterized by the government as "mob incidents". Most of those executed had been detained for sev-

eral years, in particular in Mosul detention centre, before their sentences were carried out; the executions were carried out either by hanging or shooting. Reference is also made to executions unrelated to the "prison cleansing campaign". The report notes: execution for commission of petty property crimes involving no violence is a wholly disproportionate punishment; maintenance by the government of such severe penalties for a wide variety of offences is indicative of the nature of the overall situation of human rights in Iraq; "political killings" continue to occur, involving pre-planned killings (assassinations) of individuals, carried out by government agents upon orders; and information indicates a systematic attack on the independent leadership of Shi'a Muslims, as evidenced in the assassinations of key clerics. The SR stated that such killings are most notable because of their apparent intent to violate, by means of terror, the freedoms of opinion and expression of particular groups or the population as a whole. According to the SR, although the cases concern the killing of particular persons, the aim of the killings appears to be a political one with the objective of silencing dissent and suppressing opposition.

With regard to arbitrary detention and conditions of detention, the report refers to cases involving, *inter alia*: a senior journalist and reporter for the Middle-East News Agency and a columnist for the daily Al-Iraq and the weekly Al-Mousawar Al-Arabi; 42 persons arrested and charged with "spying" or "belonging to the opposition"; and detention of 130 persons on charges ranging from criticizing the government to smuggling food items, stealing, forging documents (passports), fleeing the country or fleeing to northern Iraq. Reports were also received indicating that hundreds of Fayli Kurds and other Iraqi citizens of Iranian origin, who had disappeared in the early 1980s, were in fact being held incommunicado in Abu Ghraib prison.

The report states that most of the allegations received by the SR concerning detention indicate that persons arrested and detained are routinely subjected to mistreatment, including prolonged inquisitions accompanied by beating and various deprivations, as well as other forms of torture. Concern is also expressed about cruel and unusual punishments prescribed by law (mutilations), including amputations and brandings. The report notes that penal amputations were reimposed in August 1998 without due process of law.

Concerning the rights to food and health care, the report states that the government has consistently failed to respect its obligations under the International Covenant on Economic, Social and Cultural Rights, to the detriment of the welfare of millions of Iraqi citizens. In particular, notwithstanding its own calculations of widespread suffering and high morbidity and mortality rates throughout the country (especially affecting women, children and the elderly), the government persistently failed to act to the maximum of its available resources and in full cooperation with the international community to respect and ensure the rights to food and health care. The government's refusal over five years to cooperate with the

UN and take advantage of the "oil-for-food" resolutions is noted, as well as its failure to ensure the end of the sanctions by complying with relevant Security Council resolutions. The report notes that greater supplies of food and medicine and more material for the improvement of the sanitation system would have reached Iraq had the government given priority to these items in allocating resources for imports; priority was given instead to military programmes and to the building of prestige objects such as numerous palaces for which material had to be imported from abroad. The report states that the humanitarian situation remains precarious; 27 per cent of children are suffering from chronic malnutrition while 9 per cent are suffering from acute malnutrition. Problems in the distribution of, and access to, medical and health supplies are also noted, with a greater proportion of such supplies allocated to Baghdad than other parts of the country. The SR stated that the "oil-for-food" programme has been implemented in a discriminatory and not fully equitable or efficient manner and noted that the government is solely responsible for the distribution programme.

The SR stated that all previous recommendations remain valid.

Resolution of the General Assembly

The 1998 session of the General Assembly adopted by roll call vote a resolution on the situation of human rights in Iraq (A/C.3/53/L.34). The resolution was adopted by a vote of 92 in favour, 2 opposed, 56 abstentions. The GA, *inter alia*: noted that Iraq is a party to the International Covenants on Human Rights, other international human rights instruments and the Geneva Conventions of 12 August 1949 on the protection of victims of war; recalled relevant Security Council resolutions; noted with dismay that there has been no improvement in the situation of human rights in the country; called on the government to abide by its freely undertaken obligations under international human rights treaties and international humanitarian law and to respect and ensure the rights of all individuals, irrespective of their origin, ethnicity, gender or religion, within its territory and subject to its jurisdiction; also called upon the government to cooperate with UN human rights mechanisms, in particular by receiving a return visit by the Special Rapporteur of the Commission on Human Rights and allowing the stationing of human rights monitors throughout Iraq; strongly condemned the systematic, widespread and extremely grave violations of human rights and of international humanitarian law by the government; condemned the suppression of freedom of thought, expression, information, association, assembly and movement through fear of arrest, imprisonment and other sanctions, in particular the death penalty; also condemned the widespread use of the death penalty, including for petty crimes such as property theft and customs violations; strongly condemned summary and arbitrary executions, enforced or involuntary disappearances, routinely practised arbitrary arrests and detention and consistent and routine failure to respect due process and the

rule of law; called upon the government to provide an accounting for the clean-out of prisons where there is credible evidence of mass summary executions; expressed deep concern at widespread, systematic torture in its cruelest forms, and the enactment and implementation of decrees prescribing cruel and inhuman punishment as a penalty for offences; and called on the government to abrogate all decrees that prescribe cruel and inhuman punishment or treatment, including mutilations, and to ensure that torture and ill treatment no longer occur.

The GA also called on the government to: abrogate all laws and procedures that penalize free expression and to ensure that the genuine will of the people shall be the basis of the authority of the state; restore the independence of the judiciary and abrogate all laws granting impunity to specified forces or other persons; bring the actions of its military and security forces into conformity with the standards of international law; put an end, without delay, to the continuing enforced displacement of persons on discriminatory grounds and to respect the rights of all ethnic and religious groups; cease immediately its repressive practices aimed at the Iraqi Kurds, Assyrians, Turkomen and the population of the southern marsh areas, and to ensure the personal integrity and freedoms of the Shi'a and their religious establishments; cooperate with the Tripartite Commission to establish the whereabouts and resolve the fate of the remaining several hundred missing persons, including prisoners of war, Kuwaiti nationals and third-country nationals victims of the illegal Iraqi occupation of Kuwait; cooperate with the Working Group on Enforced or Involuntary Disappearances of the Commission on Human Rights for that purpose and to pay compensation to the families of those who died or disappeared in the custody of the Iraqi authorities; release immediately all Kuwaitis and nationals of other states who may still be held in detention; increase its cooperation with international aid agencies and NGOs to provide humanitarian assistance and monitoring in the northern and southern areas of the country; and continue to cooperate in the implementation of relevant Security Council resolutions and to ensure fully the equitable distribution, without discrimination, to the Iraqi population of the humanitarian supplies purchased with the proceeds of Iraqi oil, including to remote areas, and to continue to facilitate the work of UN humanitarian personnel in Iraq by ensuring the free and unobstructed movement of observers throughout the country.

SECURITY COUNCIL

Reports of the Secretary-General

The reports of the Secretary-General (S/1998/90, February 1998; S/1998/194, March 1998; S/1998/477, June 1998; S/1998/823, September 1998) set out the problems inherent in mounting a humanitarian relief/supply operation of the size involved with regard to Iraq as well as measures taken to resolve problems and increase the effectiveness of the operation. The reports also provide

information on the distribution of humanitarian supplies throughout Iraq, including the implementation of the UN Inter-Agency Humanitarian Programme in the three northern governorates of Dahuk, Erbil and Sulaymaniyah. Updates, to a large extent statistically oriented, are provided on: sale of petroleum and petroleum products; purchase and confirmation of arrival of humanitarian supplies; distribution of humanitarian supplies; and the effectiveness, equitability and adequacies of both the distributions systems and supplies related to food, medicines and medical supplies, water and sanitation, electrical service, agriculture and education. Commentary is also provided on the issues of rehabilitation of settlements and demining activities.

Resolutions of the Security Council

Over and above resolutions related to Iraq's compliance with weapons inspections and the situation in the demilitarized zone between Iraq and Kuwait, the Council adopted several resolutions related to the humanitarian relief effort. In these resolutions (S/RES/1153, February 1998; S/RES/1158, March 1998; S/RES/1175, June 1998) the Council, *inter alia*: stated the need, as a temporary measure, to continue to provide for the humanitarian needs of the Iraqi people and the need for equitable distribution of humanitarian supplies to all segments of the Iraqi population throughout the country; expressed concern that the population continued to face a very serious nutritional and health situation and the determination to avoid any further deterioration of the humanitarian situation; extended authorization, in 180-day increments, for continuation of the humanitarian effort and the import of Iraqi oil by other countries; requested the Secretary-General to take the necessary actions to ensure the equitable distribution of the goods and that all supplies authorized for procurement, including dual-usage items and spare parts, are utilized for the purpose for which they have been authorized.



ISRAEL AND THE OCCUPIED TERRITORIES

Date of admission to UN: 11 May 1949.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Economic, Social and Cultural Rights

Signed: 19 December 1966; ratified: 3 October 1991. Israel's initial report (E/1990/5/Add.39) was considered at the Committee's November/December 1998 session; the second periodic report is due 30 June 1999.

Civil and Political Rights

Signed: 19 December 1966; ratified: 3 October 1991.
 Israel's initial report (CCPR/C/81/Add.13) was considered at the Committee's July 1998 session; the second periodic report is due in June 2002.
Reservations and Declarations: Articles 4, 9 and 23.

Racial Discrimination

Signed: 7 March 1966; ratified: 3 January 1979.
 Israel's seventh, eighth and ninth periodic reports were submitted as one document (CERD/C/294/Add.1) which was considered at the Committee's March 1998 session; the 10th periodic report was due 2 February 1998.
Reservations and Declarations: Article 22.

Discrimination against Women

Signed: 17 July 1980; ratified: 3 October 1991.
 Israel's third periodic report is due 2 November 2000.
Reservations and Declarations: Paragraph (b), article 7, article 16, paragraph 2 of article 29.

Torture

Signed: 22 October 1986; ratified: 3 October 1991.
 Israel's second periodic report (CAT/C/33/Add.3) was considered at the Committee's May 1998 session; the third periodic report is due 1 November 2000.
Reservations and Declarations: Article 20 and paragraph 1 of article 30.

Rights of the Child

Signed: 3 July 1990; ratified: 3 October 1991.
 Israel's initial report was due 1 November 1993.

REPORTS TO TREATY BODIES**Committee against Torture**

Israel's second periodic report (CAT/C/33/Add.3, March 1998) was considered by the Committee at its May 1998 session. The report prepared by the government contains information on, *inter alia*: the Basic Law - Human Dignity and Liberty, the General Security Service Bill (GSS), and the proposed amendment of the Evidence Ordinance; the 1994 report of the Kremnitzer Committee which was established to propose a plan of action to deal with the issue of violence by police personnel; the response of and measures taken by the authorities with regard to the recommendations of the Kremnitzer Committee; the Public Defender's Office; provisions in the Penal Law as amended in 1994; training programmes for police, the Prison Service and the GSS; a review of interrogation practices and the process of judicial review of complaints; the treatment of persons detained or in prison; procedures for complaints and criminal proceedings relative to the Israeli Police, the Prison Service, the GSS and the Israeli Defence Forces; compensation for victims; and the Goldberg Committee which was appointed in 1993 to examine the efficacy of convictions based solely, or almost solely, upon the defendant's confession, the availability of retrial, and other topics related to the rights of those investigated by the police.

The Committee's concluding observations and comments (CAT/C/ISR) noted a number of reforms undertaken by the government, including the creation of the Office of Public Defender, the creation of the Kremnitzer Committee to recommend oversight of police violence, amendments to the Criminal Code, ministerial review of several security service interrogation practices, and the creation of the Goldberg Committee relating to the rules of evidence. The Committee also noted the government's reference to the state of insecurity that prevails in Israel as a factor impeding implementation of the Convention and recalled that, under article 2 (2) of the Convention, such conditions cannot be cited to justify torture.

The subjects of concern identified by the Committee included, *inter alia*: the continued use of the "Landau rules" of interrogation permitting physical pressure by the GSS, justified on the basis of necessity; resort to administrative detention in the Occupied Territories for inordinately lengthy periods and for reasons that do not bear on the risk posed by releasing some detainees; the fact that the liberalizing effect of reforms will not apply to military law and laws going back to the mandate pertaining in the Occupied Territories; and, the apparent failure of the government to implement any of the recommendations of the Committee following consideration of Israel's initial report, as well as the special report that was submitted later (see CAT/C/33/Add.2/Rev.1 for Israel's report and A/52/44, para. 260 (a) through (d) for the Committee's conclusions and recommendations).

In response to the government's concern that the Committee had not set out its reasoning in extenso for the conclusions and recommendations it had reached on Israel's special report, the Committee stated that: since the government admitted the use of force or "physical pressure" on those in the custody by its officials, the burden of persuading the Committee that such force or pressure offends neither articles 1 or 2 nor article 16 of the Convention rests on the government. As well, since the government admitted to hooding, shackling in painful positions, sleep-deprivation and the shaking of detainees, the bare assertion that such treatment is "not severe" is not in and of itself sufficient to satisfy the state's burden and justify such conduct, particularly when reliable evidence reinforces the contrary conclusion. Since the government asserts that each case must be dealt with on its own "merits", but that for matters of security, material particulars of the interrogations cannot be revealed to the Committee, it follows that the conclusions of breach of articles 1, 2 and 16 must remain.

With these points in mind the Committee reaffirmed its conclusions and recommendations to Israel's initial and special reports and recommended that the government, *inter alia*:

- ♦ immediately cease interrogations which apply the methods referred to above which are in conflict with articles 1, 2 and 16 of the Convention;

- ♦ incorporate the provisions of the Convention, by legislation, into Israeli law, particularly the definition of torture contained in article 1 of the Convention;
- ♦ consider withdrawing its reservations to article 20 and declaring in favour of articles 21 and 22;
- ♦ publish in full interrogation procedures pursuant to the "Landau rules"; and
- ♦ review the practice of administrative detention in the Occupied Territories in order to ensure conformity with article 16.

Committee on the Elimination of Racial Discrimination

Israel's seventh, eighth and ninth periodic reports were submitted as one document (CERD/C/294/Add.1, August 1997) which was considered by the Committee at its March 1998 session. The report prepared by the government contains statistical and demographic data as well as information on, *inter alia*: the Political Parties Law 1992; the Basic Laws on Freedom of Occupation, Human Dignity and Freedom, and Human Liberty and Honour; the amended Equal Opportunity in Employment Law; provisions related to criminal prosecution of racism; measures to deal with the Kahana movement; the prohibition on racial discrimination; excerpts from relevant lower and Supreme Court rulings, as well as case law; affirmative action; the situation of Ethiopian Jews and measures taken on their behalf; the gap in the standard of living between the Jewish majority and the Arab minority and measures taken to eliminate this gap; equality before the law; the mandate and functions of the Public Complaints Commissioner; and specific activities to encourage Arab-Jewish understanding.

The Committee's concluding observations and comments (CERD/C/304/Add.45) welcomed Israel's submission of the report but regretted that it did not follow the Committee's reporting guidelines and that the dialogue between the Committee and government representatives was not always of a constructive nature. The Committee also: concluded that the Convention is far from fully implemented in Israel and the Occupied Palestinian Territory and that the shortfall contributes very significantly to the dangerous escalation of tensions in the region; regretted the stalemate in the peace process in the region; and noted the establishment of the Palestinian Authority which has certain responsibilities in parts of the Occupied Palestinian Territory.

Positive aspects identified by the Committee included: measures taken to prohibit the activities of racist political parties such as Kahana (Kach); the amendment of the Equal Opportunity in Employment Law prohibiting discrimination on the grounds of national or ethnic origin, country of origin, beliefs, political views, political party, affiliation or age, as well as the revision of the National Insurance Law; and efforts to reduce and eventually eradicate the economic and educational gap between the Jewish majority and the Arab minority.

Concerning the Occupied Palestinian Territory, the Committee reiterated its view that Israeli settlements are not only illegal under contemporary international law but are also an obstacle to peace and to the realization of human rights by the whole population in the region. The Committee called for a halt to the demolition of Arab properties in East Jerusalem and for respect for property rights regardless of the ethnic origin of the owner.

The Committee expressed concern over ethnic inequalities with regard to the special budget for public housing in the Arab sector, particularly with regard to what are known as "unrecognized" Arab villages. The Committee also expressed concern at the findings of social surveys which report that very many Jewish young people believe that Arab citizens should not be accorded equal rights.

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

- ♦ provide details of court decisions or other authoritative sources which make a distinction between inequality of treatment on the grounds of race, colour, descent or national or ethnic origin, and inequality of treatment on other grounds, such as those related to public security;
- ♦ extend legislation against the promotion of racial hatred by completing its implementation of the requirements of article 4 of the Convention, including expeditiously initiating criminal proceedings against anyone who makes threats in public against the security of persons of another ethnic origin;
- ♦ introduce and ensure implementation of comprehensive legislation in order to ensure compliance with article 5 of the Convention (generally dealing with non-discrimination in relation to civil, cultural, economic, political and social rights);
- ♦ ensure that the measures taken to address the gap in living standards and the involvement in national affairs of the Jewish majority and the Arab minority are consistent with the measures adopted for assisting the integration of Ethiopian Jews;
- ♦ adopt new labour legislation in order to secure the protection against ethnic discrimination of the rights of Palestinians working in Israel on a daily basis and take appropriate measures to protect the rights of migrant workers, including undocumented workers;
- ♦ give high priority to the right of Palestinians to return and possess their homes in Israel and provide compensation to those who cannot repossess their homes;
- ♦ include in the next periodic report a comprehensive statement of the government's vision of the future of its Arab, Bedouin and Druse citizens, together with an indication of how its objectives are to be attained and a review of the effectiveness of its measures to combat discrimination, noting that any statistics should show whether governmental expenditure and

service provision are proportionate to the size of the different ethnic groups; and

- provide information in the next report on the number of complaints, judgements and compensation awards arising from racist acts, regardless of their nature, and any other information, from whatever reliable source, about any inequalities suggestive of discrimination in the administration of criminal justice.

Committee on Economic, Social and Cultural Rights

Israel's initial report (E/1990/5/Add.39, parts 1, 2 and 3, November 1997) was considered by the Committee at its November 1998 session. The report prepared by the government contains demographic and statistical data, as well as information on the general political structure and, *inter alia*: state responsibility and non-discrimination; the Basic Law: Social Rights Bill (1993); case law from the Supreme Court; the right to work, the Labour Law and the Labour Courts, employment and unemployment, "freedom of contract", technical and vocational training, the Equal Employment Opportunities Law 1988, foreign workers, the Foreign Workers Administration; conditions of work, occupational health and safety, remuneration and wages, the Male and Female Workers Equal Pay Law 1996; trade unions, the Collective Agreements Law 1957, the General Federation of Labour – Histadrut, the right to strike; social security, benefits, pensions; the family, definition in law of "family" and the meaning of "family" in administrative practice; the age of majority, minimum ages; the rights to family life and parenthood; protection of maternity; the standard of living and poverty and policies on poverty eradication, the National Council for Diminishing Social Gaps and War on Poverty, established in August 1996; food and nutrition, housing, homelessness and housing assistance; the situation of the Bedouins, land and residence, settlements; health, the health care system, the national health policy, pollution and related environmental health issues, HIV/AIDS; education and the education system; and cultural life, the mass media, scientific progress, institutional promotion of research and development, freedom of speech and academic freedom.

The Committee's concluding observations and comments (E/C.12/1/Add.27) welcomed, *inter alia*: enactment in 1995 of the National Health Insurance Law and the 1996 amendment enabling housewives to receive the minimum old-age pension while still exempt from contributions; establishment of the Authority for the Advancement of the Status of Women; and acceptance by the government that, on the question of the Covenant's applicability in the Occupied Territories, Israel has direct responsibility in some areas covered by the Covenant, indirect responsibility in others, and an overall significant legal responsibility. The Committee referred to Israel's emphasis of its security concerns, including its policies over closures, as a factor hindering the realization of economic, social and cultural rights within Israel and the Occupied Territories.

The principal subjects of concern identified by the Committee included, *inter alia*: that the government's written and oral reports included statistics indicating the realization of economic, social and cultural rights by Israeli settlers in the Occupied Territories but excluded the Palestinian population within the same jurisdictional areas from both the report and the protection of the Covenant; the failure to grant constitutional recognition to economic, social and cultural rights in the legal system; that the Draft Basic Law: Social Rights does not meet the requirements of Israel's obligations under the Covenant; that an excessive emphasis upon the state as a "Jewish State" encourages discrimination and accords a second class status to its non-Jewish citizens; the failure to accord equal rights to Arab citizens as seen by, for example, the comparatively lower standard of living of the Israeli Arabs as a result of lack of access to housing, water, electricity and health care and their lower level of education; that, despite the fact that Arabic has official status, it is not given equal importance in practice; that the Status Law of 1952 authorizes the World Zionist Organization/Jewish Agency and its subsidiaries to control most of the land in Israel, noting that these institutions are chartered to benefit Jews exclusively; the situation of the Jahalin Bedouin families who were forcibly evicted from their ancestral lands to make way for the expansion of the Ma'aleh Adumim and Kedar Settlements; and the manner in which the government has housed these families in steel container vans in a garbage dump in Abu Dis and the government's insistence that the matter can only be resolved through litigation.

Concern was also expressed over: the Law of Return, which discriminates against Palestinians in the diaspora and imposes restrictive requirements that make it almost impossible for them to return to their land of birth; the rapid growth of unemployment and that an increasing number of workers are employed in low-paying part-time work where they have little or no legal protection; the fact that more than 72 per cent of persons with disabilities are unemployed; that fact that only half of workers entitled to minimum wage actually receive it; the government policy of maintaining "general closures" continuously since 1993 and the fact that the restrictions apply only to Palestinians and not to Jewish Israeli citizens; the severe consequences of closure on the Palestinian population; the forcible separation of Palestinian families because of closures and the refusal of Israeli authorities to allow Gaza students to return to their universities in the West Bank; discriminatory provisions in the Permanent Residency Law and its retroactive application against both Palestinians who live abroad and those who live in the West Bank or in nearby Jerusalem suburbs; the adverse impact of the growing exclusion faced by Palestinians in East Jerusalem and the continued policy of building settlements to expand the boundaries of East Jerusalem and of population transfers of Jewish residents into East Jerusalem; the continuing practice of home demolitions, land confiscations, restrictions on family reunification and residency rights; the situation of Arab neighbourhoods in mixed cities such as Jaffa and Lod which have deteriorated into virtual slums; continued expropriation

of Palestinian lands and resources to expand Israeli settlements; and the plight of an estimated 200,000 uprooted "present absentees" — Palestinian Arab citizens, most of whom were forced to leave their villages during the 1948 war, on the understanding that they would be allowed to return after the war.

Concern was also noted with regard to: the fact that a significant proportion of Palestinian Arab citizens continue to live in unrecognized villages where they have no access to water, electricity, sanitation and roads; the situation of the Bedouin Palestinians already settled in Israel; the government policy of settling Bedouins in seven "townships" which has caused high levels of unemployment and loss of livelihood; the large gaps within the educational system and the gap in educational expenditure per capita for the Arab sector which is substantially less than the Jewish sector; the recently adopted Arrangements Law which has the effect of eroding the principles of universality and equality set out in the National Health Insurance Law; the high incidence of domestic violence against women; the situation of non-Jewish women who are reportedly experiencing diminishing living conditions, health care and educational resources; and persistent reports that the Dimona nuclear plant could pose a serious threat to the right to health and to the environment unless urgent preventive measures are undertaken.

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

- ♦ provide, in time for consideration at the Committee's session in November 2000, additional information on the realization of economic, social and cultural rights in the Occupied Territories as well as East Jerusalem and updated information on the target dates of recognizing unrecognized villages and an outline plan for the delivery of basic services;
- ♦ undertake the necessary steps to ensure the full legal application of the Covenant within the domestic legal order; ensure the equality of treatment for all Israeli citizens in relation to all Covenant rights;
- ♦ review the status of its relationship with the World Zionist Organization/Jewish Agency and its subsidiaries including, the Jewish National Fund, with a view to remedying problems identified related to land transfers and settlements;
- ♦ review re-entry policies for Palestinians who wish to re-establish domicile in their homeland, with a view to bringing such policies to a level comparable to the Law of Return as applied to Jews;
- ♦ take all necessary steps to reduce unemployment and to ensure proper enforcement of protective labour legislation, including assigning additional personnel to enforce such legislation; pay special attention to enforcing the Minimum Wage Law, Equal Pay for Men and Women Law, and the Equal Opportunities in Employment Law;

- ♦ complete the process of implementing the Law of Equality for People with Disabilities and address the problem of accessibility to public buildings and public transportation;
- ♦ undertake, as a matter of highest priority, the assurance of safe passage at checkpoints for Palestinian medical staff and people seeking treatment, the unhampered flow of essential foodstuff and supplies, the safe conduct of students and teachers to and from schools, and the reunification of families separated by closures;
- ♦ reassess the Permanent Residency Law with the view to ensure that its implementation does not result in impeding the realization of economic, social and cultural rights by Palestinians in East Jerusalem; remove the quota system currently in place so that families separated by residency rules can be reunited without delay;
- ♦ cease the practice of facilitating the building of illegal settlements and constructing by-pass roads, expropriating land, water and resources, the demolition of houses and arbitrary evictions; immediately take steps to respect and implement the right to an adequate standard of living of the Palestinian residents of East Jerusalem and the Palestinian Arabs in the mixed cities; ensure equal access to housing and settlement on state land for the "present absentees" who are citizens of Israel;
- ♦ recognize the existing Arab Bedouin villages, the land rights of the inhabitants and their right to basic services including water;
- ♦ undertake measures to address the inequalities in the educational system in secondary and university levels, particularly in budget allocations; undertake a study on the viability of establishing an Arab university within Israel for the purpose of ensuring equal opportunities and access to higher education; and
- ♦ adopt effective measures to combat domestic violence against women and to promote equal treatment of women in the field of employment, including in the government and in education and health.

HUMAN RIGHTS COMMITTEE

Israel's initial report (CCPR/C/81/Add.13, April 1998) was considered by the Committee at its July 1998 session. The report prepared by the government is detailed and, in a number of instances, includes examples from case law related to the rights and protections being described. In general the report provides information on guarantees, provisions and protections related to articles 1 through 27 of the Covenant. As such, the report contains information on, *inter alia*: the Basic Laws, for example on Administration of Justice, Human Dignity and Liberty, and Freedom of Occupation; self-determination and economic and cultural development; nationality and citizenship; the equal rights of women and men;

considerations and provisions related to states of emergency; the right to life, including regulations on the use of firearms by law enforcement officials and the Israeli Defence Forces, the death penalty; provisions related to torture and ill treatment, the Landau Commission, detention, treatment of detainees; unlawful use of force, the work of the Kremnitzer Committee and the Goldberg Committee; liberty and security of person; freedom of movement, deportation procedures; organization of the judiciary, functions of military and religious courts; due process and associated rights; and protection of privacy, search and seizure.

The report also addresses areas such as: freedom of religion and conscience and the organization of religious communities (Muslim, Christian, Druze); freedom of opinion and expression and legal prohibitions on specific types of speech, freedom of the press, military censorship and the "Editors' Committee", the right to receive information; the prohibition of propaganda relating to war, racial, national or religious hatred; freedom of assembly and association, trade unions and workers' rights; protection of the family; protection of children; access to the political system and public service; equality before the law; and the definition of minority groups and the rights of minorities, including the Bedouin, Arab, Druze and Circassian communities.

The Committee's concluding observations and comments (CCPR/C/79/Add.93) noted that, while the report provides extensive information on prevailing legislation in the field of human rights in Israel, it lacks sufficient information on the implementation of the Covenant in practice and on the factors and difficulties impeding effective implementation. This concern was partly rectified by the oral information provided by the delegation during the Committee's session.

The difficulties affecting implementation were acknowledged to include security concerns, frequent attacks on the civilian population, the problems linked to the occupation of territories and the fact that Israel is officially at war with a number of neighbouring states. The Committee drew attention, however, to article 4 of the Covenant which permits no derogation from certain basic rights even in times of public emergency.

Among the factors viewed positively were: the open debate of sensitive issues and the fact that an active non-governmental community has taken firm root; the wide dissemination of Israel's initial report among professionals in the justice system, who work directly in matters relating to the promotion and protection of human rights, and among NGOs; inclusion in the report of many references to decisions of the Supreme Court upholding rights protected under the Covenant; the recent establishment of the Public Defender's Office; efforts to implement the recommendations of the Kremnitzer Committee — addressing questions of police violence, and the Goldberg Committee — regarding rules of evidence; the progressive steps related to the amendment of the Criminal Code and to the establishment of the Department for Investigation of Police Misconduct within the Ministry of

Justice; the responsibility of the State Comptroller's Office to act as Ombudsman, noting that the Committee would welcome further information on its activities, particularly as regards measures to combat discrimination; the establishment of bodies in various ministries to address questions relating to the status of women; the activities of the Knesset Committee for the Advancement of the Status of Women; the establishment of a national authority on the advancement of women with a wide range of responsibilities; the amendment of the Equal Employment Opportunities Law placing the burden of proof upon the employer in civil sexual harassment suits; and the enactment of the Equal Pay (Male and Female Employees) Law.

The principal subjects of concern identified by the Committee included, *inter alia*: the failure to incorporate the Covenant into domestic law and the fact that the ICCPR cannot be directly invoked in the courts; the continuing denial of the government of its responsibility to apply the Covenant fully in the occupied territories, Israel's long-standing presence in these territories and the ambiguous attitude towards their future status; the continued state of emergency, which has been in effect since independence; the deeply imbedded discriminatory social attitudes, practices and laws against Arab Israelis; that most Arab Israelis, because they do not join the army, do not realize the financial benefits available to Israelis who have served in the army, including scholarships and housing loans; that the Arabic language, though official, has not been accorded equal status in practice, and that discrimination against members of the Arab minority appears to be extensive in the private sector; and that Palestinians in the occupied territories who remain under the control of Israeli security forces do not realize the same rights and freedoms as Jewish settlers in those territories.

Concern was also raised over: the discrimination faced by Bedouins, many of whom have expressed a desire to continue to live in settlements in the Negev; the situation of women who, despite advances, continue to face discrimination in many aspects of life; the absence of a clear plan of action to address the situation of the most disadvantaged group of women, namely those belonging to the Arab minority; the failure to protect women brought to Israel for purposes of prostitution and the tendency to penalize these women for their illegal presence in Israel by deportation; the number of Palestinians who have been killed by the security forces, as well as all persons who have been the victims of terrorist attacks; the use of rubber-coated metal bullets by the security forces in the occupied territories in dispersing demonstrations; the introduction of a draft law which would deny victims compensation for excesses committed by members of the security forces against Palestinian residents of the occupied territories.

The Committee noted concerns related to: the guidelines for the conduct of interrogation of suspected terrorists; the potential for authority to be given to the security service to use "moderate physical pressure" to obtain infor-

mation considered crucial to the "protection of life"; the fact that the relevant part of the report of the Landau Commission that lists and describes authorized methods of applying pressure remains classified; noting the reduction in the number of persons held in administrative detention on security grounds, the fact that persons may still be held for long and apparently indefinite periods of time in custody without trial; the fact that Palestinians detained by Israeli military order in the occupied territories do not have the same rights to judicial review as persons detained in Israel under ordinary law; the administrative detention of at least some persons for reasons of state security (and in particular some Lebanese) who do not personally threaten state security but are kept as "bargaining chips" in order to promote negotiations with other parties on releasing detained Israeli soldiers or the bodies of deceased soldiers.

The Committee acknowledged that security concerns have led to restrictions on movement but expressed concern over the continued impediments which affect mostly Palestinians travelling in and between East Jerusalem, the Gaza Strip and the West Bank. The Committee noted that these restrictions have grave consequences affecting nearly all areas of Palestinian life. Concern was also raised with regard to: the increasingly restrictive conditions for maintaining the right to permanent residence, the denial of requests for family reunification and the difficulty experienced by non-Jews in obtaining building permits and accommodation; the effect of the unpublished directive of the Ministry of the Interior, under which Palestinians may lose their right to live in the city if they cannot prove that East Jerusalem has been their "centre of life" for the past seven years; the demolition of Arab homes as a means of punishment; the practice of demolitions, in part or in whole, of "illegally" constructed Arab homes; the difficulties imposed on Palestinian families seeking to obtain legitimate construction permits; the fact that the Israel Lands Administration (ILA), responsible for the management of 93 per cent of land in Israel, includes no Arab members; the practice of the ILA to lease or transfer land for the development of Jewish towns and settlements and that few Arab localities have been established in this way until recent years; the apparent placing of obstacles in the way of family reunion in the case of marriages between an Israeli citizen and a non-citizen who is not Jewish (and therefore not entitled to enter under the Law of Return).

The Committee also expressed concern over: the preference given to the Jewish religion in the allocation of funding for religious bodies, to the detriment of Muslims, Christians, Druze and other religious groups; the application of religious law to determine matters of personal status, including marriage and divorce, and the absence of provision for civil marriage, effectively denying some persons the right to marry in Israel and resulting in inequality between women and men; the fact that the minimum age of marriage for girls, fixed by law at 17, may be reduced by the religious courts, and that no minimum age is fixed for men; and the lack of provision for civil burial.

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

- ♦ take early action in respect of legislative initiatives aimed at enhancing the realization of a number of the rights provided for in the Covenant, including proposals for new draft Basic Laws on due process rights and on freedom of expression and association; consider enacting further laws to give effect to any rights not already covered by Basic Laws;
- ♦ include in its next report all information relevant to the application of the Covenant in territories which Israel occupies;
- ♦ review the necessity for the continued renewal of the state of emergency with a view to limiting as far as possible its scope and territorial applicability and the associated derogation of rights;
- ♦ take steps without delay to ensure equality to Arabs and to proceed as soon as possible with the planned formulation of a draft law on discrimination in the private sector and to adopt it at an early date;
- ♦ make coordinated and targeted efforts to establish basic standards that are applicable equally to all persons under the jurisdiction of Israel; ensure that members of Bedouin communities are given equality of treatment with Jewish settlements in the same region;
- ♦ consider targeted measures to accelerate progress towards equality for women, in particular for Arab women; make serious efforts to seek out and punish those who traffic in women, institute rehabilitation programmes for the victims, and ensure that they are able to pursue legal remedies against the perpetrators;
- ♦ rigorously enforce the strict limitations on the operational rules as to the use of firearms and the use of rubber bullets against unarmed civilians; include in the next report information on the number of deaths, including those caused by rubber bullets, the number of complaints arising from their use and the number of defence and security personnel that have been punished or disciplined as a result;
- ♦ provide, in the next report, information on the draft law which would deny victims compensation for excesses committed by members of the security forces against Palestinian residents of the occupied territories;
- ♦ cease using such methods during interrogation as handcuffing, hooding, shaking and sleep deprivation; ensure that any legislation to be enacted for the purpose of authorizing interrogation techniques explicitly prohibit all forms of treatment prohibited by article 7 of the Covenant; make efforts to avoid prolonged isolation of segregated prisoners;

- ♦ bring the application of detention within the strict requirements of the Covenant and make mandatory effective judicial review;
- ♦ respect the right to freedom of movement of Palestinians travelling in and between East Jerusalem, the Gaza Strip and the West Bank, as restrictions on their freedom of movement have grave consequences affecting nearly all areas of Palestinian life;
- ♦ apply the rules and procedures relating to permanent residency status without discrimination;
- ♦ take urgent steps to overcome the considerable inequality and discrimination which remain in regard to land and housing;
- ♦ reconsider its policies with a view to facilitating family reunion of all citizens and permanent residents;
- ♦ publish and apply the regulations and criteria for funding to all religious groups on an equal basis;
- ♦ implement quickly the measures under consideration to facilitate civil marriages and civil burial for those who do not belong to a religion; take into account international standards for the age of majority in its current review of the minimum marriageable age for men and women; and
- ♦ consider ratifying the Optional Protocol to the Covenant.

The Committee decided that Israel's 2nd periodic report would be due by June 2000.

COMMISSION ON HUMAN RIGHTS

Special Rapporteur on human rights violations in Occupied Palestinian Territories

The mandate of the Special Rapporteur (SR) was established by the Commission at its 1993 session and is not subject to renewal on an annual basis. The specific components in the mandate are to: investigate Israel's violations of the principles and bases of international law, international humanitarian law and the 1949 Geneva Convention relative to the Protection of Civilian Persons in Time of War in the occupied Palestinian territories; receive communications, hear witnesses, and use any procedure considered necessary; and report, with conclusions and recommendations, to the Commission on Human Rights at future sessions, until the end of the occupation of those territories. Mr. Hannu Halinen was SR for 1998.

In the absence of formal cooperation from the Israeli government, the SR's report for the 1998 Commission (E/CN.4/1998/17) was prepared on the basis of visits, in January 1998, to Jerusalem, Gaza, Hebron, Ramallah, Jericho, Tel Aviv, Amman and Cairo.

The report establishes the context in which commentary is provided on the principal human rights concerns by noting, *inter alia*: lasting peace cannot be achieved without respect for human rights; during the period under consideration, terrorist incidents and threats of such incidents once again increased; and measures to prevent terrorism — including training and education — must, under all circumstances, be carried out within the rule of law and respect for human rights. Despite steps taken by both Israel and the Palestinian Authority to improve their record, the report notes that serious human rights violations occur persistently. Palestinian economic development is a prerequisite for political stability and, therefore, the best guarantee of security for Israel, both in the short and the long term; and, declining indicators of the Palestinian economy are a clear sign that development is reversing and becoming a growing threat to security.

With these comments outlined, the report provides summary of principal human rights concerns noting, *inter alia*: the detention of approximately 3,500 Palestinian prisoners in Israeli prisons and detention centres; poor conditions of detention — including a low quality of food in insufficient quantities, inadequate medical treatment and violent suppression of prisoners' protests by the prison authorities; denial of access to an attorney as well as to family visits; the occasional treatment of mentally ill prisoners as if healthy, or placement in solitary confinement; a significant increase in the number of administrative detainees and the placement of children in administrative detention; and the issuance of a new military order in September 1997 allowing Israeli forces to arrest persons in Area A under the jurisdiction of the Palestinian Authority which includes the Gaza Strip. The report cites information indicating that up to 1,200 persons are being held in administrative detention by the Palestinian Authority and that a total of 14 detainees died while in detention, a situation in part created by a complex legal system, lack of legislation and insufficient training and education. Reference is made to: the treatment of Palestinian detainees held on suspicion of security offences during the period of interrogation and the ruling of High Court permitting use of "moderate physical pressure" amounting to torture — including such practices as hooding, sleep and food deprivation, position abuse, exposure to very loud music and extremes of cold and heat as well as violent shaking; the after-effects of torture during incarceration, including chronic post-traumatic stress, depression, paranoia, social avoidance and anxiety, violence by men against their wives and children and, in children, contact disorders such as inability to relate to parents, teachers and other children as well as heightened aggression, disobedience and violence; and information indicating that torture and ill-treatment in detention centres under the control of the Palestinian Authority have reportedly continued as a result of the pressure said to have been placed on the Authority to deal with its own and Israeli security concerns.

Concerning children, the report cites information indicating that more than 50 per cent of the Palestinian pop-

ulation is under 15 years of age and states that the situation of children cannot be separated from the overall situation of human rights in the occupied territories. The report notes that the occupation had, and continues to have, detrimental effects on the development of children who have been conditioned by the situation of violence and become victims of social, economic and psychological circumstances. It is estimated that one-third of those killed during the intifada were children and some 70 per cent of persons injured during the clashes which broke out in Hebron in June 1997 were children. The report also states that the occupation has led to a virtual dismantling of the social infrastructure and the weakening of the family structure leading to a rise in juvenile delinquency. The report also refers to information indicating that a number of children in rural areas of the West Bank as well as in Area A have been killed by landmines left by the Israeli army in military training areas.

Concerning women, the report notes, *inter alia*, that women are in a vulnerable position in Palestinian society; this vulnerability is very often rooted in traditions as well as the attitudes of both secular and religious leaders for which blame cannot be placed on the Israeli occupation; and under application of the prevailing laws, the position of women is difficult in cases of divorce and child custody, early marriage and in relation to offences regarding honour. The report notes that women and girls are often the first victims of domestic violence, as wives and daughters of former prisoners suffering from psychological disorders, or of workers unable to go to Israel and provide income for their families; reports indicate that suicide rates among women are said to be on the rise; and an increase in malnutrition has been registered among pregnant women and pre-school age children who are suffering from iron and iodine deficiencies which can cause slow mental development.

The report refers to the closures of the occupied territories and reiterates the statement in previous reports that the repeated closures constitute collective punishment of the population. The report notes that the closures have led to: a further deterioration of the economic situation and a rise in unemployment which has had a cascading effect — viz. an increased incidence of child labour; a concomitant decline in the importance given to education; a significant increase in the school dropout rate; a lack of income and an inability to buy food during the closures, leading many Palestinian families to eat only one meal a day and significantly reduce their intake of protein; and a greater incidence of rickets and anaemia in children as a result of loss of protein. The report notes that the closures have also led to factories shutting down because of a lack of raw materials and access to export markets, a halt to construction work and, for fishermen in Gaza, a ban on fishing during closures because the Israeli forces consider the sea as a border crossing.

While acknowledging that there were no deaths of Palestinians at Israeli checkpoints or at border-crossings and no major problems with the passage of medicine, the report refers to delays in transporting Palestinian patients from East Jerusalem to other medical facilities.

Israeli ambulances carrying the patients are reported to wait for escorts through the territory and Palestinian ambulances are rarely permitted, for security reasons, permission by the Israeli Health Ministry to install sirens or radio systems.

With regard to compensation and restitution, the SR cited information indicating that the Israeli Parliament was to adopt a law that would deny compensation to Palestinian victims who were injured, or surviving family members of those who were killed during the intifada, on the basis that the deaths were caused by activities linked to war. The report notes that this reasoning amounts to considering the Palestinian civilian population as combatants and, in addition to widening the scope of what constitutes combatant activity, the adoption of such a law would further reduce the accountability of Israeli security forces for human rights violations perpetrated against the civilian population of the occupied territories.

On the question of the increased construction and expansion of Israeli settlements, the report states that it is possibly the single most preoccupying factor which has exacerbated the situation of human rights in the occupied Palestinian territories. Points made in this regard include that a turning point in this area was the decision by the Israeli Government on 26 February 1997 to construct a settlement on Jabal Abu Ghneim in East Jerusalem which, together with the announcement of plans to build a Jewish settlement in the Ras El Amud neighbourhood of East Jerusalem, would complete the chain of Israeli settlements surrounding East Jerusalem, thereby preventing Palestinian territorial continuity. Other points addressed include: the opening of new stone quarries, in particular since the signing of the Oslo Accords, causing considerable environmental damage in the occupied Palestinian territories; the expansion and building of settlements and bypass roads implying confiscation of substantial areas of Palestinian-owned land; reports indicating that approximately 25 per cent of the housing units in existing settlements were unoccupied; the fact that Bedouins living around Jerusalem were being particularly affected by land confiscation, with estimates suggesting that more than 15,000 Bedouins are threatened with eviction from sites which they currently inhabit, without being given alternative sites in which to settle by the Israeli Civil Administration; and, the current policy of eviction and land confiscation ultimately rendering Area C and, gradually, Area B empty of Arabs.

Other points addressed in the report included that: Israeli authorities continue to confiscate the identity cards of Palestinian Jerusalemites, with estimates suggesting that up to 15,000 identity cards may have been confiscated up to the date the report was prepared; in order to retain residency rights in Jerusalem, Palestinian inhabitants must prove that the city is their "centre of life" by presenting rent slips, electricity and water bills, tax returns and birth certificates to the municipal authorities; and persons unable to present proof are reportedly not eligible for health insurance and their children cannot attend government schools. The report notes that: both parents of a newborn child must be residents of

Jerusalem for the child to be legally registered; a child born in the West Bank to parents who are both residents of Jerusalem may not be registered in that city; the lack of automatic registration of children has engendered serious health problems with reports indicating that children have died because of the refusal of Israeli health-care institutions to treat them when told that the children did not have insurance; reports indicated that there had been an increase in child labour among Jerusalemites who have complete access to Israel, with children reportedly as young as 12 hired on an informal basis in factories, as agricultural and construction workers or in restaurants; and in 1997, the number of Palestinian-owned houses demolished in East Jerusalem was said to be greater than the number demolished during the intifada.

The conclusion of the report states that the Palestinian Authority and the Legislative Council have continued their work towards the building of civil society and rule of law but that further efforts need to be made with regard to transparency and accountability, the functioning of the judiciary, and freedom of the press and opinion.

Resolution of the Commission on Human Rights

At its 1998 session, the Commission adopted by roll call vote a resolution on the question of the violation of human rights in the occupied Arab territories, including Palestine (1998/1). The resolution was adopted with 31 in favour, 1 opposed and 20 abstentions.

The Commission, *inter alia*: noted the purposes, principles and provisions in the Universal Declaration, the International Bill of Human Rights and the Geneva Convention related to civilians in time of war; recalled resolutions of the Security Council, General Assembly and Commission on Human Rights on the applicability of the Geneva Convention to the Palestinian territories, including Jerusalem; recalled General Assembly resolutions on Israeli violations of human rights; took note of the reports of the SR and the Special Committee to Investigate Israeli Practices; noted with concern Israel's refusal to abide by relevant resolutions; expressed grave concern at the stagnation of the peace process and the principles upon which the process was based; condemned the continued violations of human rights in the occupied Palestinian territories, including East Jerusalem; referred to such violations as the wounding and killing of Palestinians by Israeli soldiers, detentions, confiscation of lands and extension of Israeli settlements on such lands, confiscation of property, demolition of Palestinian homes and uprooting of fruit trees; condemned the opening of the tunnel under the Al Aqsa mosque and revocation of identity cards of Palestinians in Jerusalem; condemned the use of torture during interrogation and noted that the Israeli High Court has legitimized the practice; reaffirmed that all Israeli settlements in the Palestinian territories occupied since 1967 are illegal; considered that any change in the geographical and demographic status of the city of East Jerusalem to be illegal and void; reaffirmed the importance of

convening a conference by the High Contracting Parties to the Geneva Convention as set out in General Assembly resolution ES-10/4 (13 November 1997); called on Israel to cease immediately its policy of enforcing collective punishments, such as demolition of houses and closure of the Palestinian territories; called on Israel to desist from all forms of violations of human rights in the Palestinian territories; and, called on Israel to withdraw from the Palestinian territories, including East Jerusalem.

Reports of the Secretary-General

The report of the Secretary-General concerning the agenda item on violations of human rights in the occupied Arab territories including Palestine (E/CN.4/1998/20, para. 4), provides a summary of information from the UN Department of Public Information (DPI) and notes that DPI continued to provide press coverage of the meetings of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories as well as extensive press and audio-visual coverage of the meetings of the Commission on Human Rights. DPI also continued to disseminate UN information materials, documents and press releases — on the activities of the Special Committee (for example, the field mission to Egypt, Jordan and Syria from 30 May to 9 June 1997) and the Commission on Human Rights — to NGO representatives and the public at large, through the global network of UN Information Centres and Services.

A second report of the Secretary-General concerning the same agenda item (E/CN.4/1998/18) refers to the request of the 1997 Commission on Human Rights to bring resolution 1997/1 to the attention of the Israeli and other governments. The resolution was also communicated to the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, the Committee on the Exercise of the Inalienable Rights of the Palestinian People, the UN Relief and Works Agency for Palestine Refugees in the Near East, as well as others. At the time the report was prepared no reply had been received from Israel.

In response to a request from the 1997 session of the Commission, the Secretary-General provided a list of all UN reports issued between sessions of the Commission concern the conditions in which the citizens of the Palestinian and other occupied Arab territories are living under the Israeli occupation (E/CN.4/1998/19). The list referred to 18 notes and reports that were provided to the 1997 session of the General Assembly.

The report of the Secretary-General concerning the agenda item on self-determination (E/CN.4/1998/30) refers to a request from the 1997 Commission to transmit to the Israeli government and others, resolution 1997/4 on the situation in occupied Palestine. The report notes that the resolution, *inter alia*: called upon Israel to comply with its obligations under the UN Charter and the principles of international law, and to withdraw from the Palestinian territories, including Jerusalem, and the

other Arab territories which it had occupied since 1967. No reply had been received from Israel at the time of the preparation of the report of the Secretary-General.

Commission resolution on human rights in the occupied Syrian Golan

At its 1998 session, the Commission adopted a resolution on human rights in the occupied Syrian Golan (1998/2). The resolution was adopted by a roll call vote of 35 in favour, 1 opposed, and 19 abstentions. The Commission, *inter alia*: recalled relevant resolutions of the Security Council and General Assembly; reaffirmed the illegality of the Israeli decision of December 1981 to impose its laws, jurisdiction, and administration on the occupied Syrian Golan; reaffirmed the principle of non-acquisition of territory by force; deplored the Israeli settlement in the occupied Arab territories and Israel's refusal to cooperate with and receive the Special Committee to investigate Israeli practices; reaffirmed the importance of the peace process and expressed concern about the halt in the process on the Syrian and Lebanese tracks; and called on Israel to comply with relevant resolutions of the Security Council and General Assembly to desist from changing the physical character, demographic composition, institutional structure and legal status of the occupied Syrian Golan. The Commission also: emphasized that displaced persons of the occupied Golan must be allowed to return to their homes and recover their properties; called on Israel to desist from imposing Israeli citizenship and identity cards on Syrian citizens in the occupied Golan; stated that all legislative and administrative measures and actions that purport to alter the character and legal status of the occupied Golan are null and void and constitute a flagrant violation of international law; and called on UN members not to recognize any of the legislative or administrative measures and actions to which the resolution referred.

Commission resolution on Israeli settlements in the occupied Arab territories

The Commission also adopted a resolution on Israeli settlements in the occupied Arab territories (1998/3) by a show of hands. The resolution was adopted with 51 in favour, 1 opposed, and 1 not participating. The Commission, *inter alia*: recalled that Israel is a party to the Geneva Convention on the protection of civilians in time of war and that the Convention is applicable to Palestinian and all occupied Arab territories, including East Jerusalem; recalled previous resolutions reaffirming the illegality of Israeli settlements in the occupied territories; welcomed the report of the Special Rapporteur on human rights violations in the Palestinian territories; expressed grave concern at Israeli settlement activities, including the expansion of settlements, the installation of settlers in the occupied territories, expropriation of land, the demolition of houses, the confiscation of property, the expulsion of local residents and the construction of bypass roads; stated that these activities change the physical character and demographic composition of the occupied territories, including East Jerusalem; and

expressed grave concern at and strongly condemned all acts of terrorism. The Commission called on: all parties not to allow any acts of terrorism to affect the ongoing peace process negatively; the Israeli government to comply fully with all previous resolutions of the Commission and match its stated commitment to the peace process with concrete actions to fulfil its obligations; the Israeli government to cease immediately its policy of expanding settlements and related activities; and the government to forgo and prevent any new installation of settlers in the occupied territories.

Commission resolution on the situation in occupied Palestine

The Commission also adopted, by roll call vote, a resolution on the situation in occupied Palestine (1998/4). The resolution was adopted by a vote of 34 in favour, 1 opposed, and 18 abstentions. The Commission, *inter alia*: referred to articles 1 and 55 of the UN Charter reaffirming the right of peoples to self-determination, as well as article 1 of the ICESCR and ICCPR reaffirming this right; recalled Security Council and General Assembly resolutions also reaffirming this right; recalled the reports and recommendations of the Committee on the Exercise of the Inalienable Rights of the Palestinian People; reaffirmed the right of the Palestinian people to self-determination; recalled that the foreign occupation by the armed forces of a state of the territory of another state is an obstacle to, and a grave violation of, human rights, as well as an act of aggression against peace and security; affirmed that the peace process is aimed at enabling the Palestinian people to achieve their national rights and, principally, their right to self-determination free of external intervention; and, called on Israel to comply with its obligations under the UN Charter and principles of international law and to withdraw from the Palestinian territories, including East Jerusalem and other Arab territories occupied since 1967.

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

At its 1998 session the Commission adopted, by roll call vote, a resolution on the human rights situation in southern Lebanon and West Bekaa (1998/62). The resolution was adopted by a vote of 52 in favour, 1 opposed. The Commission, *inter alia*: expressed concern at the persistent practices of the Israeli occupation forces in southern Lebanon and western Bekaa; censured the repeated Israeli aggressions in southern Lebanon and western Bekaa which cause a large number of deaths and injuries among civilians, displace families, and destroy dwellings and properties; expressed the hope that the efforts to achieve peace in the Middle East will put an end to the violations of human rights in the occupied zone in southern Lebanon and western Bekaa; expressed concern at the persistent detention by Israel of many Lebanese citizens in the detention centres of Khiam and Marjayoun, and at the death of some of these detainees as a result of ill-treatment and torture; expressed indigna-

tion at the March 1998 ruling of the Israeli Supreme Court permitting the Israeli authorities to retain Lebanese detainees in Israeli prisons without trial; and deplored the continued violations of human rights in the occupied zone in southern Lebanon and western Bekaa, including abduction and arbitrary detention of Lebanese citizens, destruction of dwellings, confiscation of property, expulsion from land, bombardment of peaceful villages and civilian areas, and other practices. The Commission also: called on Israel to put an immediate end to such practices, as well as air raids and the use of prohibited weapons such as fragmentation bombs; called on Israel to implement Security Council resolution 425 (1978) requiring Israel's immediate, total and unconditional withdrawal from all Lebanese territories and respect for the sovereignty, independence, and territorial integrity of Lebanon; called on Israel to comply with the Geneva Conventions of 1949, in particular the Convention relative to the Protection of Civilian Persons in Time of War; called on Israel to refrain from holding Lebanese detainees incarcerated in its prisons as hostages for bargaining purposes, and to release them all immediately as well as the other persons detained in prisons and detention centres in the occupied territories in Lebanon; affirmed Israel's obligation to commit itself to allowing the International Committee of the Red Cross and other international humanitarian organizations to recommence periodic visits to detainees and to verify their health and humanitarian conditions and, in particular, the circumstances in which some of them died as a result of ill-treatment and torture; reaffirmed Israel's obligation to allow the families of detainees to resume their visits to the Khiyam detention centre to which they have been denied access since September 1997; and requested the Secretary-General bring this resolution to the attention of the Israeli government, invite Israel to provide information on the extent of its implementation, and report to the 1998 General Assembly and the 1999 Commission on the results of these efforts.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on:

(E/CN.4/1998/44, paras. 4, 5, 7, 19)

Four communications were sent to the government on behalf of 33 individuals; the government responded to one in which five persons were named. Two urgent appeals were also sent on behalf of eight persons. No details of the cases were provided.

Disappearances, Working Group on enforced or involuntary:

(E/CN.4/1998/43, paras. 240–242)

No new cases of disappearance were transmitted to the government. Of the two cases which remain pending, one reportedly occurred in 1992 in Jerusalem, and concerns a man who allegedly did not return home from work. He is believed to be detained in a prison in Tel Aviv. The other case concerns a Palestinian who was reportedly arrested

in 1971 on the day a bomb exploded in Gaza. Although he was allegedly seen in detention, his whereabouts remain unknown. No new information was received from the government with respect to either of these cases.

Extrajudicial, summary or arbitrary execution,

Special Rapporteur on: (E/CN.4/1998/68, 14, 17, 32, 73; E/CN.4/1998/68/Add.1, paras. 235–239)

The Special Rapporteur (SR) noted that violent acts committed by terrorist groups do not fall within his mandate. Violence by armed opposition groups which resort to terrorism as a tactic of armed struggle, is acknowledged, however, as is the fact that such violent acts had led to the killing of many civilians in Israel and in the territory under the control of the Palestinian Authority.

The government replied to several cases transmitted during 1996 variously stating that: with regard to a death in custody after reported torture, there was no reason to take measures against the army officers involved; with regard to death resulting from torture by other inmates in a military detention centre, the activities of the persons in charge of the prison were found to be beyond reproach — the file was closed as police investigations could not ascertain the person directly responsible for the murder; with regard to two deaths in custody, they were caused by fellow prisoners and no fault was found with the actions of the detention facility staff. The government also stated that prisoners threatened by other prisoners are usually separated, but that tighter security would require 24-hour surveillance by soldiers in the detention facilities, which was counter to the interest of allowing prisoners to conduct autonomous lives in the facility.

The SR expressed concern at deaths in custody resulting from violent acts committed by fellow prisoners which apparently went unnoticed by the persons in charge of security in the detention centres. Concern was also expressed that: no persons were found to be responsible, as no faults were found with the actions of the staff. The SR noted that the right of detained persons to be treated with humanity and with respect for their inherent dignity cannot be understood to include allowing prisoners to conduct "autonomous lives in detention facilities" to the extent that crimes can be committed with impunity within the prison.

Religious intolerance, Special Rapporteur on:

(E/CN.4/1998/6, paras. 24, 48, 50, 62, 69, 80, 94)

The report notes that the government has not responded to a request by the Special Rapporteur (SR) for an invitation to visit. Reference is made to violations of freedom of religion and belief against all religions, religious groups and communities, except for the official religion, and the fact that legislation banning conversion has been drafted. On the latter point, the government stated that, since the sources of information had not been identified, the allegations were vague, and the law in question was only a draft, the request by the SR for further information and/or clarification was neither appropriate nor necessary.

Torture, Special Rapporteur on: (E/CN.4/1998/38, paras. 121–123; E/CN.4/1998/38/Add.1, paras. 211–225)

In July 1997, the Special Rapporteur (SR) informed the government that information continued to be received alleging that a large number of persons detained by the General Security Services (GSS) were subjected to torture or other ill treatment during interrogation. Many if not all of the reported methods of torture and other ill treatment were said to be authorized under the Landau guidelines, which remain unpublicized, allowing for the use of “moderate physical pressure” under certain circumstances.

Six individual cases were sent to the government, as were seven urgent appeals on behalf of 31 individuals. The government replied to three urgent appeals and provided responses to five cases included in the SR’s 1997 report. The SR again acknowledged the challenges posed by politically motivated terrorist activities, but stated that Israel had not found the means for interrogating suspected terrorists that were compatible with international law.

In its reply to previously transmitted cases the government referred to Supreme Court rulings and stated that the Court had not granted the GSS a general mandate to use physical pressure, limiting the use of such pressure to cases in which there is a clear suspicion that the detainee is in possession of extremely vital information, the immediate disclosure of which would prevent a terrible disaster, would save human lives and would prevent the most serious terrorist attacks. The government assured the SR that no detainee would be subjected to torture at the hands of Israeli officials. In response to one case, the government stated that an investigation into allegations of torture had been conducted, that there was no evidence of injuries, and that the findings did not justify taking steps against the interrogators. In another case the government confirmed that the person named had been arrested on suspicion of involvement in terrorist activities of the Islamic Jihad; that the Supreme Court had been satisfied that, in the interests of the investigation, the authorities were justified in postponing the detainee’s meeting with his lawyer; and that the person named was tried, convicted and sentenced by the military court of Hebron while being represented by counsel of his choice. With regard to reports of arrests by the South Lebanon Army and detentions at the al-Khiam detention centre in southern Lebanon, the government stated that the detention centre is controlled by the South Lebanese Army, that neither the Israeli army nor the Israeli GSS conduct investigations there, and that Israelis are not responsible for what occurs in the centre.

Toxic wastes and products, Special Rapporteur on: (E/CN.4/1998/10, paras. 12, 49–50)

The report refers to information provided to the Special Rapporteur by Syria, stating that various kinds of radioactive and hazardous wastes were being disposed of by Israel at different points in the Mediterranean Sea.

In its reply the government stated that the accusations were unfounded and groundless, based on articles which appeared in the Israeli press concerning a chemical company in the Haifa Bay area and the disposal of its industrial wastes. The government asserted that, despite the allegations in the newspaper, the factory is operated under the close supervision of the Inter-Ministerial Dumping and Land Based Sources Committees and meets all the necessary environmental criteria stipulated by Israeli law and the relevant Protocols to the Barcelona Convention. The government also stated that the monitoring reports prepared by Israeli Oceanographic and Limnological Research Ltd. show that the water quality along the coastline, including the area north of Haifa, is good, and that the coastlines themselves are clean, meeting all national and international standards.

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. 55–59)

The report refers to information provided by the government stating that while female circumcision is rare in Israel, it is not unknown. The exact figures are uncertain, but it is estimated that less than one per cent of women in Israel have been circumcised. The ritual genital operation is a normative practice in several Bedouin tribes in the south and the Bedouin women among whom this practice prevails refer to female circumcision, not in anatomical terms, but rather as “purification”. The government referred to statements taken in 1992 from Bedouin women between the ages of 16 and 45 who belonged to six different tribes. The women were interviewed on the subject of the operation they had undergone and: all the women in their families had had the operation; the age varied between 12 and 17 years, before marriage; with the exception of two young women who were better educated, all stated that they would continue the practice on their daughters. A medical examination of the women of these tribes revealed that the operation was not a clitoridectomy but had nonetheless caused blood loss and pain during the procedure. For several months after the operation, pain was experienced during sexual relations although the women did not attribute these problems to the ritual. The report notes that the Bedouin rite is legal in Israel, but it would be declared illegal under draft legislation that had been placed before the Knesset.

With regard to Jewish Ethiopian women who have migrated to Israel, the report notes their statements that the practice forms part of the culture in Ethiopia but that they do not wish to perpetuate it in Israel. The Israeli authorities have achieved some success in their efforts to discourage the continuation of the practice by Ethiopians in Israel.



JAPAN

Date of admission to UN: 18 December 1956.

TREATIES AND REPORTS TO TREATY BODIES

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

Economic, Social and Cultural Rights

Signed: 30 May 1978; ratified: 21 June 1979.

Japan's second periodic report has been submitted (E/1990/6/Add.21) and is scheduled for consideration at the Committee's April/May 2001 session; the third periodic report was due 29 June 1997.

Reservations and Declarations: Paragraph (d) of article 7; paragraphs 1 (a) through (d) and paragraph 2 of article 8; paragraphs 2 (b) and (c) of article 13.

Civil and Political Rights

Signed: 30 May 1978; ratified: 21 June 1979.

Japan's 4th periodic report (CCPR/C/115/Add.3) was considered by the Committee at its October 1998 session; the fifth periodic report is due 31 October 2001.

Racial Discrimination

Acceded: 15 December 1995.

Japan's initial report was due 14 January 1997.

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

Discrimination against Women

Signed: 17 July 1980; ratified: 25 June 1985.

Japan's fourth periodic report (CEDAW/C/JPN/4) has been submitted but is not yet scheduled for consideration by the Committee.

Rights of the Child

Signed: 21 September 1990; ratified: 22 April 1994.

Japan's initial report (CRC/C/41/Add.1; CRC/C/Q/JAP/1) was considered by the Committee at its May 1998 session; the second periodic report is due 21 May 2001.

Reservations and Declarations: Paragraph (c) of article 37; paragraph 1 of article 9; and paragraph 1 of article 10.

REPORTS TO TREATY BODIES

Committee on the Rights of the Child

Japan's initial report (CRC/C/41/Add.1, August 1996; CRC/C/Q/JAP/1) was considered by the Committee at its May 1998 session. The report prepared by the government contains information on, *inter alia*: the Children's Charter, established in 1951; the Child Welfare Law 1947; the Civil Liberties Commissioners for the Rights of the Child, established in 1994; Child Guidance Centres; the Angel Plan, established in 1994 on the basis that child-rearing at the family level must be supported by society as a whole; the Civil Code and the definition of the child; provision of protection and aid, standards for safety and

health; judicial proceedings involving or affecting children; the Family Registration Law and the Nationality Law; the New Domestic Action Plan toward 2000, formulated in 1991 and aimed at equality of the sexes in family matters and community life; elements of home education; the education system; the juvenile justice system, the Juvenile Law, correctional institutions and related detention facilities; children without families, protective institutions, foster parenting and adoption; prevention of child abuse, recovery and rehabilitation; measures and programmes aimed at basic health and welfare; social security and child-care services; employment, child labour and the Labour Standards Law; freedom of expression and access to appropriate information; drug and substance abuse; sexual exploitation and sexual abuse; and sale, trafficking and abduction of children.

The Committee's concluding observations and comments (CRC/C/15/Add.90) welcomed amendments to the Child Welfare Law adopted in 1997, and the May 1998 decision aimed at ensuring that all single mothers have the right to a child allowance for children born out of wedlock. The Committee also noted the 1996 revision of the immigration rules regarding residency status for foreign mothers who raise children of Japanese nationals. It welcomed the fact that the government was considering ratifying the Convention against Torture.

Principal subjects of concern identified by the Committee included the reservation and declarations Japan entered to the Convention on the Rights of the Child as well as the fact that, in practice, courts in their rulings usually do not directly apply international human rights treaties, in general, or the Convention on the Rights of the Child, in particular. Referring to the establishment of the Management and Coordination Agency and the Committee for the Promotion of Youth Policy, the Committee expressed concern about their limited mandate and the insufficient measures adopted to ensure effective coordination between different governmental departments competent in areas covered by the Convention, as well as between the central and local authorities.

The Committee was also concerned about: the absence of an independent body with a mandate to monitor the implementation of the rights of children; the fact that the monitoring system of the "Civil Liberties Commissioners for the Rights of the Child" lacks independence from the government, as well as the authority and powers necessary to ensure fully the effective monitoring of children's rights; the fact that the text of the Convention has not been made available in any minority language and the insufficient steps taken to provide relevant professional groups with training in the rights of the child; the under-utilization of the knowledge and expertise of civil society in terms of cooperative arrangements with the authorities and, as a consequence, insufficient participation of NGOs in all stages of implementation of the Convention.

Concern was expressed with regard to: the unequal access by children of Korean origin to institutions of higher education, and the difficulties encountered by

children in general in exercising their right to participate in all parts of society, especially in the school system; the fact that legislation does not protect children from discrimination, especially in relation to birth, language and disability; legal provisions explicitly permitting discrimination, such as article 900 (4) of the Civil Code which prescribes that the right to inheritance of a child born out of wedlock shall be half that of a child born within a marriage, and the mention of birth out of wedlock in official documents; the provision of the Civil Code stipulating a different minimum age of marriage for girls (16 years) from that of boys (18 years); insufficient measures to guarantee the child's right to privacy, especially in the family, schools and other institutions; and, insufficient measures to protect children from the harmful effects of the printed, electronic and audio-visual media, in particular violence and pornography.

The Committee expressed further concern over: the lack of necessary safeguards to ensure the best interests of the child in cases of intercountry adoption; the number of institutionalized children and the insufficient structure established to provide alternatives to a family environment for children in need of special support, care and protection; the increase of child abuse and ill treatment, including sexual abuse, within the family; the insufficiency of measures to ensure that all cases of abuse and ill treatment of children are properly investigated, sanctions applied to perpetrators, and publicity given to decisions taken; and, inadequacies in measures taken to ensure the early identification, protection and rehabilitation of abused children.

With regard to children with disabilities, the Committee noted with concern the insufficient measures taken to ensure effective access of these children to education, and to facilitate their full inclusion in society. Concern was also expressed over the high number of suicides among children and the insufficient measures to prevent them, the insufficient access by teenagers to reproductive health education and counselling services, including outside schools, and the incidence of HIV/AIDS among adolescents.

Reference was made to developmental disorders in children due to the stress of a highly competitive educational system and the consequent lack of time for leisure, physical activities and rest, as well as the significant number of cases of school phobia. Inadequacies in the measures taken to introduce human rights education into school curricula were also noted.

Other areas of concern included: the frequency and level of violence in schools, especially the widespread use of corporal punishment and the existence of numerous cases of bullying among students; the lack of a comprehensive plan of action to prevent and combat child prostitution, child pornography and trafficking of children; the insufficient measures undertaken to address issues of drug and alcohol abuse which are increasingly affecting children; the insufficiency of independent monitoring and adequate complaints procedures, with regard to juvenile justice; and the insufficiency of alternatives to

detention and to the use of pre-trial detention as a last resort, and the conditions in substitute prisons.

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

- ♦ consider reviewing its reservation to article 37 (c) and its declarations with a view to their withdrawal;
- ♦ provide, in its next periodic report, detailed information on cases where the Convention and other human rights treaties have been invoked before domestic courts;
- ♦ strengthen coordination between the various governmental mechanisms involved in children's rights, at both the national and local levels;
- ♦ take the necessary steps to establish an independent monitoring mechanism, either by improving and expanding the existing system of "Civil Liberties Commissioners for the Rights of the Child" or by creating an Ombudsperson or a Commissioner for Children's Rights;
- ♦ organize systematic training and retraining programmes in the rights of the child for all professional groups working with and/or for children;
- ♦ incorporate the Convention in the curricula of all educational institutions, make the text available in its entirety and, when necessary, ensure its translation into minority languages;
- ♦ introduce legislative measures to correct existing discrimination against children born out of wedlock; investigate fully and eliminate discriminatory treatment of minority children, including Korean and Ainu children; establish the same minimum age for marriage of girls and boys;
- ♦ introduce additional measures, including legislative ones, to guarantee the child's right to privacy, especially in the family, in schools, and in child-care and other institutions;
- ♦ adopt all necessary measures, including legal ones, with a view to protecting children from harmful effects of the printed, electronic and audio-visual media, in particular violence and pornography;
- ♦ take the necessary steps to ensure that the rights of the child are fully protected in cases of intercountry adoptions, and to consider ratifying the Hague Convention of 1993 on Protection of Children and Cooperation in Respect of Intercountry Adoption;
- ♦ take measures to strengthen the structures established to provide alternatives to a family environment for children in need of special support, care and protection;
- ♦ collect detailed information and data regarding cases of child abuse and ill-treatment, including sexual abuse, within the family; ensure that cases of abuse and ill-treatment of children are properly investi-

gated, sanctions applied to perpetrators and publicity given to decisions taken; establish an easily accessible and child-friendly complaint procedure;

- ♦ make further efforts to ensure practical implementation of the existing legislation, bearing in mind the Standard Rules for the Equalization of Opportunity for Persons with Disabilities, and take alternative measures to institutionalization of children with disabilities; envisage awareness-raising campaigns to reduce discrimination against children with disabilities and encourage their inclusion into society;
- ♦ take all necessary measures to prevent suicides and incidents of HIV/AIDS among adolescents, including the collection and analysis of information, the launching of awareness-raising campaigns, reproductive health education and the establishment of counselling services;
- ♦ take appropriate steps to prevent and combat excessive stress and school phobia, in view of the highly competitive educational system, and its negative effects on children's physical and mental health; take appropriate measures to include human rights education in the school curricula in a systematic manner;
- ♦ devise and implement a comprehensive programme to prevent violence in schools, especially with a view to eliminating corporal punishment and bullying; prohibit by law corporal punishment in the family, and in child-care and other institutions; conduct awareness-raising campaigns to ensure that alternative forms of discipline are administered in a manner consistent with the child's dignity and in conformity with the Convention;
- ♦ design and implement a comprehensive plan of action to prevent and combat child prostitution, child pornography and trafficking of children;
- ♦ strengthen efforts to prevent and combat drug and substance abuse among children, and support rehabilitation programmes for child victims of such abuse; and
- ♦ envisage undertaking a review of the system of juvenile justice with particular attention paid to the establishment of alternatives to detention, the monitoring and complaints procedures, and the conditions in substitute prisons.

HUMAN RIGHTS COMMITTEE

Japan's 4th periodic report (CCPR/C/115/Add.3, June 1997) was considered by the Committee at its October 1998 session. The report prepared by the government contains information on, *inter alia*: the concept of public welfare in the Constitution; the relationship between the Covenant and domestic law; human rights protection mechanisms, e.g., Civil Liberties Commissioners, the Headquarters for the Promotion of the United Nations Decade for Human Rights Education (established March 1996); Korean residents in Japan, the Alien Registration

Law, the Immigration Control and Refugee Recognition Act, the Certificate of Alien Registration; provisions and measures related to foreign workers; the Employment Security Law; social security and provisions related to foreigners; the New Long-Term Programme for Government Measures for Persons with Disabilities, the Disabled Persons' Fundamental Law; national machinery for the promotion of gender equality, including, but not limited to, the Headquarters for the Planning and Promoting of Policies Relating to Women (established in 1975); statistical data related to women's involvement in public life and employment; the responsibilities of women and men with regard to family; the Women in Development (WID) Initiative; capital punishment; provisions related to the conduct of the police; liberty and security of person, arrest, detention, due process; the administration of juvenile justice; the Code of Criminal Procedure; conditions and treatment in correctional and custodial facilities; the Code of Civil Procedure; the right to privacy; the Religious Juridical Persons Law; permissible restrictions on freedom of expression; trade unions, workers' rights; the Trade Union Law, the Labour Relations Commission, the Subversive Activities Prevention Law; marriage and divorce; the rights of the child; problems with the Dowa; the situation of the Ainu people, and the "Fourth Hokkaido Utari Welfare Measures".

The Committee's concluding observations and comments (CCPR/C/79/Add.102) welcomed, *inter alia*: enactment of the Law on the Promotion of Measures for Human Right Protection and amendments to a number of laws affecting the promotion and protection of human rights; the establishment of the Council for the Promotion of Gender Equality and adoption of the Plan for Gender Equality 2000; measures taken to eliminate discrimination and prejudice against students at Korean schools in Japan, children born out of wedlock and children of the Ainu minority; and abolition of restrictions on women's eligibility to take the national public service exam, of discriminatory compulsory retirement, and of dismissals on grounds of marriage, pregnancy or childbirth.

Principal subjects of concern identified by the Committee included, *inter alia*: repeated use of popularity statistics to justify attitudes that may violate obligations under the Covenant; restrictions on rights that may be implemented on the grounds of "public welfare"; the lack of institutional mechanisms for investigating violations of human rights and providing redress; the vagueness of the concept of "reasonable discrimination"; discrimination against children born out of wedlock, particularly in the areas of nationality, family registers and inheritance rights; instances of discrimination against the Japanese-Korean minority who are not Japanese citizens, including non-recognition of Korean schools; discrimination against members of the Ainu indigenous minority with regard to language and higher education and non-recognition of land rights; the continued existence of laws that discriminate against women, such as those related to marriage and re-marriage; discriminatory aspects in the Immigration Control and Refugee Recognition Act; and allegations of violence and sexual harassment against detained persons, pending immigration procedures.

Concern was also expressed about: failure to reduce the number of crimes for which the death penalty may be applied, conditions of persons held on death row; provisions related to pre-trial detention and lapses in provisions related to judicial control; failure to place the substitute prison system (Daiyo Kangoku) under an authority separate from the police; limitations placed on the right to habeas corpus; the fact that a large number of convictions in criminal trials are based on confessions, noting the possibility that confessions are extracted under duress; harsh conditions in prisons; inconsistencies in the manner in which the Central Labour Relations Commissions receives applications related to unfair labour practices; the high incidence of violence against women, in particular domestic violence and rape, the absence of remedial measures to eradicate the practice; the fact that the courts seem to consider domestic violence, including forced sexual intercourse, as a normal incident of married life; failure to provide compensation to women with disabilities who were subjected to forced sterilization; and lack of provision of human rights training for judges, prosecutors and administrative officers of the courts.

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

- ♦ bring internal law into conformity with the Covenant;
 - ♦ establish an independent mechanism for investigating complaints of human rights violations; establish an independent authority to receive and investigate complaints of ill treatment by police and immigration officials;
 - ♦ amend legislation to ensure children equal protection under the law;
 - ♦ with regard to the problems with the Dowa, take measures to end discrimination against the Buraku minority with regard to education, income and the system of effective remedies;
 - ♦ repeal all laws that discriminate against women;
 - ♦ abolish the Alien Registration Law, which requires alien permanent residents to carry certificates of registration at all times and imposes criminal sanctions for failure to do so;
 - ♦ remove from the Immigration Control and Refugee Recognition Act the necessity to obtain a permit to re-enter prior to departure in respect of permanent residents, for example, persons of Korean origin born in Japan;
 - ♦ review conditions of detention for persons awaiting immigration procedures and, if necessary, take measures to ensure that conditions conform with provisions in the Covenant;
 - ♦ take measures leading to the abolition of the death penalty and, in the meantime, limit the penalty to the most serious crimes; improve the conditions of persons held on death row;
- ♦ immediately reform the pre-trial detention system to bring it into conformity with the Covenant;
 - ♦ take the necessary steps to make the remedy of habeas corpus fully effective without any limitation or restriction;
 - ♦ ensure that the interrogation of suspects in police custody or substitute prisons is strictly monitored and recorded by electronic means;
 - ♦ ensure that in law and practice the defence has access to all relevant material, including evidence gathered by the prosecution;
 - ♦ take the necessary legal steps to provide compensation to persons who were subjected to forced sterilization; and
 - ♦ make available human rights training to judges, prosecutors and administrative officers of the courts.

COMMISSION ON HUMAN RIGHTS

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

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Racism and racial discrimination, Special Rapporteur on: (E/CN.4/1998/79, paras. 53, 64–68)

In August 1997 the Special Rapporteur (SR) transmitted to the government allegations about racist messages being sent over the Internet. Information indicated that xenophobic messages were broadcast by the "Association for the protection of the Japanese" and were directed particularly at members of the Burakumin minority.

The government replied that in June 1997 the "Association for the protection of the Japanese" of Osaka created a home page of a discriminatory nature, comprising slander and insults directed at the Buraku, handicapped persons, and women. The text was eventually deleted by the Internet service provider who had received complaints from other users. The government also referred to a separate case that was brought to the attention of the Ministry of Posts and Telecommunications. The case involved a message promoting the sale of the opusculé "Buraku Chimei Sokan" which was distributed over "Cable Net", a service managed by an association called the Japanese Information Network (JIN). The JIN had installed a PC network at Osaka and the government stated that an inquiry was under way to determine whether this message was still being distributed.

The SR noted the measures taken, the fact that self-censorship by local service providers has proved effective in putting an end to discriminatory practices on informa-

tion networks, and the fact that the authorities remain concerned that messages of a discriminatory nature or other unlawful or harmful information — such as obscene or violent pictures or information — continue to appear on information networks. The government emphasized that those using the Internet must display an even greater sense of ethics than when they use other media, since the sender assumes complete legal responsibility for the information circulated. According to the government, the question of the legal regulation of the distribution of unlawful or harmful information must be examined with care, taking due account of the need to ensure freedom of expression, the secrecy of communications, and measures adopted by other countries given the transnational nature of the Internet.

Sale of children, child prostitution, child pornography, Special Rapporteur on the:
(E/CN.4/1998/101, paras. 21, 61, 63)

The report refers to an arrest at the Milan airport of a couple posing as Japanese tourists with a young daughter. According to Italian investigators, an international paedophile ring was involved in which children were smuggled from East Asia to the United States. The 12-year-old child was allegedly sold by her parents in China for approximately US\$58,000. The investigators referred to a group organized in Japan which allegedly sends Chinese children to the U.S. to be used as prostitutes and exploited by paedophiles.

In commentary on the protection of children against harmful influences through the media, the Special Rapporteur (SR) referred to “dial-a-porn” or phone sex services which emerged in the 1980s, and noted that in Japan these services have become a large industry, with parents surprised by dramatic increases in their telephone bills, and shocked to discover how easily their children could access these services. The telephone industry and government concluded that action was necessary and responded by developing a system of self-regulation. The SR stated that voluntary self-regulation has been commonly used in Japan to control sexual expression in media such as movies, videos and computer games.

Toxic wastes and products, Special Rapporteur on: (E/CN.4/1998/10/Add.1, “Comments received from States”)

The addendum to the main report includes comments received from the government in response to information in the Special Rapporteur’s report to the 1997 Commission (E/CN.4/1997/19). The information related to the company Asian Rare Earth (ARE) and noted: in 1982 ARE commenced its rare earth production in Malaysia; Mitsubishi Chemical Corporation held approximately one-third of ARE’s outstanding shares; the decision of ARE in 1994, to cease operations was not made for “environmental reasons and for posing health threats to villagers in Bukit Merah” or “widespread public protest”, as referred to in the allegation, but because of its own business assessment regarding the future of Rare Earth Industry in Malaysia.

Violence against women, Special Rapporteur

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

Concerning violence against women in times of armed conflict, the report refers to the “comfort women” of the Second World War, and notes the government’s efforts to manage the problems of past violence to these women. The report notes, *inter alia*: the government and successive prime ministers have expressed remorse and apologized to former “comfort women”; a private fund called the Asian Women’s Fund has been set up to assist individual victims with a grant of 2 million yen each; at the time the report was prepared more than 100 victims have applied to receive funds, and about 50 had actually received atonement money; the Fund also attempts to help elderly women in countries in which there exist former “comfort women”, but where cultural restraints prevent women from coming forward; the government has set aside 700 million yen from the national budget for medical and welfare projects of the Asian Women’s Fund; and, the government has also made a commitment to raise awareness, and to include reference to these tragedies in textbooks, so that such practices do not reoccur in the future. The report notes, however, that the government has not accepted legal responsibility and may be waiting for decisions of the six court cases filed with Japanese courts on this aspect of the issue.

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, Appendix)

The Appendix to the Special Rapporteur’s (SR) main report deals exclusively with the “comfort women”, noting that between 1932 and the end of the Second World War the government and the Imperial Army forced over 200,000 women into sexual slavery in rape centres throughout Asia. The majority of these “comfort women” were from Korea, but many were also taken from China, Indonesia, the Philippines and other Asian countries under Japanese control. The report evaluates the Japanese government’s current legal liability for the enslavement and rape of women in “comfort stations”, and focusses specifically on liability for the most egregious international crimes of slavery, crimes against humanity and war crimes. The appendix also sets out the legal framework under international criminal law and examines claims that may be brought by survivors for compensation.

The report addresses, *inter alia*: the position of the Japanese government, including the public apology offered in July 1995 on the occasion of the 50th anniversary of the end of the Second World War; the nature and extent of the rape centres — the reasons for establishing the comfort stations, the time period and location of them, military control over private operators, military supervision of health conditions, restrictions on freedom of movement, recruitment, and transportation; prevailing norms of substantive customary international law

relative to slavery and the slave trade, rape as a war crime, and crimes against humanity; and application of substantive law.

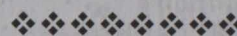
The summary of the defences of the Japanese government covers such issues as: retroactive application of the law; the prohibition of slavery; rape and forced prostitution; and the status of Korea. On the status of Korea, the SR referred to the government's position that Korean women were not protected by customary international law norms prohibiting enslavement and rape because such norms are based on the law of war, which protects only civilians in occupied territories and not civilians in their home countries. Korea was annexed to Japan during the time period in question.

With regard to the issue of redress, the report comments on: individual criminal liability; state responsibility and liability to pay compensation; individual compensation; civil suits for compensation; and agreements on the settlements of claims.

The report recommends, *inter alia*, that:

- ♦ the High Commissioner for Human Rights work for the prosecution in Japan, and in other jurisdictions, of those responsible for the atrocities that have now been clearly linked to the actions of the Japanese military in establishing the rape camps;
- ♦ the High Commissioner, together with Japanese officials, work to: (a) gather evidence on individual military and civilian personnel who may have established, supported or frequented rape centres during the Second World War; (b) interview victims; (c) forward the preparation of cases for trial to Japanese prosecutors; (d) work with other states and survivors' organizations to identify, arrest and prosecute offenders within their jurisdictions; and (e) assist states in any way in the development of legislation to allow such prosecutions in their jurisdictions;
- ♦ establish a new administrative compensation fund with appropriate international representation, as the Asian Women's Fund does not in any sense provide legal compensation; the High Commissioner for Human Rights appoint, together with the government, a panel of national and international leaders with decision-making authority to set up a swift and adequate compensation scheme to provide official, monetary compensation to the "comfort women";
- ♦ develop the role of this new panel so as to: (a) determine an adequate level of compensation, looking to compensation that may have been provided in comparable settings as guidance; (b) establish an effective system for publicizing the fund and identifying victims; and (c) establish an administrative forum in Japan to expeditiously hear all claims of "comfort women"; these steps be taken as quickly as possible in light of the advancing age of the comfort women;
- ♦ provide an appropriate level of compensation based on considerations such as the gravity, scope and repetition of the violations, the intentional nature of the crimes committed, the degree of culpability of public officials who violated the public trust, and the extensive time that has passed;
- ♦ apply compensation to any economically assessable damage, such as: physical or mental harm; pain, suffering and emotional distress; lost opportunities, including education; loss of earnings and earning capacity; reasonable medical and other expenses of rehabilitation; harm to reputation or dignity; and reasonable costs and fees of legal or expert assistance to obtain a remedy;
- ♦ give some consideration to the level of compensation that may be required to act as a deterrent to ensure that such abuses will not occur in the future; and
- ♦ require the government to submit a report to the Secretary-General, at least twice a year, detailing the progress that has been made in identifying and compensating the "comfort women" and in bringing perpetrators to justice; the report be made available in both Japanese and Korean and distributed actively both within and outside of Japan, particularly to the "comfort women" themselves and in the countries where they currently reside.

The Special Rapporteur concluded that the Japanese government remains liable for grave violations of human rights and humanitarian law, violations that amount in their totality to crimes against humanity.



JORDAN

Date of admission to UN: 14 December 1955.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: The report prepared by the government for use by the human rights treaty bodies (HRI/CORE/1/Add.18/Rev.1) contains demographic and statistical data, information on the form of government, the judicial system and the legal framework for the protection of human rights.

Jordan's National Charter commits the state to rule of law, free and periodic elections and respect for the legal, judicial and administrative safeguards to protect human rights, human dignity and fundamental freedoms. The government's report indicates that the general legal framework for the protection of human rights includes: access for all to the courts; safeguards against state interference in personal affairs; the stipulation that ordinary courts exercise jurisdiction in all civil and criminal mat-

ters save for those which the Constitution reserves for religious or special courts; the stipulation that international conventions ratified by Jordan have the force of law and take precedence over all local legislation with the exception of the Constitution; and, the provision that the precedence of international conventions over national law does not apply in cases which pose a threat to public order.

Economic, Social and Cultural Rights

Signed: 30 June 1972; ratified: 28 May 1975.

Jordan's second periodic report (E/1990/6/Add.17) has been submitted and is pending for consideration by the Committee at its April 2000 session; the third periodic report was due on 30 June 1996.

Civil and Political Rights

Signed: 30 June 1972; ratified: 28 May 1975.

Jordan's fourth periodic report was due 22 January 1997.

Racial Discrimination

Acceded: 30 May 1974.

Jordan's 9th through 12th periodic reports were submitted as one document (CERD/C/318/Add.1) which was considered at the Committee's August 1998 session; the thirteenth report is due 29 June 1999.

Discrimination against Women

Signed: 3 December 1980; ratified: 1 July 1992.

Jordan's initial report (CEDAW/C/JOR/1) has been submitted and is scheduled for consideration at the Committee's January 1999 session; the second periodic report was due 31 July 1997.

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

Torture

Acceded: 13 November 1991.

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

Rights of the Child

Signed: 29 August 1990; ratified: 24 May 1991.

Jordan's second periodic report (CRC/C/70/Add.4) has been submitted and is pending for consideration at the Committee's September/October 2000 session; the third periodic report is due 22 June 2003.

REPORTS TO TREATY BODIES

Committee on the Elimination of Racial Discrimination

Jordan's 9th through 12th periodic reports were submitted as one document (CERD/C/318/Add.1, October 1997) which was considered by the Committee at its August 1998 session. The report prepared by the government contains demographic and statistical data, as well as information on, *inter alia*: constitutional provisions related to equality and non-discrimination; nationality

and naturalization; temporary Jordanian passports for Palestinians and the situation of Palestinians in Jordan (refugees and residents); relevant provisions in the Electoral Law 1986, proportional representation, political parties, political pluralism; legislation to punish racial discrimination; freedom of religion and belief, assembly and association; the Social Security Act, the Vocational Training Authority Act, the Labour Act, workers and foreign workers, trade unions and workers' rights; and assistance for nomads.

The Committee's concluding observations and comments (CERD/C/304/Add.59) welcomed, *inter alia*: efforts made to host Palestinian refugees and facilitate their integration while retaining their identity; the establishment of the national Centre for Human Rights and the fact that there is more than a proportionate number of seats in the Jordanian House of Representatives which are held by persons with origins in the minorities.

The principal subjects of concern identified by the Committee included, *inter alia*: that, since the protections in the Penal Code are limited to groups which constitute the nation, the provisions of article 4 related to the prohibitions of organizations and individuals promoting racial hatred are not fully implemented; non-citizens may not receive the protections envisaged in articles 5 (a) and (b), related to equality before the law and security of person; the lack of information on the measures taken in the fields of education and culture and efforts to combat prejudices leading to racial discrimination.

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

- ♦ clarify, in the next report, whether article 12 of the Labour Act derives from an agreement concluded between members of the League of Arab States and is applicable to all citizens of those states irrespective of their ethnic or national origin; and
- ♦ present, in the next report, information on the number of complaints, judgements and compensation awards arising from racist acts, regardless of their nature.

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, 85; E/CN.4/1998/68/Add.1, para. 242)

The Special Rapporteur sent an urgent appeal to the government related to imposition of a death sentence in a case in which sentence was passed on the basis of a confession obtained while the defendant was held in preventive detention. According to information received, the individual was beaten and deprived of sleep, and the court did not order an investigation into the allegations of ill treatment. The death sentence was reportedly confirmed by the Court of Cassation.

Toxic wastes and products, Special Rapporteur on: (E/CN.4/1998/10, paras. 12, 27)

The report cited information provided by the government related to a field study commissioned by the Ministry of Municipal Affairs on the disposal of dangerous and toxic wastes in Jordan, resulting in a site 50 km south of Amman being chosen for this purpose. The government stated that lack of funds prevented the project from being implemented and, further, that there are no facilities for disposing of toxic waste in Jordan, except dangerous medical wastes which some major hospitals dispose of in incinerators located on their grounds. The government stated that it is vigorously pursuing, with all relevant international bodies, the possibility of raising funds for the disposal of dangerous wastes.

**KAZAKHSTAN**

Date of admission to UN: 2 March 1992.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Racial Discrimination

Acceded: 26 August 1998.

Discrimination Against Women

Acceded: 26 August 1998.

Torture

Acceded: 26 August 1998.

Rights of the Child

Signed: 16 February 1994; ratified: 12 August 1994.
Kazakhstan's initial report was due 10 September 1996.

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

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 27, 85; E/CN.4/1998/68/Add.1, para. 243)

The Special Rapporteur sent an urgent appeal to the government on behalf of one person who was reportedly facing imminent execution. According to the information received, the individual had been questioned without the presence of a defence lawyer and was forced to confess to committing a second murder. It was also reported that members of the Clemency Committee acknowledged that they had not had access to information concerning the alleged violation of judicial procedure in this case.

**KIRIBATI**

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

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Rights of the Child

Acceded: 11 December 1995.

Kiribati's initial report was due 9 January 1998.

Reservations and Declarations: Articles 12, 13, 14, 15 and 16; paragraphs: (b) (c) (d) (e) and (f) of article 24; article 26; and, paragraphs (b) (c) and (d) of article 28.

**KOREA, DEMOCRATIC PEOPLE'S REPUBLIC OF (NORTH)**

Date of admission to UN: 17 September 1991.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Economic, Social and Cultural Rights

Acceded: 14 September 1981.

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

Civil and Political Rights

Acceded: 14 September 1981.

North Korea's second through fourth periodic reports were due 13 October 1987, 1992 and 1997 respectively.

Rights of the Child

Signed: 23 August 1990; ratified: 21 September 1990.

North Korea's initial report (CRC/C/3/Add.41) was considered at the Committee's May 1998 session; the second periodic report was due 20 October 1997.

REPORTS TO TREATY BODIES**Committee on the Rights of the Child**

North Korea's initial report (CRC/C/3/Add.41, February 1996; CRC/C/Q/DPRK/1) was considered by the Committee at its May 1998 session. The report covers the period from 1990 to 1994 and sets out the position of,

and initiatives by, the government to guarantee the rights of the child. Information is provided on, *inter alia*: the Civil Law 1991, the Family Law 1990, constitutional changes corresponding to provisions of the Convention; the Law on Educating and Rearing Children 1976; the role and functions of the Ministries of General Education, Public Health, Commerce; measures related to the best interests of the child; relevant provisions in the Criminal Law and Criminal Procedures Act; name and nationality; freedom of expression, access to appropriate information, mass media; freedom of thought, conscience, religion, association and assembly; the Socialist Working Youth League and the Children's Corps; family environment and alternative care; mistreatment, neglect, recovery and reintegration; basic health and welfare, health services, children with disabilities; leisure, recreation and cultural activities; the administration of juvenile justice; and sexual exploitation and abuse, sale, trafficking and abduction of children.

The Committee's concluding observations and comments (CRC/C/15/Add.88) welcomed, *inter alia*: the fact that international instruments, including the Convention, have the same status as domestic law and can be invoked before the courts; that both education and health services are free of charge; the willingness of the government to engage in international cooperation programmes to facilitate the full implementation of the Convention, particularly in such areas as nutrition, health, educational support materials, collecting and processing data and statistics, and monitoring, training and providing appropriate support to children with disabilities. Factors impeding implementation of the Convention were noted as including the effects of the dissolution of North Korea's traditional economic ties, and the 1995 and 1996 floods, which have both had a serious impact on the whole society.

The principal subjects of concern identified by the Committee included, *inter alia*: the increase in the child mortality rate resulting from malnutrition; the deterioration of the health status of children, resulting mainly from shortages of food, medicine and clean water; that insufficient attention has been paid in allocating budgetary resources in favour of children; the lack of a specific mechanism to monitor progress in all areas covered by the Convention, and in relation to all groups of children – especially the most vulnerable categories, such as those living in urban and rural areas; the limited capacity for developing specific disaggregated indicators to evaluate progress and assess the impact of existing policies on all children; and that the national strategy, policies, and programmes for children do not yet fully reflect the rights-based approach enshrined in the Convention.

The Committee noted its concerns related to: continued use of corporal punishment, especially within the family environment and in institutions, and the lack of a comprehensive strategy to eradicate this form of violence; unresolved family reunification cases; the increasing problems of environmental degradation which have a harmful impact on the health of children; *de facto*

discriminatory attitudes that may occur against children with disabilities, the insufficient measures undertaken to ensure that these children have effective access to health, education, and social services, and to facilitate their full inclusion in society; the small number of well-trained professionals working with children with disabilities; the insufficiency of measures taken to understand and address adolescent health issues, such as teenage suicides, reproductive health and early pregnancies; the inadequate response to the phenomenon of child abuse and ill treatment within the family; and the administration of juvenile justice in such areas as the right to legal assistance, judicial review, and periodic review of placement. Concern was also expressed over provisions through which persons between the ages of 17 and 18 are considered by the penal system as adults, and the lack of clarity in the information provided as to whether a person between 17 and 18 is considered an adult in cases involving the death penalty.

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

- ♦ continue to take all appropriate measures to prevent and combat malnutrition in children, including through budgetary allocations in favour of children to the maximum extent of resources available and, where needed, within the framework of international cooperation;
- ♦ fully harmonize legislation with the principles and provisions of the Convention; envisage adopting comprehensive legislation covering all areas of the rights of the child, such as a children's code; envisage ratifying major international human rights treaties to which it is not yet a party as they all have an impact on the rights of the child;
- ♦ give priority attention to the identification of appropriate disaggregated indicators with a view to addressing all areas of the Convention and all groups of children in society, bearing in mind that such mechanisms can play a vital role in systematically monitoring the status of children and in evaluating progress achieved in, and difficulties hampering, the realization of children's rights;
- ♦ consider the establishment of a specific mechanism to monitor fully the implementation of the Convention, especially for the most vulnerable groups of society;
- ♦ consider incorporating the Convention into the curricula of all educational institutions; take appropriate measures to facilitate access by children to information on their rights; direct further efforts to providing comprehensive training programmes for professional groups working with and for children;
- ♦ give specific attention to educating all sectors of society, especially parents and teachers, about the importance of children's participation and of dialogue between teachers, parents and children;

- ♦ take all appropriate measures, including of a legislative nature, to prevent and combat the use of corporal punishment, especially at home and in institutions; conduct awareness-raising campaigns to ensure that alternative forms of discipline are administered in a manner consistent with the child's dignity, and in conformity with the Convention;
- ♦ pursue its efforts to resolve family reunification cases;
- ♦ ensure to the maximum extent possible budget allocations for the implementation of economic, social and cultural rights in the light of the principles of non-discrimination and the best interests of the child;
- ♦ consider reviewing its policies and programmes regarding institutional care with a view to supporting more family-oriented solutions;
- ♦ launch a comprehensive study to enhance the understanding of the nature and scope of child abuse and ill treatment within the family, with a view to combatting these harmful practices adequately;
- ♦ give particular attention to the impact of environmental pollution on children, and undertake a study on this subject;
- ♦ undertake a comprehensive study on the issues of reproductive health, youth suicides and early pregnancies so as to identify the scope of these problems, and to devote adequate resources to preventing and combatting these phenomena;
- ♦ develop early identification programmes to prevent disabilities, implement alternative measures to the institutionalization of children with disabilities, and envisage awareness-raising campaigns to reduce discrimination against these children and encourage their inclusion into society; and
- ♦ take all necessary steps to bring the juvenile justice system into full conformity with the provisions and principles of the Convention, and other UN standards in this field; envisage extending the special protection provided to children under penal law to all persons under 18 years of age; and organize training programmes on the relevant international standards for all professionals involved with the juvenile justice system.

Sub-Commission on Prevention of Discrimination and Protection of Minorities

At the 1998 session, the Sub-Commission adopted by secret ballot a resolution (1998/2) on the situation of human rights in North Korea. The vote was 19 in favour, 4 opposed, 1 abstention. The Sub-Commission, *inter alia*: reaffirmed the obligation of all UN member states, under the UN Charter, the Universal Declaration and other instruments, to promote and protect human rights

and fundamental freedoms; noted that North Korea is a party to the International Covenants on Human Rights and the Convention on the Rights of the Child; noted the government's participation during the Committee's examination of its initial report on the implementation of the Convention on the Rights of the Child as an encouraging sign of cooperation with the UN treaty bodies; recalled its resolution 1997/3 of 21 August 1997; expressed concern at the persistent repression of independent journalists and human rights defenders and the extreme difficulty in obtaining accurate information concerning the situation of human rights in the country; and expressed concern at frequent reports of extrajudicial execution and disappearances. The Sub-Commission: called upon the government to ensure full respect for the right to leave any country and return to one's own country; requested the government to cooperate fully with the procedures established by the UN with the aim of ensuring the promotion and protection of human rights, in accordance with the UN Charter; strongly urged the government to allow and facilitate inquiries by independent national and international human rights monitoring organizations concerning the current human rights situation and to allow the publication and distribution of all findings inside the country; invited international human rights and humanitarian organizations to devote greater attention to the human rights situation in North Korea; and invited international humanitarian organizations to promote at the international level greater awareness of the consequences of the food shortages and other economic hardships on the people of North Korea and to provide them with substantial and effective assistance. The Sub-Commission decided to recommend that the Commission on Human Rights consider the situation of human rights in North Korea at its 1999 session and, if the Commission is unable to take such action, to continue consideration of the matter at the Sub-Commission's 1999 session.

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 on behalf of one person but no details of the case were provided.

Freedom of opinion and expression, Special Rapporteur on: (E/CN.4/1998/40, para. 8)

The report notes the Special Rapporteur's interest in visiting North Korea and the request for an invitation that was sent to the government. At the time the report was prepared, the government had not responded to this request.



KOREA, REPUBLIC OF (SOUTH)

Date of admission to UN: 17 September 1991.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Economic, Social and Cultural Rights

Acceded: 10 April 1990.

South Korea's second periodic report was due 30 June 1997.

Civil and Political Rights

Acceded: 10 April 1990.

South Korea's second periodic report (CCPR/C/114/Add.1) has been submitted and is scheduled for consideration by the Committee at its July 1999 session; the third periodic report is due 9 April 2001.

Optional Protocol: Acceded: 10 April 1990.

Racial Discrimination

Signed: 8 August 1978; ratified: 5 December 1978.

South Korea's ninth and 10th periodic reports were submitted as one document (CERD/C/333/Add.1), which is pending for consideration at the Committee's March 1999 session; the 11th periodic report is due 4 January 2000.

Discrimination against Women

Signed: 25 May 1983; ratified: 27 December 1984.

South Korea's third and fourth periodic reports (CEDAW/C/KOR/3, CEDAW/C/KOR/4) were considered at the Committee's July 1998 session.

Torture

Acceded: 9 January 1995.

South Korea's second periodic report is due 2 February 2000.

Rights of the Child

Signed: 25 September 1990; ratified: 20 November 1991.

South Korea's second periodic report was due 19 December 1998.

REPORTS TO TREATY BODIES

Committee on the Elimination of Discrimination against Women

South Korea's 3rd and 4th periodic reports (CEDAW/C/KOR/3; CEDAW/C/KOR/4) were considered by the Committee at its July 1998 session. The 4th periodic report prepared by the government contains information on, *inter alia*: the Women's Development Act, the Labour

Standards Act, family law, amendments to income and inheritance tax laws; the Gender Equality Promotion Committee, the Equal Employment Committee; national machinery for women, the National Committee on Women's Policies, the national plan for the advancement of women; laws on prostitution and trafficking; measures to eliminate sexual violence, measures against domestic violence, programmes for victims of domestic violence, protection and support of the "comfort women"; the right to vote and be elected, participation in public and political life; education and equal access; women in the labour force, measures to support women entrepreneurs; health, pensions, public assistance; access to loans and credits; the situation of rural women; marriage, property rights of spouses and the value of domestic work.

The Committee's concluding observations and comments (CEDAW/C/1998/II/L.1/Add.8) noted that the 4th report had been produced by a consultative body, comprising representatives from 25 NGOs and seven women's policy specialists. In its introduction to the report, the government delegation referred to several major legal reforms, including the Equal Employment Opportunity Act 1987, the Mother-Child Welfare Act 1991, the 1993 Punishment of Sexual Violence and Protection of the Victim Act, the 1995 Women's Development Act, the 1997 Prevention of Domestic Violence and Protection of the Victim Act, and amendments to the Nationality Act. The Committee took note of the establishment in 1998 of the Presidential Commission on Women's Affairs (PCWA) and introduction of the Master Plan in Women's Policies (1998-2002), which aimed to increase the participation of women in all sectors of Korean society. Reference was also made to the government's plan to increase the ratio of women in governmental committees to 30 per cent by the year 2002.

The Committee welcomed: the definitive steps taken by the government towards the advancement of women, and measures taken to integrate a gender perspective into policies and programmes; the establishment and strengthening of the pro-active national machinery for women, in particular, the PCWA; the close collaboration with NGOs to combat domestic violence through the introduction of protective legislation, the creation of sexual and domestic violence prevention and victim protection centres, emergency shelters and awareness-raising campaigns to encourage the reporting of, and official response to, domestic violence and other forms of sexual harassment; efforts to implement the Beijing Platform for Action through the preparation of a national plan for the advancement of women and identification of ten priorities in that respect; and the 1995 enactment of the Women's Development Act and the Women's Development Fund to support the implementation of the Beijing Platform for Action and the Women's Development Plan. The Committee also welcomed: the adoption and revision of numerous laws and legal provisions; the wide range of policies, strategies and measures in social and economic areas and achievements in the area of education, including the introduction of non-traditional career orientation for women; the fact that discrimination

against women is defined in a number of articles of the Constitution and the Equal Opportunity Act 1989; and the fact that maternity benefits for working women, and preferential benefits for specific classes of workers for the purpose of redressing discriminatory conditions, is not viewed as discriminatory.

The Committee noted the negative impact of the economic crisis and particularly the policies and positions of the IMF as factors affecting implementation of the Convention. The persistence of entrenched paternalistic male values and traditional stereotyping of women's role was also noted, as were continuing discriminatory provisions in the Civil Code, such as the prohibition of marriages between individuals with common surnames.

The principal areas of concern identified by the Committee, included: the lack of sufficient information in the reports on the actual impact of laws and policies on women's lives; failure to include in the Equal Opportunity Act 1989 a full definition of discrimination, which also includes discrimination on the basis of religious beliefs, political preferences, age or disability; the pervasiveness of violence against women in Korean society; and the under-representation of women in politics and decision-making structures, including the judicial system.

Concern was raised over the situation of women in the labour market, specifically with regard to: sexual harassment in the workplace; insufficient social protection of female workers in the private sector; occupational segregation, concentration in traditional female occupations; lack of employment opportunities for highly qualified women, as well as the wage differential between women and men; insufficient support to women entrepreneurs, particularly in non-traditional areas; the situation of women in agriculture, especially of elderly women and in rural areas; and early lay-off and an increase in the number of part-time women workers. The Committee further noted concerns related to: the situation of rural women, in particular to their under-representation in decision-making/leading public and private positions; the status and role of the national machinery, including the Commission on Women's Affairs, its authority and budget; the differential minimum age of marriage for women and men; the high rate of abortion; the discriminatory impact of existing inheritance laws; inadequate information on the numbers of women using health facilities, especially those with HIV/AIDs and STDs.

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

- ♦ provide in subsequent reports detailed information on the implementation and enforcement of laws and policies and a comparative analysis of the progress achieved since the previous reports through, *inter alia*, statistical data disaggregated by sex;
- ♦ take steps to include in the Constitution and all relevant legislation a definition of discrimination which reflects article 1 of the Convention; disseminate information, ensure the provision of legal aid and undertake all necessary measures to increase legal literacy among women;
- ♦ expedite the establishment of the National Human Rights Commission and the provision of remedies for discriminatory practices;
- ♦ intensify efforts to combat violence against women through, *inter alia*, the introduction of comprehensive measures, including gender sensitivity training of the judiciary, health personnel, and law enforcement officials; provide adequate shelters for victims of violence; incorporate models of non-violent forms of conflict resolution in education and the media;
- ♦ provide more support to increase women's political participation and political education, raise public awareness about women leaders; continue promoting targets and quotas; introduce incentives to encourage a minimum quota of 30 per cent representation of women in political parties; support the drafting of policies to increase the participation of women in the judicial system; encourage the private sector to introduce quotas for women, particularly in non-traditional areas;
- ♦ with regard to the situation of women in the workforce: provide statistical data on the growing number of part-time workers in social protection schemes; implement the principle of equal pay for work of equal value; recognize women's unpaid work; provide equal social protection for women in both the public and private sectors, including paid maternity leave in the private sector; ratify ILO conventions, especially Conventions 110 and 111 (Discrimination, Employment and Occupation); eliminate gender-restrictive recruitment advertisements; develop awareness-raising campaigns and training programmes to encourage the reporting and elimination of sexual harassment in the workplace;
- ♦ give full attention to the needs of rural women and ensure that policies and programmes benefit them in all areas, including in such areas as their recognition as agricultural workers to benefit from the rights under the Employment Standard Act, and access to decision-making, health and social services; undertake more studies on the situation of rural women and the collection of statistical data to inform policies in this area; facilitate access to credit for rural women;
- ♦ give special attention to the recognition of the right to social security for women with disabilities and ensure that the policy to provide a variety of programmes for older women, including the promotion of their health, not be jeopardized by the present economic crisis; and
- ♦ give special attention, and if necessary introduce special measures, to prevent adverse consequences for women as a result of the present economic crisis.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on: (E/CN.4/1998/44, paras. 4, 6, 7, 14, 15)

The report notes that cases were transmitted and the government replied. No details of the cases were provided. The report also notes that the persons named in the Working Group's Decisions 1/1995, 49/1995, 25/1996 and revised decision 2/1996 had been released.

Freedom of opinion and expression, Special Rapporteur on: (E/CN.4/1998/40, para. 47)

Concerning national security laws and freedom of expression, the report recalls the Special Rapporteur's (SR) report of the visit to Korea (E/CN.4/1996/39/Add.1), and the fact that the government had been strongly encouraged by the SR to repeal the National Security Law.

Torture, Special Rapporteur on: (E/CN.4/1998/38, paras. 158-160; E/CN.4/1998/38/Add.1, paras. 328-332)

Information was transmitted to the government related to reports of the routine use of sleep deprivation and threats against detainees undergoing interrogation by police. The report also notes that: some detainees were allegedly subjected to beatings; many detained persons were said to have been held in what amounts to prolonged incommunicado detention, because they were not always permitted to see lawyers prior to or during interrogation and because their families were not always informed of the place of detention; detainees were allegedly unable to gain prompt access to a judge under the criminal procedure law in force; according to information received, suspects may be detained for up to 30 days prior to indictment, or up to 50 days in the cases of persons first detained for some offences under the National Security Law; and, courts were said often to fail to inquire into allegations by defendants that their "confessions" had been obtained while undergoing interrogation under torture or other ill treatment, and such "confessions" were frequently admitted as evidence at trial.

The government responded to these allegations, denying that torture and other forms of ill treatment were committed during interrogation, and citing provisions in the Constitution, the Criminal Code, the revised Penal Procedure Code of 1995 related to torture, inspection of detention facilities, access to counsel and family and maximum allowable periods of detention. The government further stated that the Constitution and the Penal Procedure Code both stipulate that confessions likely to have been extracted involuntarily due to torture, for example, could not be admitted as evidence of guilt. The government asserted that some defendants make false claims of torture and ill treatment in order to avoid criminal punishment, but the validity of such claims are fully investigated.

One new case was transmitted to the government by the Special Rapporteur (SR) related to the arrest of the Deputy Chairman of the National Alliance for Democracy and Unification of Korea by officials of the Agency for National Security Planning. Information indicated that he had been pressured into a "confession" that he had spied for North Korea and joined the North Korean Workers' Party. The government confirmed the arrest and detention, but denied torture, ill treatment or threats, even though claims of such treatment were supported by a medical doctor, the Deputy's lawyers, and his family.

With regard to previously transmitted cases related to the arrest and detention of students during a demonstration, the government responded that: 12 of the 18 students named had been arrested, but investigations had failed to find any evidence that their injuries were due to ill treatment by the police; one of the students had withdrawn his complaint of ill treatment; the demonstration in which the students were involved was illegal, represented a serious threat to peace and security of the nation, and had been extremely violent as illustrated by an unprecedented record of injuries suffered by the police; the Seoul District Prosecutors' Office would start investigations into the formal complaints of seven female students who alleged that they had been sexually harassed by the police during the demonstration.

The report summarizes a further exchange of communications between the SR and the government on the cases of the students related to the claims and counter-claims of each party, and refers to one other case in which the defendant was ultimately sentenced to three and a half years in prison by the Supreme Court. In that case, accusations of corruption and violent conduct against the public prosecutor had been rejected for being groundless.



KUWAIT

Date of admission to UN: 14 May 1963.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Economic, Social and Cultural Rights

Acceded: 21 May 1996.

Kuwait's initial report was due 30 June 1998.

Reservations and Declarations: Paragraph 2 of article 2; article 3; article 9; and paragraph 1 (d) of article 8.

Civil and Political Rights

Acceded: 21 May 1996.

Kuwait's initial report (CCPR/C/120/Add.1) has been submitted and is scheduled for consideration at the Com-

mittee's July 1999 session; the second periodic report is due 20 August 2002.

Reservations and Declarations: Article 23 and paragraph (b) of article 25.

Racial Discrimination

Acceded: 15 October 1968.

Kuwait's 13th and 14th periodic reports were submitted as one document (CERD/C/299/Add.16) which is scheduled for consideration at the Committee's March 1999 session; the 15th periodic report was due 4 January 1998.

Reservations and Declarations: Article 22.

Discrimination against Women

Acceded: 2 September 1994.

Kuwait's initial report was due 2 October 1995.

Reservations and Declarations: Paragraph (a) of article 7; paragraph 2 of article 9; paragraph (f) of article 16; and paragraph 1 of article 29.

Torture

Acceded: 8 March 1996.

Kuwait's initial report (CAT/C/37/Add.1) was considered at the Committee's May 1998 session; the second periodic report is due 6 March 2001.

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

Rights of the Child

Signed: 7 June 1990; ratified: 21 October 1991.

Kuwait's initial report (CRC/C/8/Add.35) was considered at the Committee's September 1998 session; the second periodic report was due 19 November 1998.

Reservations and Declarations: General reservation and articles 7 and 21.

REPORTS TO TREATY BODIES

Committee on the Rights of the Child

Kuwait's initial report (CRC/C/8/Add.35, August 1996; CRC/C/Q/KUW/1) was considered by the Committee at its September 1998 session. The report prepared by the government contains information on, *inter alia*: the definition of the child and minimum age levels; provisions in the Juveniles Act No. 3 1983, and non-discrimination provisions in the Constitution; protections and guarantees related to the best interests of the child; the right to life, abortion; respect for the views of the child, freedom of opinion and expression, access to appropriate information; name, nationality and preservation of identity; the activities and work of the Kuwaiti Association for the Advancement of Children, the Youth Scientists Club; freedom of religion, association and assembly; protection of privacy; the prohibition of torture and degrading treatment; family environment and alternative care, measures aimed at the development of the family, child maintenance, mistreatment and neglect; basic health and social welfare; children with disabilities, the Department for the Welfare of the Disabled, the work of the Kuwaiti Association for the Care of the Disabled (private organization); social security and childcare services; legal and

other measures related to the standard of living; education, access to education, the education system; leisure and cultural activities; children in situations of armed conflict, terms of military service; administration of juvenile justice and related provisions in the Code of Criminal Procedure; economic exploitation, child labour, drug and substance abuse, sexual exploitation and abuse, abduction and trafficking in children.

The Committee's concluding observations and comments (CRC/C/15/Add.96) welcomed, *inter alia*: the parliamentary Committee on Human Rights; the recent establishment within the Ministry of Justice of a unit concerned with human rights issues, including a mechanism for the consideration of individual complaints; the fact that the Convention is self-executing and that its provisions may be invoked before the courts; the extensive social welfare services available at either no cost or at only a fraction of the real cost, including public services relating to education, health, social care and housing; efforts to mainstream children with disabilities, or who have learning difficulties, within regular classes for students, while at the same time providing complementary courses for those children in response to their specific needs; and the organization of an "Arab Day for Children" as a way for children to understand better their rights under the Convention.

In consideration of the factors impeding the implementation of the Convention, the Committee acknowledged that physical and psychological hardship resulting from the Gulf War still affects a substantial number of children and their parents, and that there remain unresolved issues concerning family reunification.

The principal subjects of concern identified by the Committee included, *inter alia*: that the provisions and principles of the Convention are not fully reflected in law; the apparent absence of a comprehensive policy to promote and protect children's rights as well as the lack of a central body for coordination, evaluation and monitoring between different ministries, and between the central government and local authorities; and the lack of information in the public on the mechanism established within the Ministry of Justice for consideration of individual complaints, including a lack of general knowledge about how it can be used to register and address complaints from children concerning violations of their rights.

The Committee expressed concern over: the low legal age of criminal responsibility (seven years); the low legal minimum age for marriage for girls, 15 years, while the minimum age for boys is set at 17 years; the absence in legislation and the Constitution of a specific prohibition of discrimination on the basis of race, colour, political or other opinion, national, ethnic or social origin, property, disability, birth or other status; the fact that some laws, regulations or practices are discriminatory for non-Kuwaitis and girls, especially with regard to the right to education and inheritance; the unusual demographic situation in Kuwait — with approximately 34 per cent of the population having Kuwaiti nationality — and the possi-

bility that this may have resulted in discrimination against non-Kuwaitis, in particular Bedoon children and young migrant workers; the lack of awareness regarding the participatory rights of children and the absence, in legal proceedings affecting a child, of a legal requirement for soliciting the views of the child; and provisions in law stipulating that nationality may only be obtained by children from their Kuwaiti father.

Concerns were also raised with regard to: the lack of specific prohibition in domestic legislation of the use of corporal punishment; the insufficient awareness of, and lack of information on, domestic violence, ill treatment, and abuse, including sexual abuse, both within and outside the family; the insufficient legal protection measures and appropriate resources and the lack of adequately trained personnel to prevent and combat such forms of abuse; the potential for stigmatization of a woman or couple who decide to keep a child born out of wedlock and the impact of this stigmatization on the realization by such children of their rights; the lack of a procedural requirement for periodic review and systematic monitoring when children are placed in alternative care; and the recent increase in the number of children living and/or working on the streets, especially among the Bedoon community.

The Committee noted concerns related to: the high level of malnutrition among children, mainly due to poor quality nutrition; the high mortality rate of male adolescents due to external causes and accidents; the lack of comprehensive data and information on the health status of adolescents in general, especially with regard to drug and substance abuse, STDs, HIV/AIDS, teenage pregnancy, violence and suicide among young people, and the lack of services available for treatment and rehabilitation; the occurrence of the practice of early marriage; and the lack of specific legislation for the determination of the status and protection of refugees, including children.

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

- ♦ take all appropriate measures to engage, where necessary, in a law reform process — for example, by enacting a children's code to ensure full conformity with the Convention;
- ♦ adopt a national strategy for children and establish a mechanism of coordination, evaluation and monitoring to implement policies and programmes for children regarding the Convention; further promote its cooperation with the NGOs and involve these organizations in such coordination and monitoring bodies;
- ♦ strengthen the system of data collection and include in it disaggregated data on all children, with specific emphasis on vulnerable ones, including those who are victims of abuse or ill-treatment and children belonging to minority groups;
- ♦ organize systematic training and retraining programmes on the rights of the child for professional groups working with and for children;

- ♦ raise the minimum legal age for criminal responsibility and take all appropriate measures to raise the legal minimum age for marriage for girls at least to the same age as that set for boys;
- ♦ review legislation with the view of ensuring prohibition of discrimination on all grounds; take all appropriate measures to safeguard the rights of Bedoon children, migrant children, other non-citizens, and girls, especially with regard to access to education, health and other social services; take all appropriate measures to guarantee that girls are systematically treated equally to boys, especially with regard to the right to inheritance;
- ♦ consider ratifying the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;
- ♦ take all appropriate measures to encourage participation of children in the family, in institutions, at school, and in society; ensure by all means, including legal ones, that the views of children are an integrated part of all decisions affecting them;
- ♦ amend legislation to guarantee that the acquisition of Kuwaiti nationality is determined with regard to the provisions and principles of the Convention, especially articles 2, 3 and 7;
- ♦ take all appropriate measures, including of a legislative nature, with the aim of prohibiting corporal punishment in schools, in the family and other institutions and in society at large; conduct awareness-raising campaigns to ensure that alternative forms of discipline are administered in a manner consistent with the child's dignity and in conformity with the Convention;
- ♦ undertake multi-disciplinary studies to understand the nature and scope of ill-treatment and abuse, including sexual abuse, and adopt adequate measures and policies with a view to, *inter alia*, changing traditional attitudes; establish a special complaint mechanism for children to report information on such ill treatment, domestic violence and abuse; ensure that cases of abuse and ill treatment of children, including sexual abuse within the family, are properly investigated; apply sanctions to perpetrators and give publicity to decisions taken in such cases of abuse, with due regard given to protecting the right to privacy of the child; consider adopting child-friendly rules of evidence in such proceedings; provide support services to children in legal proceedings and for the physical and psychological recovery and social reintegration of the victims of rape, abuse, neglect, ill treatment, violence or exploitation; prevent the criminalization and stigmatization of victims;
- ♦ take all appropriate measures to create an adequate framework to facilitate the choice of a woman or couple of a child born out of wedlock to keep and raise the child;

- ♦ give special attention to children living in institutional care, including children born out of wedlock; develop alternatives to institutional care, such as foster care; establish an appropriate mechanism for the systematic monitoring and review of placement regarding institutional care;
- ♦ take all appropriate measures to provide access to schools to all children and prevent and combat school drop-out; develop vocational training projects as well as adequate social programmes;
- ♦ undertake a comprehensive and multi-disciplinary study – with data disaggregated by age and gender – to understand the nature and scope of adolescent health problems and to serve as the basis to develop and promote adolescent health policies; undertake further efforts to develop youth-friendly care, counselling and rehabilitation facilities for adolescents;
- ♦ undertake all appropriate measures, including legal measures, with regard to the practice of early marriage in order to prevent and combat this traditional practice which is harmful to the health and well-being of girls and the development of the family;
- ♦ review legislation with the view of including provisions for the determination of the status and protection of refugees, including children, especially with regard to access to education, health and other social services; consider ratifying the Convention relating to the Status of Refugees 1951 and to its 1967 Protocol, as well as the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness;
- ♦ review the situation of land mines within a framework of technical assistance, including from UN agencies, and ratify the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and of their Destruction (1997);
- ♦ 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 rehabilitation measures, to combat this phenomenon; and
- ♦ consider taking additional steps to reform the system of juvenile justice and pay particular attention to considering deprivation of liberty only as a measure of last resort and for the shortest possible period of time, to the protection of all the rights of children deprived of their liberty and, when appropriate, to encourage alternatives to the processing of cases through the regular penal system; and organize training programmes on relevant international standards for all those professionals involved with the system of juvenile justice.

Committee against Torture

Kuwait's initial report (CAT/C/37/Add.1, October 1997) was considered by the Committee at its May 1998 session. The report prepared by the government contains information on, *inter alia*: the general political structure in Kuwait and the general legal framework for the protection of human rights; general and specific provisions in the Constitution; and relevant provisions in the Code of Criminal Procedure, the Penal Code, and the Code of Civil and Commercial Procedure. Annexes to the report included general information on the "land and people", as well as a list of laws governing the structures of government and the judiciary, and criminal and civil behaviour.

The Committee's concluding observations and comments (CAT/C/ KUW) noted that the government appeared to have in place the necessary legal institutions to combat torture and had confronted incidents of torture and prosecuted those responsible. The Committee welcomed the decision to establish a government-funded Torture Victims' Rehabilitation Centre.

The Committee expressed concern that there is no defined crime of torture in law and recommended that the government:

- ♦ consider withdrawing its reservations to article 20 of the Convention;
- ♦ consider making a declaration under articles 21 and 22 of the Convention; and
- ♦ consider enacting in its Criminal Code a defined crime of torture or, if the Convention applies by incorporation, an independent crime of torture.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group:

(E/CN.4/1988/44/Add.1, Opinion No. 3/1997)

Opinion No. 3/1997 related to the case of a 19-year-old who was reportedly detained when a patrol of Kuwaiti military intelligence agents broke into his father's home during the night, in May 1991, threatened him at gun point and took him away. Information indicated that the young man was held without charge in an unidentified State Security Intelligence jail, and that his father's numerous appeals to the authorities for his release over the course of four years had remained unanswered. It was also alleged that high ranking government authorities intentionally provided the father with misleading and inconsistent information as to his son's whereabouts.

The government asserted that it had no knowledge of the youth and, further, that it was prepared to facilitate visits to Kuwaiti prisons by any representative of the OHCHR or the International Committee of the Red Cross (ICRC), unconditionally and without need for prior authorization. The government informed the Working Group

(WG) that proceedings were instituted against the patrol following a complaint by members of the youth's family and that the investigation had yielded no positive conclusions, the perpetrators of the abduction were not identified, and the case was closed in March 1994.

The WG decided that it did not have sufficiently precise and consistent information to render an opinion on the case. Consequently, the case was closed and the file was sent to the Working Group on Enforced or Involuntary Disappearances.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 243–244)

During the period under review, no new cases of disappearance were transmitted to the government. The one outstanding case, which was submitted in 1993 by a relative of the victim, concerns a "bedouin" of Palestinian origin with a Jordanian passport who was reportedly arrested after the retreat of the Iraqi forces from Kuwait in 1991 and is believed to be detained by the Kuwaiti Secret Police. The government informed the Working Group that the investigation into the case was continuing and the family had been consulted.

Religious intolerance, Special Rapporteur on: (E/CN.4/1998/6, paras. 48, 50, 58, 63, 64)

The report refers to violations of freedom of religion and belief against all religions, all religious groups and communities, except the official religion. Information received indicated that: citizenship is denied to non-Muslims; conversion of a Muslim to another religion is strictly prohibited; any proselytizing of Muslims by non-Muslims is forbidden; the local publication of non-Muslim religious material is prohibited; non-Muslims must restrict the practice of their religion to the confines of their homes; and, members of religions not recognized in the Koran — such as Hindus, Sikhs and Buddhists — are not allowed to build places of worship.

Torture, Special Rapporteur on: (E/CN.4/1998/38, para. 129; E/CN.4/1998/38/Add.1, para. 232)

An urgent appeal was sent to the government on behalf of nine persons who were among 11 Bahraini nationals reportedly detained in Kuwait City in March 1997. Information indicated that they were under threat of deportation to Bahrain where they might be subjected to torture or other ill treatment. The government replied that the persons in question remained in Kuwait and were being tried under Kuwaiti law. No details of the charges against the nine were provided in the report.



KYRGYZSTAN

Date of admission to UN: 2 March 1992.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Economic, Social and Cultural Rights

Acceded: 7 October 1994.

Kyrgyzstan's initial report (E/1990/5/Add.42) has been submitted and is pending for consideration at the Committee's November 2000 session; the second periodic report is due 30 June 2001.

Civil and Political Rights

Acceded: 7 October 1994

Kyrgyzstan's initial report (CCPR/C/113/Add.1) has been submitted but is not yet scheduled for consideration by the Committee; the second periodic report is due 6 January 2001.

Optional Protocol: Acceded: 7 October 1994.

Racial Discrimination

Acceded: 5 September 1997.

Kyrgyzstan's initial report was due 5 October 1998.

Discrimination against Women

Acceded: 10 February 1997.

Kyrgyzstan's initial report was due 11 March 1998.

Torture

Acceded: 5 September 1997.

Kyrgyzstan's initial report was due 4 October 1998.

Rights of the Child

Acceded: 7 October 1994.

Kyrgyzstan's initial report (CRC/C/41/Add.6) has been submitted and is pending consideration at the Committee's September/October 2000 session; the second periodic report is due 5 November 2001.

COMMISSION ON HUMAN RIGHTS

Since 1997, the situation in Kyrgyzstan has been considered by the Commission on Human Rights under the confidential 1503 procedure. The Commission decided at its 1998 session to discontinue that consideration.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group: (E/CN.4/1998/44, paras. 4, 5; E/CN.4/1998/44/Add.1, Opinion No. 7/1997)

The main report notes that cases were transmitted and the government replied, but no details were provided.

Opinion No. 7/1997 concerned two individuals — the former Rector of the Human Sciences University in Bishkek, who is also a representative of the Erkin Kyrgyzstan (Free Kyrgyzstan) opposition movement, and his former university colleague. The two were sentenced to imprisonment in a correctional labour colony, having been found guilty by the Bishkek court of embezzlement of public or community property belonging to the state or society, abuse of power or public authority, and forgery committed in an official capacity. The charges related to the former rector's authorization of a loan from the university, for the purposes of a business venture by his colleague, which had not been repaid. According to sources, the fact of non-repayment should not give rise to prosecution proceedings for embezzlement of public or community funds, but should be tried under civil law. In his testimony to the court, the university's chief accountant stated that the university had no claims against the former rector, and sources stated that the proceedings against him were politically motivated as punishment for his opposition activities.

The government confirmed that both men had been convicted as charged, and sentenced. The reply quoted at length the articles of the Criminal Code applied by the Kyrgyz courts, specifying the amendments to the sentences made by the Criminal Division of the Supreme Court, which reclassified the offences and reduced the original sentences. The Supreme Court also annulled the decision of the court of first instance ordering the confiscation of property and banning the former rector from any post entailing financial responsibilities.

The Working Group (WG) noted that the former rector's colleague had, in fact, not been sentenced to any custodial measure, and therefore decided to file the case. With regard to the former rector, the WG did not endorse the view that he should have been tried under civil law. Further, the WG stated that the decision taken by the prosecutor to institute criminal proceedings was not contrary to domestic law under which the public prosecutor's office may prosecute someone for an offence even if no complaint had been filed by the victim, or if the latter has withdrawn the complaint. The WG also noted that when they classified the acts as criminal offences, the Kyrgyz courts provided sufficient grounds for not treating them as constituting failure to perform a contractual obligation under domestic law. With regard to the criminal procedural law applicable in Kyrgyzstan, the WG considered that while reservations could be expressed, particularly with regard to timely access to a lawyer, this fact alone did not constitute a sufficiently serious shortcoming, in terms of the right to a fair trial, for the deprivation of liberty to be characterized as arbitrary. The WG stated that it did not have conclusive information to enable it to take the view that the prosecution was primarily motivated by political considerations. As a result, the WG decided that the deprivation of liberty imposed on the former rector was not arbitrary.



LAO PEOPLE'S DEMOCRATIC REPUBLIC

Date of admission to UN: 14 December 1955.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Racial Discrimination

Acceded: 22 February 1974.

Laos's sixth through 12th periodic reports have not been submitted (covering the period 1985-1997); the 12th periodic report was due 24 March 1997.

Discrimination against Women

Signed: 17 July 1980; ratified: 14 August 1981.

Laos's initial and 2nd through 5th periodic reports (covering the period 1982-1998) have not been submitted; the 5th periodic report was due 13 September 1998.

Rights of the Child

Acceded: 8 May 1991.

Laos's second periodic report was due 7 June 1998.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 245-147)

During the period under review no new cases of disappearance were transmitted to the government. The one outstanding case, which allegedly occurred in 1993, concerns the leader of the repatriation groups returning to Laos who reportedly left his residence with an official from the Department of the Interior to visit that Department in order to discuss the future home for the returning repatriation groups. In the past the government had replied that a thorough investigation into the circumstances of the disappearance of the person concerned had been undertaken. In a subsequent reply, the government advanced several possible explanations for the disappearance but the whereabouts of the person remain unknown.



LEBANON

Date of admission to UN: 24 October 1945.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Lebanon has submitted a core document (HRI/CORE/1/Add.27/Rev.1) for use by the treaty bodies. At the time the report was prepared by the government it was noted that as a result of the 1975–1990 war there were no reliable statistics upon which to provide accurate demographic data.

All treaties ratified by Lebanon acquire mandatory force of law and no further procedure is required for their incorporation into internal legislation. In its preamble, the Constitution states that Lebanon subscribes to the International Bill of Human Rights.

Economic, Social and Cultural Rights

Acceded: 3 November 1972.

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

Civil and Political Rights

Acceded: 3 November 1972.

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

Racial Discrimination

Acceded: 12 November 1971.

Lebanon's sixth through 13th periodic reports were submitted as one document (CERD/C/298/Add.2), which was considered at the Committee's March 1998 session; the 14th periodic report was due 12 December 1998.

Reservations and Declarations: Article 22.

Discrimination against Women

Acceded: 16 April 1997.

Lebanon's initial report was due 21 May 1997.

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

Rights of the Child

Signed: 26 January 1990; ratified: 14 May 1991.

Lebanon's second periodic report was due 23 June 1998.

REPORTS TO TREATY BODIES

Committee on the Elimination of Racial Discrimination

Lebanon's sixth through 13th periodic reports were submitted as one document (CERD/C/298/Add.2, June 1997) which was considered by the Committee at its March 1998 session. The report prepared by the government contains information on, *inter alia*: the community or religious system in Lebanon; relevant provisions in the Constitution, as amended in 1990; confessionalism as to personal status and political confessionalism; the Elec-

toral Act and distribution of seats in Parliament, as well as appointments within the administration; the elimination of confessional representation; considerations related to whether religious communities may also be considered ethnic groups; the Taif Agreement, the document of national understanding; the Criminal Code and prohibitions on racial discrimination, incitement and related acts or practices; equality before the law; and the rights to nationality, marriage and to own property.

The Committee's concluding observations and comments (CERD/C/304/Add.49) noted the severe difficulties facing Lebanon as a result of almost 20 years of war and foreign intervention, resulting in widespread destruction hindering implementation of the Convention. The difficulties caused by the fact that Lebanon has hosted a great number of refugees for several decades were also acknowledged.

The Committee welcomed, *inter alia*: the constitutional amendments of September 1990, including that related to the elimination of political confessionalism; the recent establishment within the Chamber of Deputies of the Commission du règlement interne et des droits de l'homme (Commission on Human Rights) (sic); and the fact that international treaties ratified or acceded to by Lebanon become part of internal law upon the exchange or deposit of the instruments of ratification or accession.

The principal subjects of concern identified by the Committee included: the insufficiency of the legal definition of ethnic groups and the protection given to them in domestic law; the existing resistance to the progressive elimination of the political system of confessionalism; the insufficiency of measures and policies adopted by the government to prevent and combat all forms of racial discrimination; the failure to provide for recognition of the different ethnic origin among Syrians, Greeks, Armenians, Copts, Kurds, Jews, etc., and the potential for this to constitute grounds for different treatment of these communities including, in some instances, racial discrimination; the absence of adequate laws and measures to eradicate all incitement to, or acts of, racial discrimination; inadequacies in the protection of the right of everyone to equality before the law, especially for ethnic groups, refugees, displaced persons and foreign workers; the fact that religious courts may pass judgements on some family issues which may be construed as discriminating against members of ethnic groups, including refugees and foreign workers; the situation of migrant workers, especially in relation to access to work and equitable conditions of employment; reports of confiscations of passports of foreign workers by their Lebanese employees; and, insufficient measures and programmes in the fields of teaching, education, culture, and information, with the view to combatting prejudices which lead to racial discrimination and to promoting understanding and friendship.

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

- ensure that the rights of ethnic groups fully comply with the requirements of article 1 of the Convention; include in the next periodic report information on the demographic composition of the population;
- continue efforts aimed at the gradual elimination of the system of political confessionalism, taking into account public views and feelings;
- take all appropriate measures, such as major information campaigns, with a view to preventing and combatting all forms of racial discrimination;
- reflect fully in domestic law the provisions of article 4 of the Convention (prohibition of racist organizations, incitement, propaganda);
- take all appropriate measures to ensure that all persons — including members belonging to ethnic groups, refugees and foreign workers — are given equal treatment before the law; ensure that all legal provisions dealing with family related issues concerning members of ethnic groups and foreigners are fully consistent with the provisions of the Convention;
- take all appropriate measures, including those of a legal nature, to fully guarantee access to work and equitable conditions of employment to all foreign workers, including Palestinians; prohibit the practice, which some employers implement, of withholding the passports of foreign workers; and
- allocate appropriate resources in the fields of teaching, education, culture, and information, with a view to combatting all forms of racial discrimination and to promoting understanding, tolerance and friendship.

COMMISSION ON HUMAN RIGHTS

Report of the Secretary-General on the human rights situation in southern Lebanon and West Bekaa

The report of the Secretary-General on the human rights situation in southern Lebanon and West Bekaa (E/CN.4/1998/56) notes that, as per the request by the Commission on Human Rights, the resolution adopted at the 1997 session (1997/55) was brought to the attention of the Israeli government, along with an invitation to the government to provide information concerning the extent of its implementation of the resolution. No reply had been received from Israel at the time of the preparation of the Secretary-General's report.

At its 1998 session, the Commission adopted, by roll call vote, a resolution on the human rights situation in southern Lebanon and West Bekaa (1998/62). The resolution was adopted by a vote of 52 in favour, and 1 opposed. The Commission, *inter alia*: expressed concern at the persistent practices of the Israeli occupation forces in southern Lebanon and western Bekaa; censured the repeated Israeli aggressions in southern Lebanon and

western Bekaa which cause a large number of deaths and injuries among civilians, displace families, and destroy dwellings and properties; expressed hope that the efforts to achieve peace in the Middle East will put an end to the violations of human rights in the occupied zone in southern Lebanon and western Bekaa; expressed concern at the persistent detention by Israel of many Lebanese citizens in the detention centres of Khiyam and Marjayoun, and at the death of some of these detainees as a result of ill-treatment and torture; expressed indignation at the March 1998 ruling of the Israeli Supreme Court permitting the Israeli authorities to retain Lebanese detainees in Israeli prisons without trial; and deplored the continued violations of human rights in the occupied zone in southern Lebanon and western Bekaa, including abduction and arbitrary detention of Lebanese citizens, destruction of dwellings, confiscation of property, expulsion from land, bombardment of peaceful villages and civilian areas, and other practices. The Commission: called on Israel to put an immediate end to such practices, as well as air raids and the use of prohibited weapons such as fragmentation bombs; called on Israel to implement Security Council resolution 425 (1978) requiring Israel's immediate, total and unconditional withdrawal from all Lebanese territories and respect for the sovereignty, independence, and territorial integrity of Lebanon; called on Israel to comply with the Geneva Conventions of 1949, in particular the Convention relative to the Protection of Civilian Persons in Time of War; called on Israel to refrain from holding Lebanese detainees incarcerated in its prisons as hostages for bargaining purposes, and to release them all immediately as well as the other persons detained in prisons and detention centres in the occupied territories in Lebanon; affirmed Israel's obligation to commit itself to allowing the International Committee of the Red Cross and other international humanitarian organizations to recommence periodic visits to detainees and to verify their health and humanitarian conditions and, in particular, the circumstances in which some of them died as a result of ill-treatment and torture; reaffirmed Israel's obligation to allow the families of detainees to resume their visits to the Khiyam detention centre to which they have been denied access since September 1997; and requested the Secretary-General bring this resolution to the attention of the Israeli government, invite Israel to provide information on the extent of its implementation, and report to the 1998 General Assembly and the 1999 Commission on the results of these efforts.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary Detention, Working Group on:

(E/CN.4/1998/44, paras. 19; E/CN.4/1998/44/Add.1, Decision No. 41/1996)

Decision No. 41/1996 related to two former members of General Michel Aoun's Partisan Brigade who were arrested in September 1992, suspected of being accom-

plices of Captain Imad Abboud who was engaged in an effort to disrupt legislative elections through bombings and other acts. Following interrogation and torture, the two men finally signed confessions which they were not shown and in which they admitted having booby-trapped a car belonging to a candidate in the legislative elections. They were tried in April 1993 by the Beirut Military Court and sentenced to seven years' imprisonment for transporting weapons, and for other offences. On appeal, the sentence was reduced to five years. Information indicated that both men were sentenced despite the fact that they had told the judge that their confessions had been obtained under torture. Information also indicated that neither person was in the area at the time when they were alleged to have committed the offences of which they were accused, and they made their own way to the Ministry of Defence as soon as they knew that they were being sought. The confessions were the only real evidence linking them to the crime.

In its reply, the government pointed out that the two men were arrested for the transport of explosive materials and for terrorist acts carried out using explosives during 1992. The government stated that: the defendants had expressly acknowledged these facts to the examining magistrate; after an indictment was initiated against them, they were brought before the Military Court which sentenced them at a public hearing to seven years' imprisonment; and, the Military Court of Cassation reduced the sentences on appeal to five years' imprisonment.

The Working Group (WG) noted several points, including: the source did not provide evidence that torture actually took place; it is not within the WG's competence to call into question a sentence by reviewing the evidence on which the judgement was based; and, the source did not question the fact that the trial was held in a normal manner, or that the two persons concerned were able to make full and effective use of the judicial remedies available to them. The WG decided that the detentions were not arbitrary.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 3, 13, 248—254)

One newly reported case of disappearance, which reportedly occurred in June 1997, was transmitted to the government. The majority of the 287 cases of disappearance reported to the Working Group (WG) in the past occurred in 1982 and 1983 in the context of the civil war. Those responsible for the disappearances are said to have belonged to the Phalangist Militia, the Lebanese Army or its security forces; in some cases, the Israeli Army was also reportedly involved in the arrest, together with one of the other forces mentioned. Most of the detentions occurred in Beirut and its suburbs. Certain reports indicated that the arrests were made by armed men in civilian clothes operating from vehicles. In a number of cases, the missing person was reportedly arrested and taken away from the Sabra and Chatila camps in September 1982. In a few instances, which reportedly occurred in 1984, 1985 and 1987, the arrested persons

were foreign nationals who were abducted in Beirut. In a number of those cases, religious groups such as the "Islamic Holy War" later claimed responsibility for the abductions; in others, including two cases which occurred in 1990, the missing persons were reportedly arrested by members of the Syrian army or security services at checkpoints before being transferred to and detained in Syria.

The one newly reported case allegedly occurred in Akkar, north Lebanon, in June 1997 and concerns a medical doctor who was reportedly abducted by members of the Syrian military intelligence. The arrest was thought to relate to alleged membership in an illegal political party. A copy of this case was also sent to the Syrian government.

Information received by the WG indicated that: the fate of those who have disappeared in Lebanon has still not been determined, nor have the perpetrators been brought to justice; both Lebanese citizens and stateless Palestinians continue to disappear in Lebanon, taken into custody there by Syrian security forces and then transferred to, and detained in, Syria; and, the Lebanese government not only acquiesces to such activities by Syria, but sometimes collaborates with Syrian forces in carrying out disappearances. The information states that there are no effective official government mechanisms in Lebanon or Syria for families to learn of the whereabouts of their relatives and to seek legal remedy; family members and lawyers are unable to obtain any form of official acknowledgment from either the Lebanese or Syrian authorities of the arrest, detention or abduction, or the whereabouts of the individuals who were reportedly disappeared, thus placing these persons outside the protection of the law; and, families of the disappeared are said to be afraid to report the disappearance, for fear of worsening the situation of the disappeared person or putting themselves at risk of harassment or reprisal.

The government provided information on three cases, noting that two of the persons named had been arrested and were being held in detention. In the third case, the government reported that it had no information on the missing person. The WG welcomed the information provided but also expressed concern at the fact that only 2 out of 287 cases have been clarified by the government.

Independence of judges and lawyers, Special Rapporteur on the: (E/CN.4/1998/39, paras. 17, 104—105)

In August 1997 the Special Rapporteur sent a communication to the government on behalf of a lawyer who had been threatened and intimidated in connection with activities in defence of human rights. Information indicated that in September 1994 the lawyer had been summoned by the Assistant Military Prosecutor to explain his defence in a military court of a social activist and an alleged victim of torture. It was also reported that the Beirut Bar Association had rejected a case submitted to it by the Ministry of Defence, charging the lawyer with defaming the government. Three appeals were brought by the Public Prosecutor to reverse the decisions of the

Beirut Bar and, reportedly, the hearings on the appeal were not in accordance with the Code of Civil Procedure. According to the information, the lawyer was neither informed of the appeal hearing nor was he served with a summons or any legal papers — including the decisions being appealed and the petition of appeal — and the presiding judge did not want to listen to his requests. The judge had directed the record to state that the lawyer had not answered the appeal.

Toxic wastes and products, Special Rapporteur on: (E/CN.4/1998/10, para. 43)

The report refers to information indicating that, in October 1996, the Lebanese factory Saltex imported two containers filled with mixed plastic wastes, some of which were contaminated with chemicals, declaring the shipment as plastic bags. The two containers arrived in Beirut port from Belgium and were confiscated by the Lebanese authorities after experts from the Ministry of Environment found that the waste was contaminated with pharmaceutical chemical substances, concluded that it was meant for final disposal, and could not be recycled in Lebanon.

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, para. 111)

The report notes that, with regard to “crimes of honour”, the government announced in March 1997 that it planned to strengthen the law relating to these crimes by amending article 152 of the Criminal Code to eliminate the defence of “attenuating circumstances” in cases where men commit “crimes of honour” against women members of their family.



MALAYSIA

Date of admission to UN: 17 September 1957.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Discrimination against Women

Acceded: 5 July 1995.

Malaysia's initial report was due 4 August 1996.

Reservations and Declarations: Articles 11.

Rights of the Child

Acceded: 17 February 1995.

Malaysia's initial report was due 19 March 1997.

Reservations and Declarations: Articles 1, 2, 13, 14, 15, 22, 28, and 37; paragraphs 3 and 4 of article 40; articles 44 and 45.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on:

(E/CN.4/1998/44, paras. 6, 14, 15;

E/CN.4/1998/44/Add.1, Opinion No. 4/1997)

The addendum to the main report covers the Working Group's (WG) opinion on a case that arose in August 1996 involving nine persons. According to information received, the individuals were former members of the banned Al Arqam Islamic sect. Reportedly they were ordered to be detained without trial for two years under the Internal Security Act, for “acting in a manner prejudicial to the security of Malaysia”. The information considered by the WG also indicated that the detention orders could be renewed indefinitely by the Minister of Home Affairs without any reference to the courts, and that the nine men were being held for the peaceful expression of their religious beliefs. The government did not respond to the case at the time it was transmitted by the WG. In the absence of a reply, the WG expressed the opinion that the detainees' rights under the Universal Declaration were violated and, as a consequence, the deprivation of liberty was arbitrary in character.

The government subsequently informed the WG that all nine men had been released.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 27, 83, 94; E/CN.4/1998/69/Add.1, para. 259)

The report notes that an urgent appeal was sent to the government with regard to the use of the death penalty. The case involved an individual who had been sentenced to death by the Alor Star High Court in October 1994 for trafficking 2.1 kg of heroin and was reportedly facing imminent execution after the rejection of his appeal in April 1997. The report notes that according to the Dangerous Drugs Act any person found in possession of at least 15 grams of heroin is presumed to be trafficking in the drug, unless the contrary can be proven. The Special Rapporteur expressed the view that this partial shift of the burden of proof to the accused does not provide sufficient guarantees for the presumption of innocence and may lead to violations of the right to life, in particular since the crime of drug trafficking carries a mandatory death sentence.

Independence of judges and lawyers, Special Rapporteur on the: (E/CN.4/1998/39, paras. 17, 19, 106–116)

The main report refers to previously expressed concerns relating to a proposal amending the Legal Profession Act 1976 and the possible negative impact on the independence of the legal profession. The government indicated

that the Act would not be amended without first consulting the Malaysian Bar.

Another concern raised with the government was the reported circulation, in June 1997, of a letter from the Ministry of Finance which referred to a Cabinet decision of 19 February 1997. The letter was sent to approximately 14 governmental departments directing them not to send any legal work to three named law firms on the grounds that the firms were "anti-government". The three law firms were the largest in Malaysia. The government replied that the relationship between it and the firms to which it gives its legal work is essentially the same as the one between a client and a service provider. The government stated that it has the right to give work to whomever it wishes and the three firms named in the letter were free to conduct their business with other clients. The Special Rapporteur (SR) did not dispute the right of the government to choose its own lawyers but noted that no reply had been received as to why the three law firms were characterized as "anti-government".

The report notes previously stated concerns related to allegations of manipulation of the judicial system that called into question the independence and impartiality of the judiciary in cases involving certain lawyers representing commercial interests. The report recalls that it was as a result of work to investigate these allegations and collect more information on the subject that lawsuits were commenced against the SR and others for defamation arising from an article entitled "Malaysian Justice on Trial". The report recalls that four of the suits are against the SR for a total of MR 280 million. A summary of proceedings in the suits notes, *inter alia*, that: in the first suit, in June 1997 the High Court of Malaysia dismissed with costs the SR's application to strike out the action on the grounds of the immunity from legal process enjoyed by the United Nations; an application to the Court of Appeal for stay of execution was turned down by the President of the Court of Appeal sitting as a single judge; the SR subsequently applied to the Federal Court, which is the final appellate court, for leave to appeal; the SR's applications to strike out the second and third suits were stayed pending the outcome of the decision of the Federal Court on the leave of application in the first suit; and a hearing on the application to strike out the fourth suit was set for March 1998.

The addendum to the main report (E/CN.4/1998/39/Add.5) notes that the SR's application to appeal lower court decisions was dismissed by the Federal Court by a unanimous oral decision, in February 1998. In dismissing the application, the Presiding Judge made a statement indicating that the SR was neither a sovereign nor a diplomat but, in layman's terms, an "unpaid, part-time provider of information". As a result of the Federal Court decision, all legal remedies on the issue of immunity before the domestic courts of Malaysia were exhausted and the SR faced the prospect of a legal process of full trials on the four defamation suits for a total sum of RM 280 million (US\$70 million).

The report makes a number of points including, *inter alia*, that: the decisions of the Federal Court and of the lower courts were against the weight of authorities and do not accord with international law; the courts failed and/or refused to recognize UN jurisprudence on the issue and defied the authority of the Secretary-General; both the Court of Appeal and the Federal Court ignored the 1989 Advisory Opinion of the International Court of Justice in a previous decision on the question of immunity and privileges; and there was almost total disregard of the United Nations and its procedures.

Racism and racial discrimination, Special Rapporteur on: (E/CN.4/1998/79, para. 45)

The report refers to information noting a statement by the Prime Minister asserting that the Jews were jealous of the progress achieved by the Muslims. The Special Rapporteur wrote to the government in November 1997, requesting clarification.

Torture, Special Rapporteur on: (E/CN.4/1998/38, para. 130; E/CN.4/1998/38/Add.1, para. 233)

The reports note that an urgent appeal was sent to the government on behalf of some 42 members of the Dayak Iban indigenous community from the state of Sarawak who were arrested in June 1997. The information received indicated that they suffered injuries as a consequence of being beaten, kicked and assaulted with machine guns by police officers. In October 1997, the government confirmed the arrests but denied that any serious injuries had resulted.

Toxic wastes and products, Special Rapporteur on: (E/CN.4/1998/10/Add.1, para. 2, section on "Comments received from States")

The report summarizes the government's response to information contained in the Special Rapporteur's (SR) report to the 1997 Commission on Human Rights (E/CN.4/1997/19). The SR had referred to the operations of Asian Rare Earth (ARE) involving the production of rare earth compounds and calcium phosphate from monazite. The SR stated that the process produced a radioactive by-product, thorium hydroxide. The government informed the SR that the company had ceased operations in January 1994 on the basis that monazite had become difficult to obtain because of a decline of tin ore mining activities and competition from rare earth producers incorporated in foreign countries indicated that the industry would not be viable in the long run. The government also noted that statistically there was no conclusive evidence to show that the increase of leukaemia, infant mortality, congenital deformities and the increased level of lead in affected children's blood were due solely to the processing of products by ARE in the areas where the company operated. The government stated that the Atomic Energy Licensing Board of Malaysia was satisfied that ARE had complied with all licensing conditions. Subsequent Board inspections and data collection confirmed the findings.

In response to concerns expressed about the sale of paraquat, a pesticide, the government stated that all pesticides, including paraquat, are regulated under the Pesticides Act 1974. Under the provisions of this Act, all pesticides must be registered with the Pesticides Board before they are allowed to be imported or manufactured for sale in the country in order to ensure that they do not have unacceptable adverse effects on humans or the environment. The government noted that the Board only registers a pesticide after it is thoroughly convinced that the benefits derived from its use outweigh the risks. The Pesticides Board may also impose additional conditions for the registration of certain pesticides. In the case of paraquat, all approved products must contain a dye and a stenching agent as a means of minimizing accidental poisoning. The Board has also gazetted the Pesticides (Highly Toxic Pesticides) Regulations 1996, with the objective of controlling the use of highly toxic pesticides, including paraquat. The government stated that this practice is part of the efforts of the Board to minimize risks faced by paraquat users, especially plantation workers. Regulations on its use require, *inter alia*, employers to provide their workers with appropriate protective clothing, first aid kits and training in the methods of handling paraquat, and workers to wear the protective clothing provided and follow the instructions for the safe handling of highly toxic pesticides. The Department of Agriculture, and other related agencies, conduct training programmes to educate farmers and pesticide users on the safe and judicious use of pesticides. The government disputed the claim that paraquat constitutes 80 per cent of herbicide sales in Malaysia, stating that the correct estimate is only 20 per cent.



MALDIVES

Date of admission to UN: 21 September 1965.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Racial Discrimination

Acceded: 24 April 1984.

Maldives' fifth through seventh periodic reports were due 24 May 1993, 1995 and 1997 respectively.

Discrimination against Women

Acceded: 1 July 1993.

Maldives' initial and second periodic reports were due 1 July 1994 and 1998 respectively.

Reservations and Declarations: General reservation.

Rights of the Child

Signed: 21 August 1990; ratified: 11 February 1991.

Maldives' initial report (CRC/C/8/Add.33, CRC/C/8/Add.37) was considered at the Committee's May 1998 session; the second periodic report was due 12 March 1998.

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

REPORTS TO TREATY BODIES

Committee on the Rights of the Child

The initial report of the Maldives (CRC/C/8/Add.33, March 1996) and a supplementary report (CRC/C/8/Add.37, July 1997) were considered by the Committee at its May 1998 session. The government report noted that almost 50 per cent of the population is comprised of children under 16 years of age and, in the reports, provided information on, *inter alia*: the Law on the Protection of the Rights of the Child 1991; the National Council for the Protection of the Rights of the Child; the Unit for the Rights of the Child (URC), established in 1992, headed by the Minister of Women's Affairs and Social Welfare and cases referred to the URC; training programmes for professionals working with and/or for children; the definition of the child and minimum legal ages; non-discrimination and the traditional perception and role of women and their impact on girls; the Law on Registration of Births and Deaths; parental responsibilities, rights and duties; child support and maintenance; children deprived of a family environment, adoption, illicit transfer and non-return; basic health and welfare; children with disabilities, and the policy of community-based rehabilitation to address disability; health and health services; social security and child care; the education system, modern and traditional; the juvenile justice system; a proposal to establish a national residence for girls separated from their families or without family; and a proposal to draft and adopt a "Family Law".

The Committee's concluding observations and comments (CRC/C/15/Add.91) noted that the enactment of the Law on the Protection of the Rights of the Child provided a basis for the development of more comprehensive legislation. The establishment of the National Council for the Protection of the Rights of the Child, and the Unit for the Rights of the Child (URC) within the Ministry of Women's Affairs and Social Welfare was welcomed.

In terms of factors impeding the implementation of the Convention, the Committee noted the geographical configuration of the Maldives, comprising 1,190 islands, out of which only approximately 200 are inhabited, the relatively small population composed of a number of different and isolated communities, as well as changes in the economic structures and rapid population growth.

The principal subjects of concern identified by the Committee included: the need to harmonize fully the Law on the Protection of the Rights of the Child and other domestic legislation with the principles and provisions of the Convention; the lack of a specific mechanism to monitor progress in all areas covered by the Convention, and in relation to all groups of children, especially the most

vulnerable ones, in urban and rural areas; the lack of participation of civil society in designing and implementing policies and programmes for children; the insufficiency of measures taken to disseminate the Convention and to train professionals working for, and with, children on the provisions and principles of the Convention, as well as the translation of the Convention into the Maldivian language (Dhivehi); the lack of clarity on the status of children aged between 16 and 18 years; the low minimum ages for marriage and criminal responsibility; the insufficient measures adopted to ensure the full enjoyment by girls and children with disabilities of the rights recognized in the Convention; the situation of children born out of wedlock, especially with regard to their right to inheritance; and the existing disparities between children living on the capital island and those living on remote islands.

The Committee expressed concern over: the insufficient awareness of, and lack of information on, ill treatment and abuse, including sexual abuse both within and outside the family, insufficient legal protection measures, inappropriate resources, both financial and human, and the lack of adequately trained personnel to prevent and combat such abuse; and the insufficiency of rehabilitation measures for such children and their limited access to justice. Concern was expressed as well about: the high rate of divorce and its possible negative impact on children; the lack of research and studies on the harmful consequences on children of divorces and early marriages, as well as the insufficient measures to create public awareness on the detrimental effects of divorce; the insufficient alternative care measures for children deprived of a family environment; the prevalence of malnutrition (stunting and iron deficiency), high maternal mortality rate, and the limited access to safe water and adequate sanitation; problems of adolescent health, in particular the high and increasing rate of early pregnancies, the lack of access by teenagers to reproductive-health education and services, the insufficient preventive measures against HIV/AIDS; and the insufficient measures to promote breast-feeding of children, especially in health facilities.

With regard to the situation of children with disabilities, the Committee expressed concern at the insufficient measures taken to ensure effective access of these children to health, education and social services, and to facilitate their full inclusion into society, as well as the small number of well-trained professionals working with, and for, children with disabilities.

Further areas of concern identified by the Committee included: the fact that education is not compulsory by law, the high drop-out rate between primary and secondary school, the shortage of trained teachers, the existing gender disparities in secondary school enrolments and disparities in the access to education between the capital and the atolls; the insufficient measures undertaken to address issues related to drug abuse; the insufficient preventive measures, including legal ones, to avoid the emergence of child labour and economic exploitation, including sexual exploitation; the lack of

preventive measures, including legal ones, concerning child prostitution, child pornography, trafficking and sale of children; and the fact that juvenile offenders between 16 and 18 years are considered as adults.

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

- ♦ consider reviewing its reservations to the Convention with a view to withdrawing them; engage in a comprehensive reform of legislation in order to ensure its full conformity with the principles and provisions of the Convention; accede to other major international human rights treaties – including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Convention against Torture – which all have an impact on the rights of the child;
- ♦ strengthen and extend the activities of the Coordinating Committee on Children; develop a comprehensive system of collecting disaggregated data, in order to gather all necessary information on the situation of children in the various areas covered by the Convention;
- ♦ consider the establishment of an independent mechanism to fully monitor the implementation of the Convention, especially for the most vulnerable groups of society;
- ♦ facilitate the establishment of NGOs working with and for children, and cooperate with them;
- ♦ pursue its efforts for the dissemination of the principles and provisions of the Convention and provision of training to all professional groups working with and for children;
- ♦ raise the legal age of definition of the child and review the legal minimum ages for marriage and criminal responsibility;
- ♦ take a more pro-active approach to eliminate discrimination against girls, children with disabilities, children living on remote islands, and children born out of wedlock; enact and implement its National Policy on Women, which may bear a positive impact on the status of girls;
- ♦ take all appropriate measures to prevent and combat ill treatment within the family and sexual abuse of children; set up social programmes to prevent all types of child abuse as well as to rehabilitate child victims; strengthen law enforcement with respect to such crimes; and develop adequate procedures and mechanisms to deal with complaints of child abuse, such as special rules of evidence, and special investigators or community focal points;
- ♦ accelerate the enactment of its Family Law; undertake research and studies on the negative impact of family disruption on children; continue with its awareness-raising campaign on this issue; improve counselling services for parents;

- ♦ consider establishing alternative care measures, such as kafalah, for children deprived of a family environment;
- ♦ promote adolescent health policies and programmes by, *inter alia*, strengthening reproductive-health education and counselling services as well as improving preventive measures to combat HIV/AIDS; undertake a comprehensive and multi-disciplinary study to understand the scope of the phenomenon of adolescent health problems, including the negative impact of early marriages; make further efforts — both financial and human — such as the development of counselling services for both young people and their families, for the prevention and care of adolescents' health problems and for the rehabilitation of victims;
- ♦ develop early identification programmes to prevent disabilities, implement alternative measures to the institutionalization of children with disabilities, envisage awareness-raising campaigns to reduce their discrimination, establish special education programmes and centres, and encourage their inclusion in society; undertake research on the causes of disabilities;
- ♦ make primary education compulsory and available free to all, improve the training of school teachers and the access to education of the most vulnerable groups of children, including girls and children living on remote islands;
- ♦ take preventive measures, including legal reform, to prevent and combat the sexual exploitation of children, including through pornography, prostitution, trafficking and sale;
- ♦ strengthen efforts to prevent and combat drug and substance abuse among children, and take all appropriate measures, including public information campaigns in and outside the schools; support rehabilitation programmes for child victims of drug and substance abuse; and
- ♦ accelerate the adoption of special procedures for children, with regard to the administration of juvenile justice, especially for those between 16 and 18 years who are currently considered adults; establish special courts for children and review the provision of legal counselling for children in care centres.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

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

The report notes that information was sent by the Working Group to the government but no details of the case or cases were provided.

Torture, Special Rapporteur on: (E/CN.4/1998/38, para. 131; E/CN.4/1998/38/Add.1, paras. 234–235)
Two urgent appeals were sent related to detention in a Dhooindhoo detention centre. In the second case, the person concerned was reportedly charged with business irregularities. Information indicated that he was initially subjected to solitary confinement, long periods of sleep deprivation, and denial of adequate food and medicine. He was eventually transferred to house arrest, apparently incommunicado. No additional details were provided.



MARSHALL ISLANDS

Date of admission to UN: 17 September 1991.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: The Marshall Islands has submitted a core document (HRI/CORE/1/Add.95) for use by the treaty bodies.

Rights of the Child

Signed: 14 April 1993; ratified: 4 October 1993.
Marshall Islands has submitted its initial report (CRC/C/28/Add.12) which is pending for consideration at the Committee's January 2001 session; the second periodic report is due 2 November 2000.



MICRONESIA, FEDERATED STATES OF

Date of admission to UN: 17 September 1991.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Micronesia has submitted a core document (HRI/CORE/1/Add. 72) for use by the treaty bodies. The report prepared by the government contains mainly demographic and statistical data and some information on the political system related to self-government and the relationship with the United States in defence matters. The report notes that the Constitution guarantees fundamental rights and establishes the separation of judicial, executive and legislative powers.

Rights of the Child

Acceded: 5 May 1993.
Micronesia's initial report (CRC/C/28/Add.5) was considered at the Committee's January 1998 session; the second periodic report is due 3 June 2000.

REPORTS TO TREATY BODIES

Committee on the Rights of the Child

Micronesia's initial report (CRC/C/28/Add.5, April 1996) was considered by the Committee at its January 1998 session. The report prepared by the government notes that the extended family, once the most effective social and community network operating in the country, is being eroded under the influence of changing social and economic conditions. The government states that, despite this, the nurturing of children into adulthood remains a shared responsibility involving all members of the extended family. The report contains statistical and demographic data on population, health and education, as well as information on, *inter alia*: the law on public health, safety and welfare; the Law on Education; the draft national nutritional plan of action 1995–2004; the Second National Development Plan 1992–1996; the National Advisory Council on Children; the definition of the child, the age of majority and minimum age levels; provisions in the Bill of Rights related or relevant to children; the Child Abuse and Neglect Programme (CAN), established in 1991; basic health and welfare; the suicide rate among children, adolescents and young adults; health and the environment; children with disabilities and special educational needs; population and economic trends and the composition of the labour force; education and schools, the decentralized educational system; child labour; the system of juvenile justice; leisure, recreation and cultural activities, the Substance Abuse Programme; and sexual exploitation and abuse.

The Committee's concluding observations and comments (CRC/C/15/Add.86) welcomed the establishment of the 1995 President's National Advisory Council of Children (PNACC), but noted the lack of an operational budget for the Council, its lack of human resources, and its unclear role in relation to the monitoring of all areas covered by the Convention and in relation to all groups of children. The Committee also welcomed the establishment of the State-level Advisory Councils for Children and the fact that draft legislation on sexual abuse and exploitation of children was under consideration by Congress. The geographical configuration of Micronesia, comprising 607 islands, the relatively small population composed of a number of different and isolated communities, and the changes in the economic structures were acknowledged as impediments to implementation of the Convention.

The principal subjects of concern identified by the Committee, included: the absence of legislation regulating child labour providing for a minimum age for employment; the absence of a clear definition of the minimum age for criminal responsibility; the low minimum age for sexual consent; the lack of harmonization between the different ages of sexual consent among the four states; the lack of legislation on neglect, abuse and sexual exploitation; possible conflicts between customary and statutory law, in particular for marriage and adoption; the fact that the National Plan of Action for Children (1995–2004) was still in a draft form; the disparities between the different states' legislation and practices,

and insufficient coordination between the central government and the four federated states; the insufficiencies of measures adopted to promote widespread awareness of the principles and provisions of the Convention for both adults and children; and the lack of adequate and systematic training for professional groups working with and for children.

Concern was also expressed over: the lack of conformity of the birth registration system with article 7 of the Convention, as well as the lack of reliability of the death registration system; the insufficient measures adopted to ensure the full enjoyment by girls of the rights recognized in the Convention; the discrimination between girls and boys with regard to the minimum age of marriage, as well as the possibility for girls to marry at an earlier age than 16; the existence of a caste system, especially in Yap state; the lack of appropriate measures to protect children from harmful effects of the print, electronic and audiovisual media, in particular violence and pornography; the insufficient awareness and the lack of information on ill treatment and abuse, including sexual abuse, both within and outside the family; the lack of adequately trained personnel to prevent and combat abuse; and the lack of rehabilitation measures for abused children and their difficult access to justice.

The Committee expressed concern about: lack of conformity in both customary and statutory adoption, including inter-country adoption, with the principles and provisions of the Convention; the prevalence of malnutrition and vitamin A deficiency as well as the limited access to safe water and adequate sanitation; problems of adolescent health, in particular the increasing and high rate of early pregnancies, the lack of access of teenagers to reproductive health education and services, the insufficient preventive measures on HIV/AIDS, as well as the insufficient sexual education at school; the high rate of suicides among teenagers, and the insufficiency of financial and human resources for its prevention; the incidence of drug and alcohol abuse among youth, the insufficient legal framework, as well as the insufficient social and medical programmes or services to address those issues; the fact that the school curriculum does not include education on the rights of the child; insufficient leisure opportunities; and the absence of a clear definition for minimum age for criminal responsibility, as well as the apparent absence of special legal procedures for juvenile offenders.

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

- initiate a comprehensive review of existing legislation, both at national and state levels, with a view to undertaking adequate legislative reform to ensure full conformity of legislation with the principles and provisions of the Convention;
- undertake all appropriate measures — including awareness raising campaigns — to harmonize customary practices and law, such as early marriage and adoption, with the principles and provisions of the

- Convention; ensure, in case of conflict between customary and statutory law, that the principles of non-discrimination and of the best interests of the child remain the primary considerations;
- ♦ envisage the adoption of a specific code or legislation for children and adolescents, with a separate section on children who need special protection;
 - ♦ enact the National Plan of Action and accede to other major international human rights treaties, especially those related to children;
 - ♦ provide the President's National Advisory Council for Children with adequate financial and human resources and broaden its composition; strengthen the capacity of the Council to ensure coordination between all levels; monitor and assess progress achieved and difficulties encountered in the realization of the rights recognized by the Convention, and in particular to monitor regularly the impact of economic transition on children;
 - ♦ to the extent possible, incorporate the Convention into the school curriculum and continue to develop appropriate material to promote the Convention;
 - ♦ continue efforts in providing training to professional groups working with and for children and strengthen its cooperation with NGOs;
 - ♦ take measures to improve birth and death registration;
 - ♦ provide the Committee with additional information on the caste system;
 - ♦ undertake a study with a view to adopting all measures, including legal ones, to protect children from harmful effects of the print, electronic and audiovisual media, in particular violence and pornography;
 - ♦ encourage possible complementary initiatives, such as youth peer counselling groups in schools, strengthening community awareness programmes on youth problems — such as alcohol and suicide — and parental education programmes, taking into account the changes occurring in the institution of the "extended family";
 - ♦ take all appropriate measures, including revision of legislation, to prevent and combat ill treatment within, *inter alia*, the family and institutions, and sexual abuse of children; initiate a comprehensive study on abuse, ill treatment and domestic violence, and strengthen social programmes to prevent all types of child abuses as well as to rehabilitate the child victims; develop adequate procedures and mechanisms to deal with complaints of child ill treatment;
 - ♦ bring legislation on adoption, as well as the practice of customary adoption, into conformity with the principles and the provisions of the Convention;

- ♦ continue efforts in combatting malnutrition and vitamin A deficiency; promote adolescent health policies by strengthening reproductive health education and services; undertake a comprehensive and multi-disciplinary study on the scope of the phenomenon of adolescent health problems, such as early pregnancies and suicide;
- ♦ develop cultural, artistic, recreational and leisure activities at schools;
- ♦ take further measures, including the enactment of a law, in relation to the minimum age of access to employment; undertake efforts to prevent and combat economic exploitation or any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development; pay particular attention to the conditions of children working with their families in order to protect them; and
- ♦ strengthen efforts to prevent and combat drug and substance abuse among children and support rehabilitation programmes concerning children victims.



MONGOLIA

Date of admission to UN: 27 October 1961.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Economic, Social and Cultural Rights

Signed: 5 June 1968; ratified: 18 November 1974.

Mongolia's third periodic report (E/1994/104/Add.21) has been submitted and is pending for consideration at the Committee's November 2000 session; the fourth periodic report is due 30 June 1999.

Reservations and Declarations: Paragraph 1 of article 26.

Civil and Political Rights

Signed: 5 June 1968; ratified: 18 November 1974.

Mongolia's fourth periodic report has been submitted (CCPR/C/103/Add.7) but is not yet scheduled for consideration; the fifth periodic report is due 4 April 2000.

Reservations and Declarations: Paragraph 1 of article 48.

Optional Protocol: Acceded: 16 April 1991.

Racial Discrimination

Signed: 3 May 1966; ratified: 6 August 1969.

Mongolia's 11th through 15th periodic reports were submitted as one document (CERD/C/338/Add.3) which is scheduled for consideration at the Committee's March

1999 session; the 16th periodic report was due 5 September 1998.

Reservations and Declarations: Paragraph 1 of article 17.

Discrimination against Women

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

Mongolia's third, fourth and fifth periodic reports were due 3 September 1990, 1994 and 1998 respectively.

Rights of the Child

Signed: 26 January 1990; ratified: 5 July 1990.

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

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Religious intolerance, Special Rapporteur on:

(E/CN.4/1998/6, paras. 48, 50, 60, 61, 64, 69)

The report refers to violations of freedom of religion or belief against Christianity. The report notes that Christians are experiencing a climate of intolerance, and refers to information indicating that bibles have been confiscated. With regard to conscientious objection, the report notes that the law does not seem to provide an alternative to military service.

FIELD OPERATIONS

The UN Human Rights Field Office in Mongolia was established in 1995. The headquarters is located in Ulaan Baator. Ms. Tsedeiin Hulan, National Coordinator, OHCHR Office, c/o UNDP, Ulaan Baator, Mongolia; Phone: (976-1) 326-458; Fax: (976-1) 321-676; e-mail: unchrmon@magicnet.mn.

The first Technical Cooperation Programme, launched in September 1994, had as its primary objective strengthening the independence of the judiciary through provision of human rights training, and general human rights documentation and education. On 21 March 1996, a Memorandum of Intent was signed by the government of Mongolia and the OHCHR to continue the programme until 28 March 1997, with the objectives of improving the administration of justice, institution building, human rights information and education and strengthening of civil society. An evaluation mission, carried out in June 1997, concluded that the project had had a beneficial impact on human rights awareness and that further attention should be given to the means by which the population exercised its rights. Another area of need identified by the experts was prison reform. The government subsequently requested that technical cooperation with OHCHR continue. In August 1997 the OHCHR Senior Policy Committee decided that the office in Ulaan Baator should be kept open and a new project formulated.

The current project, agreed in May 1998, is based on the recommendations of the independent mission. It is to last one year and is fully funded by the Voluntary Fund for Technical Cooperation. The long-term objective of the project is to strengthen Mongolia's capacity to integrate further constitutional and international human rights standards into national practice.

The main activities carried out as of August 1998 were concentrated in three fields and included:

- ♦ raising awareness of human rights within civil society — a training course on international norms of human rights; publishing a university-level textbook on human rights law; developing a human rights curriculum; sponsoring two academic fellowships in human rights; developing human rights standards for use by television and radio; and supporting the commemoration of the 50th anniversary of the Universal Declaration;
- ♦ establishing a functioning National Human Rights Commission — training and a study-tour for the members of the Commission; financial support for the Commission's newsletter; and provision of an international legal expert to advise on the work of the Human Rights Commission; and
- ♦ reform of the prison system — revising national legislation on the administration of the penitentiary system and on the treatment of prisoners; training prison staff; workshops on the human rights of prisoners; and preparing written and audio-visual material on these issues.



NAURU

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

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Rights of the Child

Acceded: 27 July 1994.

Nauru's initial report was due 25 August 1996.



NEPAL

Date of admission to UN: 14 December 1955.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Nepal has submitted a core document (HRI/CORE/1/Add.42) for use by the treaty bodies. The report prepared by the government contains demographic and statistical data and information on the general political structure, including the steps taken to establish a parliamentary democracy, and the general legal framework for the protection of human rights.

The Constitution sets out the framework for the protection of human rights, including remedies. The protection and promotion of human rights is one of the Directive Principles of the state and binds the state to the promotion of rights related to rule of law, the maintenance of order in society, education, health, housing and employment, cultural diversity, greater participation by women through special provisions related to education, health and employment, children's rights and legal aid for indigent persons. There are 75 district courts, 11 appellate courts and one Supreme Court in Nepal and, in cases where there is a divergence between national law and provisions of international treaties to which Nepal is a state party, the provisions of the treaty are applied.

Economic, Social and Cultural Rights

Acceded: 14 May 1991.

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

Civil and Political Rights

Acceded: 14 May 1991.

Nepal's second periodic report was due 13 August 1997.

Optional Protocol: Acceded: 14 May 1991.

Second Optional Protocol: Acceded: 4 March 1998.

Racial Discrimination

Acceded: 30 January 1971.

Nepal's ninth through 13th periodic reports have been submitted, as one document (CERD/C/298/Add.1) which was considered at the Committee's August 1998 session; the 14th periodic report was due 1 March 1998.

Reservations and Declarations: Paragraphs (a), (b) and (c) of article 4; article 6; and article 22.

Discrimination against Women

Signed. 5 February 1991; ratified: 22 April 1991.

Nepal's initial and second periodic reports were due 22 May 1992 and 1996 respectively.

Torture

Acceded: 14 May 1991.

Nepal's second periodic report was due 12 June 1996.

Rights of the Child

Signed: 26 January 1990; ratified: 14 September 1990.

Nepal's second periodic report was due 13 October 1997.

REPORTS TO TREATY BODIES

Committee on the Elimination of Racial Discrimination

Nepal's 9th through 13th periodic reports were submitted as one document (CERD/C/298/Add.1, May 1997) which was considered by the Committee at its August 1998 session. The report prepared by the government contains demographic and statistical data, as well as information on, *inter alia*: relevant provisions in the 1990 Constitution, the system and structure of government; the caste system and the ethnic/caste composition of the population; the Muluki Ain (National Code) 1963, replacing the previous code based on the Manusmriti that had formalized and legalized caste discrimination; establishment of the national Human Rights Commission; the Ninth Plan, covering all aspects of development, 1998–2003; the contribution of non-governmental and international organizations; dissemination of information on human rights issues in Nepal; the situation of the Rautes; bonded labour (Kamaiya system), social security and development, women in development; the Assembly and Association Act 1949, creating offences of racial violence and incitement to racial hatred; equality before the law and security of person; efforts to abolish the Deuki system, a tradition in west Nepal in which girls are forced into the sex trade after being offered to a temple; nationality and citizenship; the right to marriage and choice of spouse, inheritance rights; freedom of thought, conscience and religion; freedom of opinion, expression, assembly and association; protection of economic, social and cultural rights; education, access to education, the education system; equal participation in cultural activities; and remedies and compensation.

The Committee's concluding observations and comments (CERD/C/304/Add.61) referred to factors impeding implementation of the Convention and noted that Nepal is one of the least developed countries of the world and a highly multi-ethnic and multi-cultural society. Note was also made of the widespread poverty and the presence of a large number of refugees from neighbouring countries.

The Committee welcomed, *inter alia*: the enactment of the 1990 constitution which guarantees basic human rights to every citizen, creates a constitutional monarchy and a system of multi-party democracy, and establishes an independent judiciary; incorporation of the Convention in the Constitution; enactment of the law establishing a Human Rights Commission; the establishment of the Parliamentary Foreign Affairs, Human Rights, Population and Social Committees; the government's openness and willingness to collaborate with NGOs in efforts to eliminate racial discrimination; and the willingness of the government to disseminate its report, as well as the concluding observations of the Committee, among NGOs and the public at large.

Principal subjects of concern identified by the Committee included, *inter alia*: the lack of clarity in the information provided on the demographic composition of Nepal and, in particular, on the composition of the population according to caste, religion and geographical regions; noting that the caste system has been abolished by law, that the system still functions and appears embedded in parts of the Nepalese culture; the limitation the caste system imposes on the realization by all groups of the rights set out in article 5 of the Convention; the lack of clarity concerning the jurisdiction of the Supreme Court vis-a-vis lower courts in cases of racial discrimination; the possibility that members of the public may not be sufficiently aware of the protections against racial discrimination provided by the Convention and by local remedies; and the situation and conditions of the 100,000 refugees from Bhutan in Nepal.

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

- ♦ provide further information in the next report on the demographic composition of the population and on implementation of practical measures to eradicate the practice of the caste system;
- ♦ provide comprehensive information in the next report on the realization by all groups of the rights under article 5 of the Convention, in particular concerning participation in public life and enjoyment of economic, social and cultural rights; consult national or ethnic minority associations on their experiences regarding these matters;
- ♦ provide in the next report information on the existing legal mechanisms available to lodge complaints in cases of racial discrimination, including information on the role of the Supreme Court and lower courts, as well as the legal aid system; provide information on measures undertaken or envisaged for improving public awareness of the Convention;
- ♦ provide more information on the composition and activities of the Human Rights Commission and the parliamentary committees noted above, as well as the result of their activities in the elimination of racial discrimination;
- ♦ take all necessary measures to ensure the training and education of law enforcement officials, teachers, social workers, and students in the prevention of racial discrimination and to include the teaching of human rights in school curricula; and
- ♦ fully observe the human rights of refugees and displaced person of Bhutan and negotiate with the government of Bhutan towards a peaceful solution.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 282–284)

No new cases of disappearance were transmitted to the government. Four of the five outstanding cases occurred in 1985 and concerned four men who reportedly disappeared from police custody. The report notes that in late 1984, a series of nationwide political protests started in Nepal and, in June 1985, following bomb explosions in Kathmandu and other cities, numerous persons were reportedly arrested and some of them were allegedly held in incommunicado detention for several months. The one other case of reported disappearance pending is said to have occurred in 1993, and concerned a student who allegedly disappeared in Kathmandu. No new information was received from the government with regard to these cases. As a consequence, the Working Group was unable to report on the whereabouts of the disappeared persons.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 14, 15, 18, 32, 36, 61, 68; E/CN.4/1998/68/Add.1, paras. 289–293)

The Special Rapporteur (SR) referred to information indicating that since February 1996, when the Communist Party of Nepal (CPN) formally declared a “people’s war”, the human rights situation has seriously deteriorated. According to the information received, the number of violations of the right to life sharply increased, with police repeatedly resorting to the use of lethal force in situations where such force was unjustified and used as an alternative to arrest. Reports were also received of persons who had died as a result of torture, or were otherwise killed in police custody.

Victims reportedly included persons suspected of being members or sympathizers of the CPN or its political wing, Samyukta Jana Morcha (SJM), members of the Magar tribal community, members of lower Hindu castes, lawyers, teachers, and juveniles. The SR acknowledged that armed activists were also responsible for deliberate killings of civilians declared by them to be “enemies”. These included landowners and local politicians of mainstream parties, particularly in the mid-western region.

The cases transmitted to the government related to, *inter alia*: death in custody as a result of torture; death as a result of excessive use of force by members of the police — for example, a 14-year-old student who was shot and killed when police fired into a group of children protesting against the arrest of their headmaster; and, deliberate killings by members of the police.

The report notes that no reply had been received from the government to the allegations transmitted during 1996 and 1997. The SR expressed concern about the considerable number of allegations received concerning violations of the right to life committed by members of the police, noting particularly the killing of the 14-year-old schoolboy. The SR also called on the government to investigate the allegations, bring those responsible to justice, provide compensation to the victims' families, and take the necessary steps to prevent future violations in accordance with, *inter alia*, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the Basic Principles for the Treatment of Prisoners, and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

Religious intolerance, Special Rapporteur on:

(E/CN.4/1998/6, paras. 48, 50, 60, 64, 95)

The report refers to violations of freedom of religion or belief against Christianity. The report notes an atmosphere of intolerance and information indicating that Christian religious material was apparently destroyed by Hindus.

Sale of children, child prostitution, child pornography, Special Rapporteur on the:

(E/CN.4/1998/101, paras. 126)

In the section concerning education in the prevention of sexual exploitation of children — and noting that it must place an emphasis on negotiating skills, building self-confidence, making the right decisions and resisting peer pressure — the report refers to several initiatives in Nepal. These projects include: songs which have been used to raise community awareness of the problem of child trafficking, especially among children; a musical play on the same subject staged in Kathmandu for three days; and a radio drama about child prostitution and child labour planned to be produced and broadcast nationwide by Radio Nepal. In 1996 a case study was conducted on a community education project and focussed on certain aspects of community education programmes in the prevention of commercial sexual exploitation of children, namely, objectives, main components, strengths and weaknesses, key implementing actors, the role of children, policies, and community mobilization.

Torture, Special Rapporteur on:

(E/CN.4/1998/38, paras. 143–146;

E/CN.4/1998/38/Add.1, paras. 269–279)

The report notes that information continued to be received related to persons suspected of being members or sympathizers of the Communist Party of Nepal (Maoist) or its affiliate, the Samyukta Jana Morcha (SJM), who were subjected to torture or other ill treatment following arrest, especially in the mid-western region of Nepal. The methods of torture reported to be used most frequently were beatings on the soles of the feet (*falanga*), and the application of rollers, usually in the form of a weighted bamboo cane, down the legs of the victim (*belana*). The March 1997 reply from the government denied the allegations transmitted in 1996 related

to ill-treatment of Maoist political activists, reports of repeated beatings, beatings to the soles of the feet, the placing of nettles on the body, and the use of rollers on the thighs, as well as incommunicado detention for over 24 hours. The Special Rapporteur stated that the consistency of allegations of torture and ill-treatment indicated a pressing need for the government to ensure scrupulous investigations of the cases concerned and to put in place measures that will avoid law enforcement officials having a sense of impunity when they resort to criminal methods in the course of their work.

In June 1997, individual cases were transmitted to the government related to, *inter alia*: arrest on suspicion of involvement in an attack on a police post followed by ill treatment; actions against three persons aged 14, 17 and 18 who were ordered to strip naked, then raped by police officers following an attack by the police on a suspected SJM house; arrest of a member of the SJM party, followed by torture and detention in solitary confinement; the arrest of nine students while attending an event sponsored by the SJM-affiliated All Nepal National Free Students Union (Revolutionary), at Amale, Sindhuli district, followed by threats and ill treatment, noting that in one case the court ordered a medical examination but no action was taken against the officers responsible for the ill-treatment; arrest by police from Mahendra Jashadi police post, and ill treatment resulting in a leg fracture, noting that police reportedly denied the victim medical treatment for seven days; actions by the police calling in a number of farmers to the Khadre temporary police post following a fight with supporters of the Nepali Congress Party, noting that when a number of those called in refused to sign a document relating to a settlement of the dispute they were allegedly beaten with batons and kicked and, further, that one of those beaten and kicked reportedly died as a result of the ill treatment; and the arrest of four persons accused of stealing timber, followed by torture, including electric shocks and use of *falanga*. The report also notes the arrest of a board member of the Nepal Blind Association, along with 28 other persons during a demonstration held in Kathmandu on behalf of persons with disabilities. The report states that the detainees were reportedly taken to Mahendra police club where police allegedly destroyed the walking sticks of the blind persons, noting that the representative of the Nepal Blind Association was physically abused for over two hours, including being kicked in the chest, beaten with a cane on the thighs, threatened with death and forced to sign a document which was not read to him.

In its reply to information transmitted in 1996, related to police operations against Maoist political activists, the government stated: 16 arrests were made after disturbances in Rolpa district; a court order had been issued allowing the release of five persons but they remained in detention as they had not yet submitted the necessary bail; and 10 unspecified persons had been ordered by the court to remain in detention. The government denied the allegations of torture.

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

Referring to violence against refugee and internally displaced women, the report cites the case of a 22-year-old Tibetan woman, in flight from China via Nepal to India, who was reportedly raped 12 times by a group of Nepalese men led by a police officer. The multiple rape was said to have taken place on the outskirts of Barabisa, 90 km north-east of Kathmandu, and the victim required treatment in hospital. Information indicated that the Nepalese authorities had initiated an investigation after being notified of the incident, but at the time the report was prepared no action appeared to have been taken to bring the perpetrators to trial. The report also refers to information related to a group of Tibetans, in flight from China via Nepal to India, who were detained at Chogsham police post in Lama Bhagar, and efforts by 12 male police officers to persuade a Tibetan man to provide a girl from his group for sexual services in return for safe passage to Kathmandu. The group refused to cooperate and was later released after handing over 8,000 yuan to the officers.



NIUE

Date of Admission to UN: Niue is not a member of the UN.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Rights of the Child

Acceded: 20 December 1995.

Niue's initial report was due 18 January 1998.



OMAN

Date of admission to UN: 7 October 1971.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Rights of the Child

Acceded: 9 December 1996.

Oman's initial report is due 1 April 1999.

Reservations and Declarations: Paragraph 4 of article 9; articles 7, 14, 21 and 30.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

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

The report notes that one urgent appeal on behalf of one person was transmitted to the government. No details of the case were provided.

Religious intolerance, Special Rapporteur on: (E/CN.4/1998/6, paras. 48, 50, 58, 63, 69, 84)

The report refers to violations of freedom of religion or belief against all religions, and all religious groups and communities, except the official religion and refers to information indicating that non-Muslims are subjected to restrictions in religious matters, including a ban on any proselytizing of Muslims by non-Muslims, and a prohibition on the local publication of non-Muslim religious material. The government responded to information transmitted by the Special Rapporteur, asserting that legislation guaranteed freedom of religion and "religious observance".



PAKISTAN

Date of admission to UN: 30 September 1947.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Racial Discrimination

Signed: 19 September 1966; ratified: 21 September 1966. Pakistan's 15th periodic report was due 4 January 1998.

Discrimination against Women

Acceded: 12 March 1996.

Pakistan's initial report was due 11 April 1997.

Reservations and Declarations: General declaration; paragraph 1 of article 29.

Rights of the Child

Signed: 20 September 1990; ratified: 12 November 1990. Pakistan's second periodic report was due 11 December 1997.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

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

The report notes that two urgent appeals on behalf of four persons were sent to the government. No details of the cases were provided but the government reply indicated that the four had either never been detained, or had been released.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 289–292)

No new cases of disappearance were transmitted to the government. The majority of the 60 cases of disappearance transmitted in the past concerned members or sympathizers of the political party Mohajir Qaomi Movement (MQM), who were allegedly arrested in Karachi by the police or security forces during 1995. Most of the other reported cases allegedly occurred in 1986, and between 1989 and 1991, and concerned persons of Afghan nationality with refugee status in Pakistan, most of whom were said to have been affiliated with the "Harakate Inghilabe Islami" party of Afghanistan. The abductions reportedly took place in Peshawar, North-West Frontier Province, by persons belonging to a rival party, the "Hezb-e-Islami Afghanistan". Four other cases reportedly occurred in 1996, and concerned members of one family who were allegedly abducted from their home in Islamabad by agents of the military intelligence.

During the period under review, no new information was provided by the government with regard to the outstanding cases.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 14, 15, 18, 32, 34, 39, 68, 88, 92; E/CN.4/1998/68/Add.1, paras. 303–310)

Concerning the death penalty, the Special Rapporteur (SR) referred to information received indicating that: death sentences may be imposed in trials which do not to meet minimum fair trial standards, noting that trials before Special Courts for the Suppression of Terrorist Activities do not proceed from the presumption of innocence; by law, women charged with unlawful sexual relations (zina) may be sentenced to the hadd punishment of stoning to death without a woman's testimony being taken into account; the Qisas and Diyat Ordinance (1990) severely limits the possibility of those sentenced to death of having their sentences commuted to life imprisonment by declaring that qisas — punishment commensurate to the crime committed — shall not be commuted by the federal or provincial authorities without the consent of the heirs of the victim; death sentences imposed as hadd punishments can no longer be commuted by the federal government or the President as originally provided for in the Code of Criminal Procedure. The SR noted that in June 1995 the federal government approved the draft Child Offenders Bill, which reportedly envisages that no

person below the age of 16 may be sentenced to death. The bill was reported to be pending before Parliament. The report refers to concerns about the imposition of the death sentence on juveniles as of the age of 16, and notes that the provision violates article 37 (a) of the Convention on the Rights of the Child, which has been ratified by Pakistan. Reference is also made to the International Covenant on Civil and Political Rights, the UN Standard Minimum Rules for the Administration of Juvenile Justice (The "Beijing Rules"), and the Safeguards guaranteeing protection of the rights of those facing the death penalty.

The SR continued to receive numerous allegations regarding violations of the right to life committed by law enforcement officials, mostly related to Mohajir Quami Movement (MQM) members, workers or sympathizers who died in custody, often as a result of torture, or in staged armed encounters with the police. An allegation was also transmitted to the government regarding the killing of the Chairman of the Pakistan People's Party, an opposition party, along with six other persons in an ambush by some 100 policemen close to the Chairman's home in Karachi.

The SR expressed regret that the government has not replied to any of the allegations regarding violations of the right to life transmitted during 1995, 1996, and 1997, as well as concern over the high number of reports received regarding extrajudicial, summary or arbitrary executions, including deaths in custody. The SR called on the government to investigate these allegations, to bring those responsible to justice, to provide compensation to the victims' families, and to take the necessary steps to prevent future violations of the right to life.

Independence of judges and lawyers, Special Rapporteur on the: (E/CN.4/1998/39, paras. 14, 17, 18, 19, 121–131)

An urgent appeal was sent in October 1997 following the killing of a retired judge who had, while serving on the bench, acquitted two Christian brothers accused of blasphemy in a highly publicized case in 1995. Information indicated that the judge had received a series of threats from Muslim extremists during the campaign to impose the death penalty on persons convicted of blasphemy. The report also notes that at least seven judges and lawyers who had provided legal aid to people accused of blasphemy were reported to have been targeted in drive-by shootings and assassinations, including a lawyer who is a founding member of Pakistan's Human Rights Commission.

A second urgent appeal was sent in November 1997 on behalf of the Senior Advocate of the Supreme Court of Pakistan and outgoing President of the Supreme Court Bar Association, who was allegedly intimidated and threatened with death by three workers for the ruling party, the Pakistan Muslim League (PML). According to the source, the assault was in response to the Senior Advocate's opposition to the policy of the PML on the judiciary and the independence of the Bar. Information

indicated that the PML Lawyers Forum had demanded, through the press, that the Senior Advocate be tried for high treason and sedition.

The government replied that the murder of the retired judge was under investigation, and retaliation for the verdict acquitting the two Christian brothers had not been ruled out. With regard to the situation of the Senior Advocate, the government provided information from the Advocate stating that he had been hit by an individual following a harsh exchange of words, had forgiven the assailant, and had never filed a complaint.

Racism and racial discrimination, Special Rapporteur on: (E/CN.4/1998/79, para. 37)

The report refers to information indicating that the Mohajirs, refugees who came from India at the time of partition, are exposed to xenophobic attacks by the Pakistani authorities and are illegally dispossessed of their property. At election time Mohajir candidates are allegedly the victims of acts of violence, and their supporters are regularly kidnapped and tortured in secrecy. The allegations were transmitted to the government in November 1997.

Religious intolerance, Special Rapporteur on: (E/CN.4/1998/6, paras. 17, 23, 29, 48, 50, 64, 66, 94)

The report refers to violations of freedom of religion and belief against Christianity and Ahmadis through, for example, a reported decision of a court transferring ownership of an Ahmadi place of worship to non-Ahmadis, and police action in Karachi breaking up a peaceful demonstration by Christians who were protesting against the destruction of Christian properties, including churches. Reports were also received related to harassment, threats, arrests, detentions, and murders.

Torture, Special Rapporteur on:

(E/CN.4/1998/38, paras. 149–153;
E/CN.4/1998/38/Add.1, paras. 291–299)

In November 1997, the Special Rapporteur (SR) advised the government that reports continued to be received, covering the situation under successive governments until June 1997, on the widespread use of torture and other cruel, inhuman, or degrading treatment or punishment. The SR noted that to some extent, torture appeared to have been facilitated by existing legislation and the occurrence of unlawful detention, and stated that the problem of impunity and effective collusion of government officials with non-state actors was also an important contributory factor.

Information indicated: torture, including rape, was often used by the police to intimidate, humiliate, or punish people in custody; many victims had died as a result, often without those allegedly responsible having been brought to justice; prisoners were frequently reported to have been denied basic facilities, including medical treatment; despite the 1996 announced partial ban on fetters, the use of bar fetters in prison continued in practice, and a recommendation for their abolition by the Law Com-

mission in June 1997 had not yet been acted on; whipping, although in most cases understood as abrogated by the Abolition of the Punishment of Whipping Act of 1996, remained applicable for certain offences under Islamic law; the Zina Ordinance of 1979 — which prescribes punishments considered cruel, inhuman and degrading under international law — was still applicable and could, due to its evidential requirements, expose female victims of rape to the risk of being charged with an unlawful sexual relationship; rape by influential people was said to have been ignored by the police; victims of torture faced problems when trying to register complaints with the police who were often said to have refused assistance; and complicity, acquiescence, and indifference of government officials in practice was claimed, in particular, by female victims of domestic violence and ill-treatment in the context of bonded labour and tribal retribution.

The SR acknowledged that many of the outstanding cases occurred before the present government was elected, but recalled that the state remains responsible for investigating earlier cases and bringing to justice those identified as responsible for acts of torture.

Individual cases sent to the government related to, *inter alia*: a Christian arrested by the police on the accusation of theft, followed by torture believed to have caused death, noting the family registered a complaint against four police officers claiming murder, but all suspects were released on bail, eventually acquitted and resumed their work; a member of the Mohajir Quami Movement (MQM) who was reportedly arrested by plain clothes personnel of the Crime Investigation Agency in Karachi, noting authorities claimed the person had died in an “encounter” with the police; a 55-year-old man who was reportedly stripped by the agents of a local landlord on the suspicion that his son had an illicit relationship with the daughter of the landlord, and beating of the victim’s male relatives by friends of the landlord — causing one death, noting a decision by the provincial high court to lay criminal charges against 16 persons and information stating that none of the accused were known to have been arrested; two adult sympathizers of the Revolutionary Association of Women of Afghanistan (RAWA), and three children between the ages of 12 and 14 years, who were arrested by men believed to be connected with the police after a peaceful RAWA demonstration in Islamabad on 28 April 1997, noting one of the adults arrested was severely beaten, warned to stop criticizing the Taliban, asked to reveal the whereabouts, addresses, and telephone numbers of RAWA leaders and reportedly dumped in a wood near Islamabad; and, a local mosque employee, and a 14-year-old student who were reportedly subjected to 75 and 32 lashes respectively, in front of a large crowd, for alleged homosexual acts in a public toilet, noting that their sentences were reportedly handed down by elders of the Afridi tribe, including a leading official of the political party Tanzeem Ittehad-e-Ulema-e-Qabail.

Additional information on a previously transmitted case was also sent to the government related to a founding

member of the political opposition party Sindh National Alliance, who died while in military custody. The authorities were said to have confirmed his death in military custody and, following the initial refusal of the police to register an official complaint, the High Court directed the police to register the First Information Report. Information indicated, however, that no investigation had been carried out, and the family had filed a petition in the High Court without results.

The SR also sent an urgent appeal on behalf of a journalist, who was arrested in June 1997. Two days after the arrest the Interior Minister reportedly stated that the journalist was in the custody of an unidentified government agency for providing classified documents to a neighbouring country. The High Court of Punjab was said to have ordered his appearance in court in July, but the government reportedly failed to bring him before court.

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

In commentary on pre-trial detention the Special Rapporteur (SR) referred to court lock-ups in which pre-trial prisoners wait for their cases to be called that day, and noted that in Pakistan such facilities tend to be used more readily to detain women. As a result, state facilities often house more women than men and many of these women are held illegally for days and nights on end despite the fact that they have not been arrested and are not awaiting trial.

On custodial violence, the report refers to murder, zina (sexual intercourse between partners not married to each other), blasphemy, rape, and hijacking, noting that they are some of the offences that receive the death penalty under the Hudood Ordinance. The SR stated that application of the death penalty is discriminatory since the testimony of women, whether they are the accused or the victim, is not heard. As a consequence, women have been sentenced to death by stoning for zina without the testimony of the woman ever being heard. The SR also stated that a pregnant woman may be sentenced to death without the assurance that the execution will be delayed until after the birth.



PALAU

Date of admission to UN: 15 December 1994.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Rights of the Child

Acceded: 4 August 1995.

Palau's initial report (CRC/C/51/Add.3) has been submitted and is pending for consideration by the Committee in 2001; the second periodic report is due 2 September 2002.



PALESTINIAN AUTHORITY

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 on behalf of one person was sent to the Palestinian Authority but no details of the case were provided.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 3, 13, 402–403)

For the first time, one case of disappearance was transmitted to the Palestinian Authority, which reportedly occurred in 1997. The case concerned a real estate agent and father of five children who reportedly disappeared following his arrest by members of the Palestinian military intelligence in Ramallah. At the time the report was prepared, no response had been received from the Palestinian Authority.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, Sections II.B, III.A, C, E, IV.A, B, H; E/CN.4/1998/68/Add.1, paras. 436–441)

Information indicated that in certain detention centres in Gaza and the West Bank, i.e. Jneid and Jericho, systematic torture and ill treatment were alleged to be taking place, and that between July 1995 and December 1996 at least nine persons in the custody of the Palestinian security services died as a result of torture. Despite the fact that investigations were said to have been conducted in some of these cases, the findings and conclusions of the investigations were never published. Members of the Palestinian Preventive Security Service (PSS), the Naval police (bahriyya), as well as members of the intelligence service (mukhabarat) appear to have been involved. The Special Rapporteur (SR) noted that in some cases, even when those responsible for the deaths had been brought to justice, information regarding the circumstances of the persons' deaths had not been made public.

Urgent appeals were sent on behalf of seven persons sentenced to death in cases in which sentencing occurred: in a single session, just 36 hours after detention, and

without the right to appeal; two days after their detention following a trial in which appointed counsel did not appear in court; and, following a trial in which the defendant had been tortured to extract a confession and his lawyers were intimidated by the authorities. Cases were also transmitted related to: deaths in custody as a result of torture; the death of an 11-year-old girl reportedly killed in Gaza during a shoot-out between rival members of the police and the PSS; death following nightly summonses for interrogation by members of the mukhabarat; and, deaths as a result of members of the PSS firing without warning on a civilian car.

The SR expressed concern about the numerous reports received concerning deaths in custody, especially when the deaths resulted from torture, and the use of the death penalty after trials alleged to fall short of international fair trial standards. The SR urged the authorities to investigate all alleged violations of the right to life, to bring those responsible to justice, and to provide compensation to the victims' families.

Torture, Special Rapporteur on:

(E/CN.4/1998/38, para. 219; E/CN.4/1998/38/Add.1, "Other communications")

An urgent appeal was transmitted to the Palestinian Authority on behalf of one person who was reportedly held in Jneid Prison in Nablus, and beaten on the legs by members of the Palestinian Preventive Security Service during interrogation. Information indicated that the man was said to have been interrogated throughout the night following a telephone call from Amnesty International to the prison directorate inquiring about his situation. Requests for access by his family and lawyer had reportedly been unsuccessful.

FIELD OPERATIONS

Following a request by the Palestinian Authority (PA), and consistent with the call of the UN Commission on Human Rights that the OHCHR provide technical assistance and advisory services to the PA, in April 1996 the OHCHR signed a technical cooperation agreement with the PA (PAL/95/AH/24, Support for the Rule of Law in Palestine). The agreement provides for the implementation of a comprehensive technical cooperation programme in the field of human rights in the Gaza Strip and the West Bank. The headquarters is located in Gaza. Amin Mekki Medani, Chief Technical Advisor, Halabi Street - Rimal, Gaza, c/o UNDP/PAPP, P.O. Box 51359, Jerusalem 95912; Phone: (972-72) 827-021; Fax: (972-72) 827-321; e-mail: ohchr@papp.undp.org.

The technical cooperation agreement was based on the outcome and recommendations of a needs assessment mission conducted by OHCHR. The programme, which is funded under the UN Voluntary Fund for Technical Cooperation in the Field of Human Rights, has a total budget of US\$3,205,223 and a duration of three years. It is an integral part of a larger international effort aimed at the social and economic development of the Occupied Territories, through the strengthening of Palestinian

institutional capacities in various sectors. The office in Gaza was established in November 1996 to implement programme activities in cooperation with Palestinian counterparts. The Office includes a staff of five — two international professionals, one national professional and two national support staff.

The programme focuses on institution building in the area of the rule of law and addresses three main areas: (a) establishing a legal framework consistent with human rights standards, through the provision of advisory services on legislation drafting and support to Palestinian institutions and organizations to conduct legal analysis work; (b) developing an official human rights policy, through assistance for the elaboration of a national plan of action on human rights; and (c) strengthening of national structures with a crucial role in protecting and promoting human rights, with special focus on the administration of justice through advisory services and training for police, prisons officials, judges, prosecutors and lawyers.

The main activities carried out as of August 1998 included:

- ♦ direct assistance to the Ministry of Justice and the Legislative Council in drafting new legislation related to prisons, judicial structures, the bar association, personal status, and persons with disabilities; two fellowships to Ministry of Justice staff for training in legal drafting techniques; and support for the Palestinian Independent Commission for Citizens' Rights (PICCR) and two Palestinian NGOs in how to conduct legal analysis;
- ♦ developing work plans in areas such as law enforcement, juvenile justice, the press, land, family, and others; a grant to the Bir Zeit Law Centre to conduct research into existing laws in force in Gaza and the West Bank with a view to formulating a conceptual framework for the formulation of future Palestinian legislation;
- ♦ the elaboration of a national plan of action for human rights in Gaza and the West Bank, entailing broad consultations within the community; the preparation of six strategy papers on different aspects of the plan; and a national workshop on formulation and implementation of the plan;
- ♦ consultations with the Ministry of Planning and International Cooperation (MOPIC) which is to assume a coordinating role within the PA for the development of the national plan; training for MOPIC officials in international human rights standards and procedures; and work with the Office of the Presidential Advisor on Human Rights (PAHR) with the objective of supporting its research and policy advice functions on human rights;
- ♦ work with the Police Training Directorate to develop a human rights curriculum for the Palestinian Police; delivery of two "train-the-trainers" courses in Gaza and Jericho for Palestinian Police Trainers;

- ♦ assistance to the Palestinian Police involved in training the senior level of police officers and in developing operational guidelines consistent with human rights standards; training courses for police commanders to familiarize them with international human rights standards and to promote the integration of human rights concerns into police command and management; continuing collaborative efforts to finalize relevant guidelines within each individual police branch;
- ♦ production of a "Pocket Guide on Human Rights Standards" for the Palestinian Police; providing human rights documentation and training equipment to the Police Directorate; production of a "Trainer's Guide on Human Rights and Law Enforcement" for the Palestinian Police and a video for use in future training activities;
- ♦ support to the Palestinian Independent Commission for Citizens' Rights (PICCR) to strengthen its field capacity (including its capacity to investigate and follow-up citizens' complaints, liaising with official authorities, institutions and the community, visits to detention centres, etc.) and increase accessibility to and knowledge of PICCR within the communities that it serves;
- ♦ assistance to the Palestinian Centre for Human Rights (PCHR) to support the establishment of a Women and Group Rights' Unit, focussing on legal research and legal advocacy and assistance to women's groups and individuals; activities have included the production of legal information materials on family law and a review of the draft Basic Law from a gender perspective; and
- ♦ participation in a seminar on human rights organized at Al Azhar University focussing on the law reform needed to improve the status of women in Palestinian society; participation in a workshop to develop strategies to integrate human rights education into Palestinian school and university curricula; distribution of human rights documentation to some 14 organizations in Gaza and the West Bank.

OTHER REPORTS

Commission on the Status of Women

Report of the Secretary-General

The report of the Secretary-General on the situation of Palestinian women (E/CN.6/1998/2/Add.2) was prepared as requested by the Economic and Social Council in resolution 1997/16 and is based on information and data collected by 12 UN bodies monitoring the situation in the occupied territories.

The report states that the situation of Palestinian women living in the Palestinian self-rule areas and in the occupied territories has not improved. Daily life in the self-rule areas continued to be affected by the imposition of

security-related measures by the Israeli authorities, which had a detrimental impact on the economic and social situation. As in the past, Palestinian women are experiencing the gender-specific impact of these measures, which is reinforced by existing inequalities in society between women and men.

Within the context of concerns related to settlements, confiscation of Palestinian land, settler violence and closures imposed by the Israeli authorities on the occupied territories and the devastating impact of the closures on the fragile Palestinian economy the report notes: the deterioration of the economic situation has a negative impact on women, especially those who head households; economic pressure is also contributing to the erosion of the social fabric, resulting in delayed marriage and the increase in the rate of divorce; in terms of health and limited access to Israeli hospitals, women's reproductive health is of particular concern; at least 10 persons, including at least seven pregnant women, are believed to have died for want of ready access to better equipped medical facilities; the Palestinian Authority Ministry of Health issued a statement in Gaza claiming that 26 babies had been stillborn because of delays at security checkpoints during the lengthy closure imposed after the suicide bombings in 1996; one woman had to give birth at a road block, having been prevented from travelling to a hospital; the closures had a negative impact on education, in particular for students from Gaza who could not attend their educational institutions in the West Bank, and any additional obstacle further jeopardizes the scholastic achievements of students and has a specific gender impact.

Other points made in the report included: violence and sexual harassment of women and girls when their family homes were searched for weapons by the Israeli police; women were subjected to full strip searches, sometimes in front of their children and male policemen; family reunion was hampered, noting that Palestinian women married to Jordanian citizens were refused renewal of their residence permits and the visas of their husbands were invalidated; the remaining Palestinian women prisoners were released by the Israeli authorities on 11 February 1997; support for Palestinian refugees has been eroding because of the steady increase in the refugee population and inflation on one side, and austerity measures and budgetary reduction that led to the reduction of a number of relief programmes on the other side, with Palestinian refugee women particularly affected by the cut in services.

Within the framework of follow-up to the Fourth World Conference on Women, some positive changes are noted, including: the elimination of some discriminatory laws and practices; Palestinian women can now obtain a passport without written consent of so-called guardians and widows can obtain passports for their children without the permission of a brother or father; women can take driving lessons without a male chaperone and married students are no longer dismissed from school; the strategies in the post-Beijing period, referring to "women and

armed conflict", include mobilization of Arab and international women's organizations in order to secure the release of all detainees, especially women and to further cooperate with Israeli women to establish a peace culture. Other measures included: efforts to mainstream a gender perspective into development processes; an initiative to coordinate and exchange information better on initiatives for women in development as carried out by donors, the Palestinian Authority and non-governmental organizations; the establishment of a database of institutions and workshops on the use of the Internet; programmes on the development of Palestinian women entrepreneurship and of Palestinian women's status; projects emphasizing income-generating opportunities for women; enterprise development through the creation of entrepreneurial awareness, skills training and institutional capacity-building; creation of additional employment opportunities for Palestinian women in the export-oriented floricultural industry.

Also within the follow-up to the Beijing Platform for Action, measures included: assistance to disadvantaged refugees, particularly women, to raise their economic status through skills training, production units, group savings and credit provision; programmes to achieve managerial and financial sustainability for community centres; programmes to address the needs of small farmers and fishermen, women and landless people in the rural areas of Jericho and the Gaza Strip; assistance to the Palestinian non-refugee population, in particular in the Gaza Strip, with a poverty-alleviation scheme targeting approximately 50,000 needy persons registered as special hardship cases, of which over 65 per cent are female heads of household; a project on gender-sensitive education, which includes workshops for teachers on gender issues in teaching, subject curricula, counselling and discipline issues, the development of a gender-sensitive resource manual and community awareness campaigns; a rural girls development centre to train young rural women in various skills; projects related to gender equality in education and women's health; the establishment of a women's centre for health care, social assistance, legal counselling and community education in the Gaza Strip; and, assistance to non-governmental organizations in the area of law reform and women's rights.

The report states that considerable efforts are being made by the Palestinian authorities and civil society to improve the economic and social conditions of Palestinian women, including legislative revisions, but notes that there is little gender-specific information and analysis on the situation of Palestinian women with regard to, for example, the economy, social and political life, human rights or violence. The report concludes that the status and living conditions of Palestinian women are closely linked with the progress of the peace process and women in the occupied territories continue to be directly affected in injurious ways by security measures and the overall effects of occupation.

Draft Resolution

At its March 1998 session the Commission on the Status of Women (CSW) adopted by roll call vote (34 in favour,

1 opposed and 5 abstentions) a draft resolution (E/CN.6/1998/12, Draft Resolution II) on the situation of Palestinian women. The CSW, *inter alia*: noted with appreciation the report of the Secretary-General concerning the situation of Palestinian women and assistance provided by organizations of the UN system; recalled paragraph 260, concerning Palestinian women and children, in the Nairobi Forward-looking Strategies for the Advancement of Women, and the Beijing Platform for Action; recalled previous CSW resolutions and those of other UN bodies; noted the Declaration on the Elimination of Violence against Women as it concerns the protection of civilian populations, expressed concern about the stalemate in the Middle East peace process and the deterioration of the socio-economic conditions of the Palestinian people; also expressed concern about (a) the continuing difficult situation of Palestinian women in the occupied Palestinian territory, including Jerusalem, (b) the severe consequences of continuous illegal Israeli settlements activities, (c) the harsh economic conditions and other consequences for Palestinian women and their families as a result of the frequent closures and isolation of the occupied territory; reaffirmed that the Israeli occupation remains a major obstacle for Palestinian women with regard to their advancement, self-reliance and integration in the development planning of their society; called on Israel to facilitate the return of all refugees and displaced Palestinian women and children to their homes and properties in the occupied Palestinian territory; urged Member States and relevant inter-governmental and non-governmental organizations to provide financial and technical assistance to Palestinian women, especially during the transitional period; requested the Secretary-General to continue to review the situation and to assist Palestinian women by all available means, and to submit to the CSW at its forty-third session a report on the progress made in the implementation of the present resolution.

The same resolution was adopted by the Economic and Social Council at its June 1998 session (1998/10).



PAPUA NEW GUINEA

Date of admission to UN: 10 October 1975.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Racial Discrimination

Acceded: 27 January 1982.

Papua New Guinea's second through eighth reports have not been submitted (covering the period 1987-1997); the eighth periodic report was due 26 February 1997.

Reservations and Declarations: Article 4.

Discrimination against Women

Acceded: 12 January 1995.

Papua New Guinea's initial report was due 11 February 1996.

Rights of the Child

Signed: 30 September 1990; ratified: 2 March 1993.

Papua New Guinea's initial report was due 31 March 1995.

REPORTS TO TREATY BODIES**Committee on the Elimination of Racial Discrimination**

Papua New Guinea's 2nd through 8th periodic reports, covering 1987 to 1997, have not yet been submitted to the Committee. At its March 1998 session the Committee considered implementation of the Convention in the absence of a report by the government. The Committee's concluding observations and comments (CERD/C/52/Misc.34/Rev.1) noted, *inter alia*: despite repeated requests, Papua New Guinea has not resumed its dialogue with the Committee; the government has not submitted either its periodic reports, or the additional information requested about the situation in Bougainville; and the Committee has not been informed as to whether there have been any further contacts between the government and the Secretary-General's representative.

The Committee again requested the government to submit its reports and provide information specifically on the situation in Bougainville and reiterated Decision 4 (51) 21 August 1997. In that Decision, the Committee, *inter alia*: expressed regret that the government had not submitted an up-to-date report or provided any information on the issue of Bougainville; acknowledged the government's request that the Secretary-General send his representative to assist with a new round of discussions between the government and the main Bougainvillean parties; condemned the killing of the premier of the Bougainville Transitional Government, Mr. Theodore Miriung, on 12 October 1996 by unidentified assailants, which resulted in a serious setback for all the efforts to find solutions to the problems in Bougainville; encouraged any further effort to resume the discussions between the parties involved in the Bougainville conflict; and requested the government to submit its reports as required under article 9 (1) of the Convention, and to supply information specifically on the situation in Bougainville under its prevention of discrimination procedures.

At its March 1998 session the Committee decided that, in the absence of any indication on the part of the government that it would comply with its obligation under article 9 (1), implementation of the Convention in Papua New Guinea would be considered at its August 1998 session under the prevention of discrimination procedure. By decision of the Committee, consideration in August was postponed.

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, 18, 39, 52, 57, 61, 100; E/CN.4/1998/68/Add.1, paras. 313–316)

The report notes that the government has not replied to any of the communications transmitted by the Special Rapporteur (SR) during the past three years. Referring to the concerns about exemption from consequence, the report notes a culture of impunity on the Papua New Guinea (PNG) island of Bougainville, created by poor discipline and a weak chain of command in the armed forces, combined with an unwillingness to hold individuals responsible for their deeds. This culture was said to contribute to a continuation of killings on the island. Information indicated that the Papua New Guinea Defence Force (PNGDF) and resistance forces were reported to operate virtually free from public scrutiny because of restrictions imposed on access for independent human rights monitors and the media. The information also indicated that there had been a thorough investigation of only one alleged violation of the right to life committed since 1989, and no persons had been prosecuted for violations of the right to life.

Allegations related to violations of the right to life committed on Bougainville by members of the PNGDF and resistance forces related to, *inter alia*: fourteen unidentified persons, including women and two girls aged four and six, killed when members of the PNGDF and the resistance forces opened fire on their camp, noting that survivors of the attack claimed that no members of the Bougainville Revolutionary Army (BRA) were present in their village; the death of a man who suffered from a mental illness, reportedly killed when he was cruising around the waters of Buka harbour with a stolen boat after curfew; the killing of nine persons, including at least four children, when the Malapita church in south Bougainville was struck by mortar fire in an attack which was alleged to be indiscriminate; the killing of the Premier of the Bougainville Transitional Government by members of the PNGDF along with a number of members of the resistance forces; the murder of eight persons who were accused of collaboration and killed shortly after their arrest by security forces; and, the killing of one person shortly after his arrest at the Kunua Care Centre by members of the PNGDF.

The SR expressed concern about the deterioration of the situation of the right to life on Bougainville and persistent impunity, and called on all parties to the conflict to respect at all times the right to life of non-combatants.

Independence of judges and lawyers, Special Rapporteur on the: (E/CN.4/1998/39, paras. 17, 132–133)

A communication was sent to the government regarding the case of a lawyer, the Executive Director of the Indi-

vidual and Community Rights Advocacy Forum, who was reportedly arrested in May 1997 and charged under article 64 of Criminal Code on two counts of unlawful assembly. Information indicated that the arrest was in response to his role in organizing a peaceful demonstration to protest the government's contract with Sandlines International to provide foreign military personnel in Bougainville. The government did not respond to the case.

Freedom of opinion and expression, Special Rapporteur on: (E/CN.4/1998/40, para. 57)

In the section dealing with women and freedom of expression, the report refers to a case in PNG in which compensation for the killing of a clan leader, based on a complex tribal calculation, was determined to be \$15,000, 25 pigs and an 18-year-old woman who said "no" to the arrangement because she wanted to finish high school and learn to be a typist. She was then forced to take refuge in Port Moresby, some 500 kilometres from her angry relatives.

Mercenaries, Special Rapporteur on the use of: (E/CN.4/1998/31, paras. 93–99)

With regard to Bougainville, the report recalls that a cease fire was signed between the government and the Bougainville Revolutionary Army (BRA) in late 1994. The Special Rapporteur (SR) stated: the peace process did not unfold as planned and a number of events, including the assassination of the rebel leader Théodore Miriong in October 1996, resulted in renewed military action; and given the situation, the Prime Minister decided to sign a contract with Sandline International, a company registered in the Bahamas, under which it was to provide various military assistance services to the Papua New Guinea Defence Forces (PNGDF). According to the terms of the contract, Sandline International undertook, *inter alia*, to: provide advice and military assistance to support the PNGDF in their task of protecting the territorial sovereignty of the country and retaking control of important national resources, specifically the mineral deposits in Panguna; provide tactical training for the Special Forces Unit (SFU); furnish intelligence services in support of military operations; and conduct offensive military operations in Bougainville in conjunction with the PNGDF for the purpose of neutralizing the forces of the Bougainville Revolutionary Army and of regaining control of the Panguna mine.

In order to furnish this military assistance, Sandline International undertook specifically, *inter alia* to: send a command, administration and training team to establish the necessary liaison with the PNGDF, develop a logistical and communications infrastructure, initiate the information gathering and intelligence operations, and begin training the SFU; send and deploy, throughout the territory of PNG, Special Forces officers and troops, aircraft and helicopter crews, engineers, intelligence agents, special teams of operatives, and others; and send arms, ammunition and equipment, as well as any personnel necessary for their maintenance and for training in their use.

The report notes that the government undertook to pay Sandline International US\$36 million for the three-month initial period of the contract, to grant to Sandline International's expatriate personnel all tax exemptions, facilities and privileges in connection with their entry into, departure from, and stay in the country, and in general, to grant all the authorizations, waivers, permits and licences necessary for them to fulfil their contractual obligations. The government also undertook to instruct its civil servants and the members of the Defence Forces to recognize the military ranks of the company's personnel as established by the command structure and, accordingly, to obey orders from higher ranking company personnel. The government recognized that Sandline International's personnel were authorized to commit themselves to, initiate or fight in military operations, repel attacks, arrest and detain persons suspected of planning or conspiring to plan an act of aggression, and, in general, defend the population from threats of any kind.

The SR recalled that at the end of March 1997, 40 of Sandline's personnel were forced to leave Papua New Guinea when there were widespread protests within the Defence Forces and mutinies in Port Moresby in response to the signing of the contract. The government eventually agreed to appoint a commission of inquiry to investigate the Sandline International contract.

The commission's conclusions were not known at the time the SR's report was prepared, but the SR stated that the available information indicated that the crisis in PNG was triggered by the implementation of the contract between the government and the private security company Sandline International. The information also indicated that the armed forces and civilians saw the presence of foreign soldiers recruited by a foreign company, and the subordination of national bodies to foreigners, as a violation of sovereignty and the right to self determination.

SECURITY COUNCIL

In April the Security Council agreed to a statement by the President (S/PRST/1998/10, 22 April 1998) in which the Council, *inter alia*: expressed strong support for the Agreement on Peace, Security and Development on Bougainville, signed at Lincoln University, New Zealand, on 23 January 1998 (the Lincoln Agreement) by the government, the Bougainville Transitional Government, the Bougainville Resistance Force, the Bougainville Interim Government, the Bougainville Revolutionary Army and the Bougainville leaders, with regard to a cease fire among conflicting parties; welcomed the extension of the period of truce and that a permanent and irrevocable cease fire would take effect on 30 April 1998 as stipulated in the Lincoln Agreement; encouraged all parties to continue to cooperate to achieve and maintain peace, to renounce the use of armed force and violence, to resolve any differences by consultation, both now and in the future, and to confirm their respect for human rights and the rule of law; welcomed the establishment of the peace monitoring group composed of civilian and military per-

sonnel from Australia, Fiji, New Zealand and Vanuatu; noted that the Lincoln Agreement called for the UN to play a role in Bougainville, and requested the Secretary-General to consider the composition and financial modalities of such involvement.



PHILIPPINES

Date of admission to UN: 24 October 1945.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: The Philippines has submitted a core document (HRI/CORE/1/Add.37) for use by the treaty bodies. The report prepared by the government contains demographic data and information on the economy, social services, the general political structure and the legal framework for the protection of hum

The legal framework for the protection of human rights is established by the Constitution, the Civil Code, the Revised Penal Code, the Child and Youth Welfare Code and the Labor Code. As well, the Commission on Human Rights has established protective legal measures. The Tanodbayan (Ombudsman) has as its main function to prevent the abuse of power by government officials and employees.

Economic, Social and Cultural Rights

Signed: 19 December 1966; ratified: 7 June 1974.
The Philippines' second periodic report was due 30 June 1995.

Civil and Political Rights

Signed: 19 December 1966; ratified: 23 October 1986.
The Philippines second and third periodic reports were due 22 January 1993 and 1998 respectively.
Reservations and Declarations: Declaration under Article 41

Optional Protocol: Signed: 19 December 1966; ratified: 22 August 1989.

Racial Discrimination

Signed: 7 March 1966; ratified: 15 September 1967.
The Philippines 15th periodic report was due 4 January 1998.

Discrimination against Women

Signed: 15 July 1980; ratified: 5 August 1981.
The Philippines fifth periodic report is due 4 September 1994.

Torture

Acceded: 18 June 1986.
The Philippines' second periodic report was due 25 June 1992; the third periodic report was due 25 June 1996.

Rights of the Child

Signed: 26 January 1990; ratified: 21 August 1990.
The Philippines' second periodic report was due 19 September 1997.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on:

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

An urgent appeal on behalf of one person was sent to the government. No details of the cases were provided.

Disappearances, Working Group on enforced or involuntary:

(E/CN.4/1998/43, paras. 3, 6, 13, 24, 25, 40, 62, 308–322)

Concerning compensation, the report refers to information provided by the government indicating, *inter alia*: compensation is regulated by Act No. 7309 establishing a Board of Claims under the Department of Justice; only next-of-kin may initiate proceedings leading to a declaration of death; next-of-kin may claim compensation; the state provides for appropriate medical care and rehabilitation for the victims who reappear, and for the families of victims who are found dead; and, as of 13 October 1997, financial assistance had been extended to 282 victims in the amount of approximately US\$100,000.

The majority of the 500 reported cases of disappearance occurred in the late 1970s and early 1980s and took place within the context of the government's anti-insurgency campaign. Between 1975 and 1980, the persons disappeared were reportedly farmers, students, social workers, members of church groups, lawyers, journalists, and economists, among others. The arrests were carried out by armed men belonging to an identified military organization, or to a police unit such as the Philippine Constabulary, the Central Intelligence Unit, the military police, or other organizations. In the following years the reported cases of disappearance concerned young men living in rural and urban areas — described as members of legally constituted student, labour, religious, political, or human rights organizations — which the military authorities claimed were a front for the outlawed Communist Party of the Philippines (CPP) and its armed wing, the New People's Army (NPA). Among the groups most commonly targeted were the KADENA (Youth for Democracy and Nationalism) and the National Federation of Sugar Workers.

The Working Group (WG) stated that despite the peace talks with several opposition movements, as initiated by the government, disappearances continued in the 1990s. The disappearances were mainly in the context of action by the security forces against the NPA, the Moro National Liberation Front, the Mindanao Islamic Liberation Front, the Citizen Armed Forces Geographical Units, and the Civilian Volunteer Organizations.

During the period under review, four newly reported cases of disappearance were transmitted to the government, all of which reportedly occurred in 1997. Two cases were sent jointly with the Special Rapporteur on the independence of judges and lawyers. The cases concerned a lawyer and his driver who were alleged to have been abducted by members of the security forces in Manila. The other two cases concerned a peasant who was said to have disappeared in San Roane, and a community organizer who was allegedly abducted by members of the armed forces in Zambales province.

The government provided information on three outstanding cases. On two cases it reported that the search carried out had failed to produce positive results, but the initial investigation did not support the allegation of the involvement of the army in the disappearances. In the third case, the government reported that the person concerned had voluntarily surrendered to the government under its amnesty programme and was being held in protective custody.

The government also included comments of a general nature, some of them based on the work of the Philippines Commission on Human Rights in response to concerns of local NGOs regarding disappearances. The report also notes: the government would review all outstanding cases of alleged disappearances submitted by the WG, with the objective of determining the course of action to be recommended, including, *inter alia*, possible financial compensation to the families of the victims; the review would focus on the issue of impunity and examine the conditions under which the disappearances took place; and continuing reforms are being undertaken in the military and police — including incorporation of human rights provisions into all military training — and a number of measures were pending before Congress aimed at incorporating into domestic law the provisions of the Declaration related to disappearances.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 13, 14, 16, 17, 29, 30, 39, 40, 65, 70, 71, 72, 75; E/CN.4/1998/68/Add.1, paras. 332–338)

Three urgent appeals were sent to the government, two of them following receipt of information indicating that death threats were received by judges and lawyers in connection with their involvement in the prosecution of police officers in the Kuratong Baleleng case. This case, which was transmitted to the government during 1996, involved the killing of 11 suspected bank robbers in May 1995 while in police custody. The death threats were said to have been issued by individuals connected to the Philippine National Police and loyal to the accused in the Kuratong Baleleng case. The third appeal was sent on behalf of 140 indigenous families from the Suminao Clan in Kamagumayan, Impasugong, North Mindanao, who had reportedly been harassed and intimidated since November 1996 because of their claim to ancestral land. The Special Rapporteur (SR) was informed that the leader of the Suminao Higaonon Tribal Association and two others died during an attack by members of the “blue

guard” of the Baula family, the current local landlords, in cooperation with military and police. Fears had been expressed for the life and physical integrity of the 140 families who were still facing demolition of their settlements.

The government provided additional information to the SR on the procedure followed by the authorities in the investigation and prosecution of those responsible in the Kuratong Baleleng case. The government emphasized that the responsible agencies had fully and expeditiously acted on the alleged extrajudicial executions involving Kuratong Baleleng gang members within the confines of the criminal justice system, and stated that the case was still *sub judice*.

Independence of judges and lawyers, Special Rapporteur on the: (E/CN.4/1998/39, paras. 15, 16, 17, 19, 143–148)

The report notes that an urgent appeal was sent on behalf of lawyers and judges involved in the Kuratong Baleleng (see “Extrajudicial, summary or arbitrary execution”). A second appeal was sent on behalf of a lawyer who was abducted with his driver by armed men dressed in black. Information indicated that the lawyer’s family had filed a petition for habeas corpus before the Supreme Court, but the competent authorities had denied having the two men in their custody. It was also reported that the lawyer had acted as counsel for a person whom the government allegedly suspected of being involved in illegal activity.

Sale of children, child prostitution, child pornography, Special Rapporteur on the: (E/CN.4/1998/101, para. 72)

In commentary on the participation of children in the media and the reporting of child labour issues, the report refers to the Philippines project under the ILO’s International Programme on the Elimination of Child Labour (IPEC). The ILO has been searching for ways to become more actively involved in promoting children’s rights to participate in the media and in decision-making with respect to issues affecting their lives. Under the programme, children’s participation has included the use of actual working children during location shootings, consultations with the children concerning the purpose of the production and the approach that should be followed, as well as eliciting information from them concerning the work they do.

Toxic wastes and products, Special Rapporteur on: (E/CN.4/1998/10/Add.1, “Comments received from States”)

The addendum to the main report includes comments received from the government in response to information contained in the Special Rapporteur’s report to the 1997 session of the Commission on Human Rights (E/CN.4/1997/19). With respect to the import and recycling of scrap batteries, the government stated, *inter alia*: the Philippine Department of Environment and Natural Resources started regulating the importation of scrap batteries in July 1994; Philippine Recyclers, Inc. (PRI) is

the only legal importer of scrap batteries; the amount of scrap batteries allowed to be imported was being reduced until a total ban was achieved at the end of 1997 in conformity with the Basel Convention commitments; prior to the total ban, only those scrap batteries that could be safely recycled were allowed in the country; there are specific regulations intended to screen out scrap batteries that can no longer be safely recycled; PRI is regularly monitored for compliance with air quality, water effluent, and solid waste disposal standards; and regulations for processing of parts of scrap batteries are fully consistent with the government's commitment to the Basel Convention, thereby discouraging the international traffic of wastes.

With respect to the alleged mass poisoning of 4,000 people in 24 villages and toxicological risk to more than 10,000 people of Marinduque as a result of the Marcopper Mining Company mine tailings spill in March 1996, the government stated: there was no evidence that acute poisoning occurred in the exposed population due to mine tailings or that there was an immediate threat to human health as a result of the leakage; there was also no evidence of trace metal contamination or accumulation beyond internationally acceptable limits that may pose toxicological risks to either aquatic biota or human health; the Boac River, however, remained unsuitable for domestic and agricultural purposes because of heavy siltation from the mine tailings; the tunnel leak cited had been sealed to stop further flow and the Boac River had been dredged to prevent flooding, under the direct supervision of the Mines and Geosciences Bureau (MGB); long-term rehabilitation efforts by Marcopper Mining Corporation/Placer Dome Inc. continued for the Boac River and the affected delta; and MGB was conducting a post-spill impact assessment in coordination with the Environmental Management Bureau.



QATAR

Date of admission to UN: 21 September 1971.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Racial Discrimination

Acceded: 22 July 1976.

Qatar's ninth, 10th and 11th periodic reports were due 21 August 1993, 1995 and 1997 respectively.

Rights of the Child

Signed: 8 December 1992; ratified: 3 April 1995.

Qatar's initial report was due 2 May 1997.

Reservations and Declarations: General reservation.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Religious intolerance, Special Rapporteur on:

(E/CN.4/1998/6, paras. 48, 50, 58, 62, 63)

The report refers to violations of freedom of religion and belief against Christianity and Islam and notes: non-Muslims are reportedly subjected to restrictions in religious matters; the conversion of a Muslim to another religion is strictly prohibited and punishable by death; any proselytizing of Muslims by non-Muslims is forbidden; and, non-Muslims must restrict the practice of their religion to the confines of their homes.

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. 60-67)

The report refers to information provided by the government noting, *inter alia*, that progress in education has helped to bring about change in customs and traditions that were prejudicial to the health of individuals and of society. The government reported that many beliefs and customs that formerly harmed the health of women and children have disappeared. With regard to specific practices, the government referred to "cure by fire", which was carried out for the purpose of treating certain illnesses, but which is no longer practised. The government also noted that witchcraft and charlatanism is prohibited by Islam and by law, but that in the past witch doctors, under the pretext of caring for patients, took control of them. The government also stated that: there has been a reduction in early marriage, noting that the cultural and educational development that has taken place in Qatar has led girls to continue studying up to university level; women are now giving birth under medical supervision in clinics, eliminating the former practice of childbirth at home; and female circumcision, which was formerly widespread among the tribes of Qatar, has now totally disappeared.



SAMOA

Date of admission to UN: 15 December 1976.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Discrimination against Women

Acceded: 25 September 1992.

Samoa's initial report and second periodic reports were due 25 October 1993 and 1997 respectively.

Rights of the Child

Signed: 30 September 1990; ratified: 29 November 1994.

Samoa's initial report was due 28 December 1996.

Reservations and Declarations: Paragraph (1) (a) of article 28.



SAUDI ARABIA

Date of admission to UN: 24 October 1945.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Racial Discrimination

Acceded: 23 September 1997.

Saudi Arabia's initial report was due 22 October 1998.

Reservations and Declarations: Article 22.

Torture

Acceded: 23 September 1997.

Saudi Arabia's initial report was due 23 October 1998.

Reservations and Declarations: Paragraph 1 of article 3; article 30.

Rights of the Child

Acceded: 26 January 1996.

Saudi Arabia's initial report (CRC/C/61/Add.2) has been submitted and is pending for consideration at the Committee's September/October 2001 session; the second periodic report is due 24 February 2003.

Reservations and Declarations: General reservation.

COMMISSION ON HUMAN RIGHTS

Since 1995, the situation in Saudi Arabia has been considered under the confidential 1503 procedure. At its 1998 session, the Commission on Human Rights 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. 19, 21)

The report notes that urgent appeals on behalf of two persons were sent, and the government replied that the individuals named had either never been detained or had been released. No details of the cases were provided.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 13, 405)

During the period under review, no new cases of disappearance were transmitted to the government. The one case on file with the Working Group (WG) concerned a businessman who was allegedly arrested in Amman in 1991 by Jordanian security forces and later handed over to the Saudi Arabian authorities. The case was clarified when the government informed the WG that the man had been released from detention.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 89, 92)

The report refers to information indicating that, in 1997, more than 70 foreign nationals were executed in Saudi Arabia. The SR also received information that prisoners were executed who were under 18 years of age at the time their crimes were committed.



SINGAPORE

Date of admission to UN: 21 September 1965.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Discrimination against Women

Acceded: 5 October 1995.

Singapore's initial report was due 4 November 1996.

Reservations and Declarations: Articles 2, 16 and 29; paragraph 1 of article 11.

Rights of the Child

Acceded: 5 October 1995.

Singapore's initial report was due 3 November 1997.

Reservations and Declarations: Articles 12, 13, 14, 15, 16, 17; articles 19, 32 and 37; paragraph 1 (a) of article 28.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 17, 27, 83, 94; E/CN.4/1998/68/Add.1, paras. 361–364)

The Special Rapporteur (SR) reiterated concern about the existence of laws, particularly those relating to drugs offences, in which the presumption of innocence is not fully guaranteed as the burden of proof lies partially on the accused. Note was made of the fact that because of their strict formulation, these laws do not leave any discretion to judges to personalize the sentence or to take into account mitigating circumstances. As a result of the legislation judges have no other option than the mandatory imposition of the death penalty once it is concluded that the defendant is guilty.

An urgent appeal was sent on behalf of one person who was reportedly sentenced to death in October 1996 for trafficking in drugs, and had decided not to appeal against the sentence. The government replied that the procedure for lodging appeals, and particularly the time limit for filing of notices of appeal, are carefully explained to every prisoner by the prison authorities immediately upon admission. As a matter of practice, every prisoner who has been sentenced to death is asked by the prison authorities to file a notice of appeal but no person is forced to prosecute an appeal or to continue with an appeal. The government stated that the person named had had the benefit of legal advice at the time when he decided to discontinue his appeal.

The government also commented on information contained in the SR's report to the 1997 session of the Commission on Human Rights (E/CN.4/1997/60/Add.1, para. 438), stating that the Misuse of Drugs Act conformed with international standards, including the Safeguards guaranteeing protection of the rights of those facing the death penalty. In this context, the government explained that drug trafficking is considered by the international community as a "most serious crime". The government further stated that it was not factually correct to state that the Misuse of Drugs Act does not provide sufficient guarantees for the presumption of innocence for persons charged with trafficking in drugs.

The SR restated the view that the presumption of trafficking in drugs in the Misuse of Drugs Act, resulting in a partial shifting of the burden of proof on the accused, does not provide sufficient guarantees for the presumption of innocence. As a consequence, implementation of the Act may lead to violations of the right to a fair trial and the right to life, bearing in mind that the crime of drug trafficking carries a mandatory death sentence. The SR also recalled ECOSOC resolution 1989/64 of 24 May 1989 entitled "Implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty", calling on states to take steps to ensure mandatory appeals in all cases of death penalty.

Religious intolerance, Special Rapporteur on:

(E/CN.4/1998/6, paras. 48, 50, 64, 69, 87, 94)

The report refers to violations of freedom of religion and belief against Jehovah's Witnesses, and refers to information indicating their literature is banned and members have been convicted for possession of the confiscated literature.

In its reply to allegations, the government stated that the Jehovah's Witnesses were banned because of their refusal to perform military service as required by national legislation. Consequently, the organization of meetings and distribution of literature were prohibited and punishable by fines, or even imprisonment if the accused refused to pay the fines. The government pointed out that the Jehovah's Witnesses who were arrested in February 1995 had been decently treated and released on bail after having made statements. According to the authorities, the imprisoned Jehovah's Witnesses had been dealt with fairly, imprisoned under humane conditions, and had not lodged any complaints with the visiting justices of the peace during their custody.

Sale of children, child prostitution, child pornography, Special Rapporteur on the:

(E/CN.4/1998/101, para. 106)

In the section dealing with children as viewers of sexually explicit material on the Internet, the report notes that the government has attempted to regulate the content of the Internet through a Class Licence Scheme, where Internet Service Providers (ISPs) and Internet Content Providers (ICPs) are required to block out objectionable sites as directed by the Singapore Broadcasting Authority. Schools, libraries and other ISPs which provide Internet access to children are required to institute a tighter level of control, although options as to how this could be implemented have not yet been identified. The Special Rapporteur referred to concerns related to the scope and vagueness of the Internet Content Guidelines, and the effect that they might have on the right to freedom of expression.



SOLOMON ISLANDS

Date of admission to UN: 19 September 1978.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Economic, Social and Cultural Rights

Succeeded: 17 March 1982.

The initial and second periodic reports of Solomon Islands were due 30 June 1990 and 1995 respectively.

Racial Discrimination

Succeeded: 17 March 1982.

The second through eighth periodic reports of Solomon Islands (covering the period 1985–1997) have not been submitted; the eighth periodic report was due 16 April 1997.

Rights of the Child

Acceded: 10 April 1995.

The initial report of Solomon Islands was due 9 May 1997.

**SRI LANKA**

Date of admission to UN: 14 December 1955.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Sri Lanka has submitted a core document (HRI/CORE/1/Add.48) for use by the treaty bodies. The report prepared by the government contains demographic and statistical data and information on the general political structure.

The legal framework for the protection of human rights is established in the preamble and articles 10 to 16 of the Constitution. In addition to constitutional and legal provisions, there is an Ombudsman the Parliamentary Commissioner for Administration who has the duty to investigate and report on complaints or allegations of infringements of fundamental rights and other injustices by public officers and officers of public corporations, local authorities and other similar institutions. There is, as well, the Commission for the Elimination of Discrimination and Monitoring of Fundamental Rights, Citizens Rights Watch Committees to act as a link between the public and police, and the Human Rights Task Force (which was subsequently replaced by the Human Rights Commission). The Commission of Inquiry Act No. 17 of 1948 provides for the appointment of commissions of inquiry as required. The Sri Lanka Law Commission is charged with the responsibility to review legislation to ensure compatibility with international human rights standards, the repeal of obsolete and unnecessary laws, and the simplification and modernization of law.

Economic, Social and Cultural Rights

Acceded: 11 June 1980.

Sri Lanka's initial report (E/1990/5/Add.32) was considered at the Committee's June 1998 session; the second periodic report was due 30 June 1995.

Civil and Political Rights

Acceded: 11 June 1980.

Sri Lanka's fourth periodic report was due 10 September 1996.

Reservations and Declarations: Declaration under article 41.

Optional Protocol: Acceded: 3 October 1997.

Racial Discrimination

Acceded: 18 February 1982.

Sri Lanka's seventh and eighth periodic reports were due 20 March 1995 and 1997 respectively.

Discrimination against Women

Signed: 17 July 1980; ratified: 5 October 1981.

Sri Lanka's third and fourth periodic reports were due 4 November 1990 and 1994 respectively.

Torture

Acceded: 3 January 1994.

Sri Lanka's initial report (CAT/C/28/Add.3) was considered at the Committee's May 1998 session; the second periodic report is due 1 February 1999.

Rights of the Child

Signed: 26 January 1990; ratified: 12 July 1991.

Sri Lanka's second periodic report was due 10 August 1998.

REPORTS TO TREATY BODIES**Committee on Economic, Social and Cultural Rights**

Sri Lanka's initial report (E/1990/5/Add.32, March 1996) was considered by the Committee at its May 1998 session. The report prepared by the government contains information on, *inter alia*: the Samurdhi (prosperity) programme, a national development programme to eliminate poverty; policies on equal income distribution, including the tax system; the Land Reform Law 1972; constitutional provisions related to political parties, elections and voting rights; constitutional protections for minority groups; the labour force, employment/unemployment, vocational and technical training; wage fixing mechanisms, including a minimum wage; occupational health and safety; trade unions, the National Workers' Charter and the Trade Unions Ordinance as amended in 1970; the Industrial Disputes Act No. 43 of 1950, as amended; social security; the family; nutrition, food and food security — food stamps, poverty alleviation programmes and Thripasha, a supplementary feeding programme; the National Steering Committee on Nutrition; the National Housing Development Authority (NDHA); the national health policy, health care, access to medical services; the National Education Commission; copyright protection, patents and trademarks; the Natural Resources, Energy and Science Authority; programmes related to religious and cultural affairs; the minority Tamil and Muslim communities; and the Veddhas, indigenous people.

The Committee's concluding observations and comments (E/C.12/1/Add.24) noted that despite the relatively low per capita income in Sri Lanka progress has been made in

providing essential social services including free and compulsory education for all children up to the age of 16, free health care, and food subsidies and supplements for targeted vulnerable groups. In terms of factors hindering the implementation of the Covenant, the Committee acknowledged the effect of the violence and conflict that has affected Sri Lanka since 1983, resulting in large-scale internal displacement of people, curbing government efforts to provide essential services in the affected areas, and diverting resources from social and development objectives.

With regard to the armed conflict between the government and the Liberation Tigers of Tamil Eelam (LTTE), the Committee referred to the absence, in the government's report, of statistics relating to the north and east of the country, and stated that the absence reinforced the Committee's view that the question of discrimination in relation to the economic, social and cultural rights of ethnic groups remained the central issue in the armed conflict. The Committee noted with concern: that the government's peace plan, consisting of devolution of authority to regional governments through constitutional reform, had not been implemented and the lack of clarity in terms of a timetable for its implementation, as well as for a referendum to determine public acceptance; the situation of an estimated 800,000 persons displaced because of the armed conflict, many of whom have lived in temporary shelters for the past 15 years and who lack basic sanitation, education, food, clothing and health care; estimates of an incidence rate as high as 70 per cent with regard to undernourishment of women and children living in temporary shelters; and reports that in many cases food assistance did not reach the intended beneficiaries.

On discrimination, the Committee expressed concern over: the uncertain situation of 85,000 Tamils of Indian origin living in Sri Lanka, who have neither Indian nor Sri Lankan citizenship; the existence of disparities between statutory law and customary law, noting that the age for marriage in statutory law is 18 years but girls as young as 12 years of age are able to marry under customary law, as long as there is parental consent; the fact that in statutory law, there is equality of inheritance among siblings while customary law discriminates against married women who, unlike married men, may not inherit family property; discrimination in existing legislation against children born out of wedlock who may inherit only from their mother; the lack of anti-discrimination mechanisms in the area of employment with regard to women and minority groups; noting the system of ethnic recruitment quotas in terms of the public sector, the lack of effort to ensure that promotions in the public sector and employment in the private sector are free from discrimination; and the fact that the concept of equal pay for work of equal value is not applied effectively, particularly in the private sector where women have no legal protection against discrimination in employment.

Addressing the situation of women and children, the Committee expressed concern over: the government's

inability to implement its child labour laws effectively; the sexual exploitation of Sri Lankan children by foreign tourists and the failure of the government to provide detailed information on the magnitude of this problem; the fact that more than 50 per cent of prostitutes are children; the plight of hundreds of thousands of Sri Lankan women working abroad as domestic helpers, many of them underpaid and treated as virtual slaves; the lack of serious effort on the part of the government to assess the negative impact of this phenomenon on children who are left in vulnerable and difficult circumstances without their mothers and to take appropriate remedial measures; and the fact that Sri Lanka not only has the second highest rate of suicide among youth in the world, but a rising incidence of drug and alcohol dependence, adolescent crime, child abuse, sexual disorders and domestic violence against women.

On the right to an adequate standard of living, the Committee noted with concern that 22 per cent of the population lives in poverty, many women and children are suffering from malnutrition, and continuing acute shortages of adequate housing and construction materials for homes in need of repair. Other concerns addressed by the Committee included: inadequate efforts on the part of the government to promote awareness among women of their human rights; the absence in the Constitution of an express recognition of the right to strike; provisions in the Constitution imposing vague restrictions on the right to form trade unions; that the current policy allowing industry-specific wage boards to determine minimum wages does not protect workers in the smaller industries which are not part of the wage board system; that the distinction contained in the current Constitution between "citizens" and "other persons", with respect to the right to equality, has not been removed from the proposed revised Constitution before Parliament; and the uncertain situation concerning demolition of houses and illegal settlements in Sri Lanka.

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

- ♦ negotiate, as a matter of the highest priority, the acceptance by all concerned of its proposed peace plan involving devolution of authority to regional governments and include, in its next report, detailed information on how the process of devolution of authority affects the enjoyment of economic, social and cultural rights throughout the country;
- ♦ establish mechanisms to facilitate the flow of humanitarian assistance and strictly monitor and ensure that those intended actually receive the assistance;
- ♦ seek further international assistance in its efforts to provide permanent housing to displaced persons who have been living in "temporary" shelters since the war began 15 years ago; reassess the food assistance programme already in place in affected areas with a view to improving the nutritional standards of the food provided, particularly to children and expectant and nursing mothers;

- ♦ provide an update in the next report on its plans to award citizenship to the 85,000 stateless Tamils living on Sri Lankan territory;
- ♦ enforce the minimum legal age for marriage of 18 years, as well as inheritance laws affecting women, and repeal all laws that discriminate against children born out of wedlock;
- ♦ adopt policies and implement relevant measures to combat discrimination in employment against women and minority groups in both the private and public sectors; pay particular attention to the enjoyment by women and men of the right to equal pay for work of equal value;
- ♦ vigorously enforce child labour laws and establish immediately a legal minimum age for work in all industries that is in accordance with international standards;
- ♦ renew efforts to seek out those who are responsible for the sexual exploitation of children and prosecute them to the full extent of the law; seek the cooperation of other governments in bringing to justice all those who engage in the sexual exploitation of children;
- ♦ undertake an assessment of the impact on children of the prolonged absence of their mothers working abroad with a view to educating women in this regard, and to discourage women from leaving the country for employment abroad as domestic helpers, the conditions of which are often deplorable;
- ♦ provide an updated report on the progress achieved in addressing the problems of poverty, malnutrition and lack of adequate housing; and
- ♦ include with its next report a copy of the report of the presidential task force that has been investigating the problem of suicide among youth, as well as the recommendations made by the task force, and actions taken in response to those recommendations.

Committee against Torture

Sri Lanka's initial report (CAT/C/28/Add.3, November 1997) was considered by the Committee at its May 1998 session. The report prepared by the government covers the period from 3 January 1994 to 21 November 1997 and contains information on, *inter alia*: the general legal framework within which torture is prohibited; proposals of the Parliamentary Select Committee responsible for drafting a new constitution; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Act No. 22 of 1994 (CAT Act); the Human Rights Task Force (1991-1997); the Human Rights Commission of Sri Lanka, established in March 1997; cooperation with the International Committee of the Red Cross; practical difficulties in implementing the Convention; the fundamental rights jurisdiction of the Supreme Court; arrest and detention — the Criminal Procedure Code, the Prevention of Terrorism Act 1979, the Public Security

Ordinance 1994 and the Emergency Regulations; the work of the Committee to Process, Clarify and Recommend Rehabilitation and Release of Suspects; human rights education and training for police and military personnel; the activities of the Centre for the Study of Human Rights (CSHR); mechanisms to review rules with a view to preventing torture; complaints against police officers; and compensation and rehabilitation.

The Committee's concluding observations and comments (CAT/C/SRI) welcomed: Sri Lanka's accession to the Convention during extremely difficult times for the country; the adoption of the CAT Act No.22 of 1994 to give effect to the Convention; the establishment of the Human Rights Commission with several regional offices, including one in Jaffna; the unequivocal position taken by the Supreme Court, as well as other courts, on the question of torture and the awards of compensation to victims of torture under the fundamental rights jurisdiction of the Supreme Court; the seminars and other work carried out by the International Committee on the Red Cross and the participation of the medical profession in such seminars; Sri Lanka's accession to the First Optional Protocol to the International Covenant on Civil and Political Rights; and the support to victims of torture as expressed by both donations to the UN Voluntary Fund for the Victims of Torture and support to the Centre for Rehabilitation.

In terms of factors and difficulties hindering application of the provisions of the Convention, the Committee noted: a serious internal situation, nonetheless noting that it in no way justifies any violation of the Convention; a very low per capita income; and the fact that, for years in the past, police officers appeared to be immune from prosecution.

The subjects of concern identified by the Committee included: information on serious violations of the Convention, particularly regarding torture linked with disappearances; the fact that few if any prosecutions or disciplinary proceedings were taken, despite continuous Supreme Court warnings and awards of damages to torture victims; the absence, until recently, of independent and effective investigation of scores of allegations of disappearances linked with torture; significant omissions in the CAT Act 22/94 in terms of some of the provisions of the Convention; the admissibility under the Emergency Regulations of confessions; and the absence of strict legislation governing detention consistent with international norms.

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

- ♦ review the CAT Act 22/94 and other laws in order to ensure complete compliance with the Convention, in particular in respect of the definition of torture, acts that amount to torture, and extradition, return and expulsion;
- ♦ review the Emergency Regulations and the Prevention of Terrorism Act as well as rules of practice per-

taining to detention to ensure that they conform with the provisions of the Convention;

- ♦ ensure that all allegations of torture — past, present and future — are promptly, independently and effectively investigated and that the recommendations arising from these investigations are implemented without any delay;
- ♦ while continuing to remedy, through compensation, the consequences of torture, give due importance to prompt criminal prosecutions and disciplinary proceedings against those responsible;
- ♦ strengthen the Human Rights Commission and other mechanisms dealing with torture prevention and investigation, and provide them with all the means necessary to ensure their impartiality and effectiveness; and
- ♦ make a declaration in favour of articles 21 and 22 of the Convention (complaints procedures).

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on: (E/CN.4/1998/44, paras. 6, 14, 15)

The report notes that the Working Group received information from the government related to Decision 1/1996 indicating that seven of the persons named had since been released and, in the case of the eighth individual, no person by the name given had been taken into custody.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 3, 13, 24, 25, 34, 40, 42, 63, 341–350)

On the question of compensation for victims, or relatives of victims, of enforced or involuntary disappearances, the report refers to information provided by the government indicating, *inter alia*: compensation is paid to next of kin of persons who have died or sustained injuries as a result of violence, terrorist activity, related security operations, and consequent to civil unrest; the Registration of Deaths (Temporary Provisions) Act No. 2 of 1995 provides for the registration of deaths of persons reported missing and for associated matters; and — with respect to persons who have died in the course of civil disturbances, as a result of violence and terrorist activity — a particular procedure has been established which requires that only one year must have passed before next of kin may apply to register the disappearance. The report notes that, as of August 1997, the state had paid compensation in relation to 5,991 deaths; approximately US\$1,694,900 was allocated by the General Treasury for 1998 for the purpose of paying compensation to families, including dependants of “missing persons”; and, as of 30 June 1997, 9,096 cases were pending payment.

Since 1980, 12,208 cases of disappearance alleged to have occurred in Sri Lanka have been reported to the

Working Group (WG). The cases occurred in the context of two major sources of conflict: the confrontation of Tamil separatist militants and government forces in the north and north-east of the country, and the confrontation between the People’s Liberation Front (JVP) and the government forces in the south. Cases reported to have occurred between 1987 and 1990 took place mostly in the Southern and Central Provinces of the country during a period in which both security forces and the JVP resorted to the use of extreme violence in the contest for state power. Cases reported to have occurred since 11 June 1990, the date of resumption of hostilities with the Liberation Tigers of Tamil Elam (LTTE), have taken place primarily in the Eastern and North-Eastern Provinces. In the north-east, the persons most often reported detained and missing were young Tamil men accused or suspected of belonging to, collaborating with, aiding, or sympathizing with the LTTE. Tamil persons internally displaced, staying in informal shelters such as church or school centres, were particularly at risk of detention and disappearance. The most frequently utilized method of detention in the north-east was the cordon-and-search operation in which the army, often in conjunction with the police, and particularly the Special Task Force, went into a village or a rural area and detained scores of persons. Many were released within 24 to 48 hours, but a percentage of the persons remained in custody for questioning.

The report notes that the number of disappearances in Sri Lanka increased steeply following the resumption of hostilities in 1995. The persons concerned were mostly young Tamil men, many of them poor farm labourers, fishermen, or students from Trincomalee. During the period under review, 695 newly reported cases of disappearances were transmitted to the government, 77 of which reportedly occurred in 1997. The vast majority of the newly reported cases occurred during 1996 in Jaffna, Batticaloa, and Mannar districts, frequently in the context of “round-up operations” by military personnel.

The WG noted that serious concern was expressed over the increase in the number of reported cases of disappearances during the past year. Information indicated, *inter alia*, that: since the security forces regained control over the Jaffna peninsula in late 1995, the total number of disappearances is the highest since 1990; the security forces resort to disappearances in reprisal for attacks on them by members of LTTE; such disappearances frequently occur after the persons concerned are taken into custody during “round-up operations”; the Prevention of Terrorism Act and Emergency Regulations facilitate such violations, as does the failure of the government to bring the perpetrators to justice; and, the payment of compensation to affected families continues to be very slow.

The government provided information on 56 individual cases, noting that the vast majority of the persons named had been released from prison or were out on bail, five persons were detained, and one was said to have been killed. The government also stated that: the number of alleged disappearances decreased during 1997 due to its efforts to protect human rights; the International Com-

mittee of the Red Cross is present in Jaffna and other parts of the country and has free access to places of detention, as does the newly established Human Rights Commission of Sri Lanka; perpetrators of past disappearances will be prosecuted; and, constitutional reforms had been tabled in Parliament to protect the right to life and ensure that detained persons have the right to contact a relative or friend and to consult a lawyer.

The WG's concluding observations noted: the information provided by the government and its efforts to investigate and clarify the fate of the many thousands of persons who disappeared in the past; the re-emergence of the systematic practice of enforced disappearance as cause for alarm; that Sri Lanka is the country with the highest number of disappearances reported to have occurred in 1997; and, notwithstanding the government's efforts, very few cases on the WG's files have been clarified. The WG recalled the government's obligations, under article 10 of the Declaration, to hold persons deprived of liberty only in officially recognized places of detention, to bring them promptly before a judicial authority, and to make accurate information on the detention of such persons promptly available to their family members, their legal counsel, or to any other persons having a particular interest. The WG stated that the provisions of the Prevention of Terrorism Act and the Emergency Regulations currently in force do not correspond to these rights and repeated its request that the necessary legal amendments be made in order that the government may comply with its obligation to prevent new cases of enforced disappearances. The WG also reminded the government of its obligation to investigate all outstanding cases of enforced disappearances and, in this respect, looked forward to receiving the reports of the three presidential commissions of inquiry related to disappearances.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 14, 17, 20, 32, 39, 42, 57, 59, 61, 62, 63, 73; E/CN.4/1998/68/Add.1, paras. 368–369)

The Special Rapporteur (SR) noted that violent acts committed by terrorist groups do not fall within his mandate but acknowledged that violent acts committed by such groups have led to the killing of many civilians in Sri Lanka. During the period under review, the SR transmitted allegations regarding violations of the right to life related to gang rape, detention, killings, and disappearances, committed by members of the armed forces in Jaffna, and death while in the custody of the Special Task Force of Sri Lanka in Colombo.

The SR visited Sri Lanka from 24 August to 5 September 1997. The purpose of the visit was to assess the situation of the right to life in the country, to investigate allegations of extrajudicial executions, and to check on the implementation of certain measures taken by the government to safeguard the right to life, including its efforts to investigate, prosecute and prevent such violations. The report of the mission (E/CN.4/1998/68/Add.2) includes information on, *inter alia*: visits to Jaffna and Batticaloa

during which meetings with the Regional Commanders of the armed forces and police were held, as well as sessions with others, including NGOs and government officials; violations of the right to life in the context of armed conflict; violations committed by the LTTE and the home guards, and those committed in the context of political violence; human rights and humanitarian law, the relevance of armed conflict, and national legislation; action by the government in response to cases of summary/arbitrary executions, including investigation of cases, steps taken by the Human Rights Commission, the Commissions of Inquiry into Involuntary Removal and Disappearances, and the drafting of a new constitution; and, impunity.

In setting the context, the report notes that the population in Sri Lanka is comprised of a number of ethnic groups and religions with the majority being Sinhalese, who are mostly Buddhist and account for 74 per cent of the population. The Sinhalese are followed by the Tamils, who are mostly Hindu and make up 18 per cent, Muslims who make up 7 per cent of the population, and Burghers, the descendants of colonialists, who account for 1 per cent. Referring to the colonial past (Portuguese, Dutch and British), the report states that each colonial power left its imprint on society in a variety of ways, including differential access to education and economic opportunity, often according to religion, linguistic and/or ethnic origin. The report further states that what began as a struggle for cultural affirmation, political representation, economic advancement, and linguistic parity between Sinhalese and Tamils ended in violence and armed conflict. The overriding political issue in Sri Lanka therefore became the demand by some Tamil groups for an independent Tamil State ("Ealam") comprising the northern and eastern provinces of the country.

The report notes that the conflict in the north and east of the country has taken the lives of more than 50,000 persons over its 14-year history with many more injured, and over 500,000 people internally displaced.

The situation in Jaffna peninsula generally, and Jaffna town specifically, is described as including: a process of resettlement and rehabilitation, with more than 300,000 people — out of a population of approximately 470,000 — still dependent on free government dry food rations; conditions during daylight in which there were visible signs of an easing of tension; a government administration in the peninsula while the city remained under military control; continuing concerns over freedom of movement and fear of disappearances, arbitrary arrests and executions, with Tamils subjected to suspicion irrespective of whether they are sympathizers with the LTTE or not; and the fact that the security forces are 99 per cent Sinhalese and do not speak Tamil, exacerbating the already existing feeling of alienation.

The report cites information provided by the Magistrate in Jaffna, indicating that: between January and September 1997, 38 cases of extrajudicial killings had been filed, arising from confrontations reported by the police; of these cases, 31 involved murders which fell under the

Emergency Regulations and were sent on to the Deputy Inspector General of Police; following from this, the Magistrate had been unable to deliver death certificates to the families because there was no registration of the deaths, leading to a situation in which families cannot receive any compensation; the bodies of terrorists are not returned to the families; there were no records of deaths of women or children under the Emergency Regulations, all such deaths having been determined to have occurred under the normal regulations; there were no reports of cases of death while in custody; and since March 1996, no reports of mass graves in the peninsula had been received, but there was no procedure to ensure that the Magistrate would be automatically informed were such a grave or graves found.

Elements in the situation in Batticaloa are described as including: regular security incidents that sometimes resulted in civilian deaths; a general fear and great reluctance among the population to be outdoors after dark because of the low-intensity, guerrilla-style war waged by the LTTE in that region, mainly in rural areas; incidents of LTTE shelling of the city; and, mine clearance operations every morning by the Sri Lankan military on the main road leading to the city to ensure that no mines had been laid during the night.

Information provided by the Bar Association and the Additional Magistrate indicated that, *inter alia*: several cases of arbitrary arrest had been handled by lawyers; persons arrested and charged under the Emergency Regulations Act (ERA) or Prevention of Terrorism Act are not informed about the charges; during investigations the authorities present their own version of the facts, but not the version of the accused; there are repeated allegations of confessions extracted under torture with such statements written in Sinhalese, a language that the victim often does not understand; families are reluctant to claim the bodies of relatives who were executed, at least in part because relatives who want to claim the body of the victim are required to declare that the victim was a terrorist; failure to make such a declaration results in the body not being given to the family; in the first eight months of 1997, 35 cases of deaths falling under the ERA were investigated; police have the power to decide whether or not a case falls under the ERA and the right to keep the body; and soldiers convicted of rape or other crimes can be released on bail once the investigation is completed and, while on bail, transferred to other parts of the country, making it difficult to trace them and leading to a situation where they often will not report for further investigation.

The section of the report summarizing findings and concerns notes that: in areas of armed conflict, large-scale human rights violations and abuses continue and are committed by members of the security forces and paramilitary groups (home guards) which are reported often to cooperate with the security forces, as well as the armed insurgent groups (LTTE); the counter-insurgency strategy employed by the armed forces regards everyone who is known to have, or is suspected of having, links

with the LTTE as an internal enemy and, in some areas, virtually all civilians are viewed as collaborators, an allegation denied by members of the armed forces; peasants have become the main victims of human rights violations in areas where there is armed conflict; a large number of those who have dared to denounce human rights abuses committed by the LTTE have been killed by LTTE members or forced to leave their areas of residence; fear causes human rights activists and witnesses to violations to remain silent; military operations leading to the death of civilians include indiscriminate bombing of civilian settlements and armed incursions, with the victims of such measures later presented to the public as terrorists who died in combat; reports received indicated that torture is used by the armed forces with the aims of obtaining information on insurgent groups and intimidating the population; and during armed confrontation or following battles between the military and the insurgents, no prisoners are taken, with Tamil insurgents preferring to commit suicide rather than be captured by the armed forces.

The report recalls that in February 1988 the LTTE announced its intention to abide by the Geneva Conventions and the Additional Protocols and states that, despite this undertaking, reports of abuses by the LTTE against civilians have been received, including accounts of: peasants being required to provide food and money to the guerrillas and the killing of peasants who refuse; forced displacement; execution of captured members of the security forces; the targeting of former combatants who have tried to return to civilian life; the use of suicide attacks, including the use of children and women, against civilian targets; and, in some areas, the replacement of the state administration by LTTE authorities.

The commentary on violations committed by the home guards notes, *inter alia*, that: these paramilitary groups, and militia of political parties, continue to operate in the north and north-east; the groups are made up of Sinhalese and Muslim civilians who are recruited and armed by the police and given short training in the use of weapons in order to take care of their own communities, to defend themselves against extortion by the insurgents, and to protect their economic and social positions; the groups often work alongside the army and act as auxiliary forces; the security forces have never made serious attempts to restrain or control the activities of these groups, or dismantle or disarm them; reports indicate that in some areas the groups have been trained in military establishments and operate under the direct command of the armed forces; and, cooperation between Muslims and Sinhalese has provoked retaliatory action by Tamil insurgents against Muslim villagers and home guards, including abduction and murder.

Narrative on violence in the political context refers to a number of points, including that: most, if not all, of the political party leaders have their own private armed security guards; all 225 members of Parliament are authorized to have up to eight armed security guards; and the 300 provincial counsellors are authorized by the Ministry

of Defence to have up to four armed security guards each. According to the report: these provisions have resulted in a competition between the regular police and the privately armed guards, leading to political violence that particularly increases during election time; despite the fact that the police have been present when incidents have occurred, very few of the cases were investigated and none were brought before the court; impunity in cases of political violence appears to prevail throughout Sri Lanka; and members of Tamil political parties opposed to the LTTE continue to be armed and, without any clear legal basis for their actions, carry out functions which are part of the overall responsibility of the security forces, particularly in the north and east.

Addressing relevant provisions in international humanitarian law, the SR acknowledged that the LTTE controls several parts of the country in the north and north-east and, further, that the conflict is of such a nature as to have reached the threshold of applicability of article 3 common to the four Geneva Conventions of 1949. The SR stressed that: in the case of armed conflict, the response of the government must always be relevant and proportionate so that the standards of human rights may be respected for every individual in every case; the existence of an armed conflict does not permit a *carte blanche* response; and any violations on the part of the insurgents (LTTE) cannot be used as an excuse for violations by the government.

The report notes that the death penalty is permitted in Sri Lanka although no executions have been carried out since June 1976 and, in those cases where the courts were compelled to pass sentences of death, the sentence has always been commuted by the President. That being said, the report refers to laws and procedures that may, under certain circumstances, facilitate violations of the right to life. These laws and measures include, but are not limited to: emergency regulations that still provide for indefinite preventive detention on renewable, three-monthly detention orders, overriding safeguards contained in normal law; inadequacies in the procedures governing post-mortems and inquests, leading to failures in the investigative process and, possibly, impunity for those committing extrajudicial executions; the Prevention of Terrorism Act with unusually broad provisions that have exacerbated rather than alleviated tensions, including those allowing any police officer above the rank of Superintendent, without warrant, to arrest any person, enter and search any premises, stop and search any individual or vehicle of any kind, and seize any document connected with or concerned in any unlawful activity; provisions in the ETA allowing for confessions made to police under torture or threats to be admissible in evidence; and the Emergency Regulations Act, including provisions derogating from those in normal laws related to inquests into deaths resulting from police actions or actions by members of the armed forces.

The actions taken by the government in response to cases of summary/arbitrary executions are noted in the report as including, *inter alia*: investigations by the Criminal

Investigation Department into reported cases of disappearances; initiation of proceedings by the Magistrate's Court, and subsequent transfer of the case to the High Court of Colombo; the arrest of police officers attached to the Special Task Force who were implicated in cases of disappearances; and the decision of the Attorney-General to forward a direct indictment in one case, involving eight army soldiers and one police officer, to the High Court of Sri Lanka, marking only the fourth time in Sri Lankan history that a trial-at-bar has been instituted, in this case to prevent a trial by jury that could aggravate communal tensions and to ensure an expeditious course of justice.

The report notes that the Human Rights Commission of Sri Lanka was established by law in 1996, and has monitoring, investigative and advisory powers related to human rights. On the Commissions of Inquiry into Involuntary Removal and Disappearances, the report notes that they were created in January 1995 to inquire into and report on cases of removals and disappearances occurring from 1 January 1988. The report also notes that, despite provisions stating that the final reports of the Commissions, submitted to the President in September 1997, would be published and action taken on their recommendations, these reports had not been published by the time of the SR's report, and there were no indications that the government had followed up on the findings and recommendations.

On the issue of impunity, the SR stated that effective impunity encourages political violence and is a serious destabilizing element in all contexts of the Sri Lankan socio-political system. The report notes: there have been periodical extrajudicial executions, but few perpetrators have been brought to justice; impunity is an obstacle to democratic development and peace negotiations, and makes reconciliation difficult; the culture of impunity has led to arbitrary killings and has contributed to the uncontrollable spiralling of violence; the systematic absence of investigation, either civil or military, into violations of the right to life facilitates impunity; investigations are rarely conducted, and when they are, they do not lead to the appropriate convictions or penalties; many members of the security forces and others allegedly responsible for grave human rights violations in the recent past continue to hold official posts in the same areas where the violations took place and may try to interfere with the investigations; and, the government has expressed its willingness and intention to bring to justice members of the security forces believed to be responsible for human rights violations but little progress has been reported in those cases submitted by the SR since the creation of the mandate.

The report notes that in those cases where investigations were conducted and cases tried, it appears that the most severe punishment ever handed out to human rights violators is suspension from duty, despite the gravity of the offences. The SR recalled that while civilians who peacefully exercise their fundamental civil and political rights are charged and sentenced to years of imprisonment, sol-

diers and policemen who flagrantly violate the rights of innocent civilians are charged before their own peers and sentenced to only months of imprisonment.

The report concludes by stating that the question of extrajudicial and arbitrary executions in Sri Lanka remains serious and is caused by, *inter alia*, the prevailing abuses against the right to life which have taken root within the internal armed conflict. The report notes that the perpetrators are the armed forces and police, LTTE members, members of opposing factions, and paramilitary organizations allegedly linked to the security forces (home guards). The recommendations in the report are placed within the general statement that peace could create the most favourable conditions for improving the human rights situation in Sri Lanka and, to that end, all parties to the armed conflict should seriously seek and negotiate a peaceful solution to the conflict.

The report recommends, *inter alia*, that:

- ♦ a mechanism be created to encourage confidence-building between the Sinhalese and the Tamils and be aimed at providing security and protection to all the people;
- ♦ the government refer to the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, and take all measures required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law;
- ♦ the security forces be reformed and transformed in order to allow Tamils equal access to them, and ensure that they become representative of the whole society; the recruitment policy of the army be changed to ensure Tamil representation and, further, that provision of cultural sensitivity training for soldiers be considered;
- ♦ the government strengthen efforts to coordinate the functions of all the security forces responsible for ensuring law and order; training be provided to the army and police forces, incorporating relevant international standards such as the Code of Conduct for Law Enforcement Officials;
- ♦ all elements of the police who have been involved in summary executions, massacres, or other grave violations of human rights be excluded from the national police force;
- ♦ effective action be taken by the armed forces to disarm and dismantle armed groups, especially the home guards; or, alternatively, measures be taken to place any such auxiliary force under the strict control of the security forces through, for example, a disciplinary code of conduct under a defined authority such as the army or police;
- ♦ efforts to disarm the civilian population be intensified; provision be made to enable combatants who organize themselves in political movements to participate in the democratic process without fear of reprisals;
- ♦ the government fulfil its obligation under international law to conduct exhaustive and impartial investigations into all allegations of extrajudicial, summary or arbitrary executions and torture; identify, prosecute and punish those responsible; grant adequate compensation to the victims or their families; and take all appropriate measures to prevent the recurrence of such acts;
- ♦ all necessary steps be taken to minimize the delays in bringing to trial members of the security forces suspected of committing human rights violations;
- ♦ the government, in accordance with the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, ensure that victims are entitled to access to the mechanisms of justice and to prompt redress for the harm suffered; a system of compensation for the families of victims be developed, as well as a system to protect witnesses and their families who participate in criminal investigations and give testimony;
- ♦ steps be taken to ensure that counter-insurgency operations by the armed forces are carried out with full respect for the rights of the civilian population and that, under no circumstances, the use of heavy weapons by the military against the civilian population be permitted;
- ♦ the government ensure that the necessary forensic expertise and ballistic analyses are made available throughout the country with a view to obtaining maximum evidence in each case of exhumation under investigation;
- ♦ the authorities take the necessary steps to strengthen the ordinary justice system in Jaffna, including through the allocation of the necessary human and material resources;
- ♦ the emergency regulations be revised in order to bring them into line with accepted international standards;
- ♦ the death penalty be abolished in the new Constitution;
- ♦ the government publicize the reports of the three commissions which examined the cases of alleged disappearances, and prosecuting authorities prepare cases against identified offenders; legislation for the issuance of death certificates in respect of missing persons be enacted and provincial mechanisms for implementation be established;
- ♦ the Human Rights Commission be strengthened, in accordance with the Principles relating to the status of national institutions (Paris Principles);

- the government continue to elaborate and implement without delay the policy to improve security, to enable the displaced and dispersed Tamil populations of the country to return to their homeland, thereby facilitating their reintegration and reinstallation; and
- the government establish a national institution to find ways and means for national reconciliation by functioning as a forum for a discussion on crucial issues facing Sri Lankan society, with the full participation of non-governmental organizations and civil society in this process.

Torture, Special Rapporteur on: (E/CN.4/1998/38, para. 176; E/CN.4/1998/38/Add.1, paras. 393–395)
 Allegations were transmitted to the government related to the repeated rape of two sisters at their home in Mayilampaveli Colony, Batticaloa district, by four soldiers from the Mayilampaveli army camp who were said to have forced their way into the home, noting that complaints were made to the local police at Eravut and the Joint Operations Commander. Other allegations were transmitted concerning harassment of a woman by officers of the Central Camp police station after she had made a complaint that the officers had stolen timber from her residence in 11th Colony village, noting that persons believed to be police officers allegedly entered the woman's home, raped her and then threw a grenade at her genitals, which resulted in her death, further noting that an inquiry reportedly ordered by the President was said to be under way by the Criminal Investigation Department.

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

The report notes that women in Sri Lanka are increasingly taking up the role of combatants and participating on the front lines of the conflict. The Special Rapporteur (SR) summarized one case of a woman in Jaffna who disappeared, as did three members of her family who went looking for her. When her body was discovered, evidence was found that she had been gang raped and then murdered. The SR noted that eleven members of the security forces were arrested, two of whom were released after turning state's witness. At the time the report was prepared, the prosecution was in the process of presenting its evidence before a trial at bar.

The report notes that abuses by the Liberation Tigers of Tamil Elam (LTTE) have also been documented with information indicating that women civilians have been among those who have been murdered and mutilated in attacks on Sinhala border villages in the east of the country and in bombings of crowded areas in the north-east and in Colombo.

Referring to preventive detention, the SR stated that it is frequently used in Sri Lanka and justified through laws such as the Prevention of Terrorism Act – which can be used as a mechanism of “protection” for the general public – in order to try to prevent a crime that the police have grounds to believe is being planned or is likely to

occur. The SR stated that often such laws allow for at least temporary clandestine detentions and it is within the context of incommunicado detentions that the majority of state violations of human rights occur.

OTHER THEMATIC REPORTS

Children affected by armed conflict, Special Representative: (A/53/482, paras. 43, 61–70)

The Special Representative (SRep) visited Sri Lanka from 3 to 9 May 1998 to witness and assess the multiple ways in which children are affected by the ongoing armed conflict. Discussions with the government and the LTTE leadership resulted in specific commitments. The report notes that the LTTE leadership further agreed on the need to develop a framework to monitor implementation of the commitments. The commitments are: provision and distribution of humanitarian supplies – the government to review the list of restricted items and examine procedures to expedite the approval and distribution of necessary supplies, the LTTE leadership not to interfere with the flow of humanitarian supplies destined for affected populations and to accept a framework to monitor this commitment; free movement of displaced populations – the government to expedite procedures for the issue of permits for movement in affected areas, the LTTE leadership not to impede the movement of displaced populations who want to return to areas now under government control and not to impede the return to their homes of Muslim populations displaced by previous outbreaks of hostilities; recruitment and participation of children in hostilities – the LTTE leadership not to use children under 18 years of age in combat and not to recruit children less than 17 years old, the government to maintain its policy of not recruiting children under the age of 18 years; observing the Convention on the Rights of the Child – the LTTE agreed to have its cadres receive information and instruction on the Convention; and targeting of civilian populations and sites – the LTTE leadership acknowledged this to be an important and legitimate concern and undertook to review its strategies and tactics in this regard. The report notes that neither the government nor the LTTE would make a commitment to refrain from using landmines.



SYRIAN ARAB REPUBLIC

Date of admission to UN: 24 October 1945. [Syria withdrew in 1958 to unite with Egypt as the United Arab Republic and resumed its independence and separate membership in the UN in 1961.]

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Economic, Social and Cultural Rights

Acceded: 21 April 1969.

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

Reservations and Declarations: General declaration; paragraph 1 of article 26.

Civil and Political Rights

Acceded: 21 April 1969.

Syria's second through fourth periodic reports were due 18 August 1984, 1989 and 1994 respectively.

Reservations and Declarations: General declaration.

Racial Discrimination

Acceded: 21 April 1969.

Syria's 12th through 15th periodic reports (1992 through 1998) were submitted as one document (CERD/C/338/Add.1/Rev.1) which is pending for consideration at the Committee's March 1999 session; the 16th periodic report is due 21 May 2000.

Reservations and Declarations: General declaration; article 22.

Rights of the Child

Signed: 18 September 1990; ratified: 15 July 1993.

Syria's second periodic report is due 13 August 2000.

Reservations and Declarations: General reservation; articles 14, 2 and 21.

COMMISSION ON HUMAN RIGHTS

The report of the Secretary-General (E/CN.4/1998/20, para. 4), prepared as per the request in the 1997 resolution of the Commission (1997/2), notes that the UN Department of Public Information continued its activities related to human rights in the occupied Syrian Golan. [These are discussed in greater detail in the profile on Israel.]

At its 1998 session, the Commission adopted a resolution on human rights in the occupied Syrian Golan (1998/2). The resolution was adopted by a roll call vote of 35 in favour, 1 opposed, and 19 abstentions. The Commission, *inter alia*: recalled relevant resolutions of the Security Council and General Assembly; reaffirmed the illegality of the Israeli decision of December 1981 to impose its laws, jurisdiction, and administration on the occupied Syrian Golan; reaffirmed the principle of non-acquisition of territory by force; deplored Israeli settlement in the occupied Arab territories and Israel's refusal to cooperate with and receive the Special Committee to investigate Israeli practices; reaffirmed the importance of the peace process and expressed concern about the halt in the process on the Syrian and Lebanese tracks; and called on Israel to comply with relevant resolutions of the Security Council and General Assembly to desist from changing the physical character, demographic composition, institutional structure and legal status of the occupied Syrian Golan. The Commission: emphasized that displaced persons of the occupied Syrian Golan must be allowed to return to their homes and recover their properties; called on Israel to desist from imposing Israeli citizenship and

identity cards on Syrian citizens in the occupied Syrian Golan; stated that all legislative and administrative measures and actions that purport to alter the character and legal status of the occupied Syrian Golan are null and void and constitute a flagrant violation of international law; and called on UN members not to recognize any of the legislative or administrative measures and actions to which the resolution referred.

THEMATIC REPORTS**Mechanisms of the Commission on Human Rights****Arbitrary detention, Working Group on:**

(E/CN.4/1998/44, paras. 6, 14, 15;

E/CN.4/1988/44/Add.1, Opinion No. 2/1997)

The government informed the Working Group (WG) that some of the persons named in the WG's Decisions 29/1996 and 31/1996 had been released, and others were due to complete their sentences before the end of 1997.

Opinion No. 2/1997 related to the arrest of a civil engineer and businessman in 1980 by a group of security officers. The WG noted that they did not know the reasons for the arrest, the detention had never been acknowledged, and they did not know whether the man had ever been charged or tried for any criminal offence. The family did learn that he was being held in Palmyra (Tadmur) prison and, in 1992, the family tried to apply at military police quarters in Damascus for a permit to visit. The responsible officer informed the family that the man was indeed in the Palmyra prison and was to be released shortly. The family had not received any additional news from or about him since.

In its September 1996 reply, the government confirmed the arrest in 1980 on a charge of belonging to an armed terrorist group involved in murders and bomb attacks in Syria. According to the government, the man was tried and sentenced to death by judgement No. 28 of 9 June 1996.

The WG stated that the government's reply: contained no information on the person's current status with regard to criminal law; did not indicate whether he had been able to lodge any appeals; did not indicate to what group the men allegedly belonged and on what grounds it is classified as a "terrorist group"; did not provide any details of the murders allegedly committed by the group, of the bomb attacks it allegedly carried out, of the places and dates of the attacks, or of the man's alleged role in the organization; did not indicate why the individual was not tried until 15 years after being taken into custody, what judicial or other organ was responsible for ordering his arrest without charges or trial during this period, under what law or legal provision he was held without trial for more than 15 years, and what court was responsible for trying him.

The WG also noted that the government had provided no information on the trial — such as the acts for which the

man was tried and found guilty, the relevant procedural law, whether the accused was present at his trial, what means were made available for his defence, whether a lawyer was present, and whether the trial was public and the verdict handed down in public. The WG stated that the only certain conclusion that could be drawn from the government's reply was that the individual had been held without trial for more than 15 years, and sentenced to death for having belonged to what was described as a terrorist group.

With those points in mind, the WG decided that the deprivation of liberty was arbitrary, in contravention of a number of articles in the Universal Declaration and the International Covenant on Civil and Political Rights.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 13, 357)

No new cases of disappearance were transmitted to the government. Two cases were clarified. In one case it was reported that the person named was a medical doctor who was pursuing specialized studies in ophthalmology and working for the Syrian Ministry of Health in Hama; in the other case the government reported that the person had been detained for evading military service, but released under the terms of a presidential amnesty.

Of the 35 cases of disappearance reported to the Working Group (WG), 26 have been clarified. Among the nine outstanding cases, a substantial number allegedly occurred throughout the country in the early to mid-1980s. Some of the persons concerned were allegedly members of terrorist groups; others were reportedly members of the military or they were civilians.

The WG referred to concerns that have been expressed over the fact that the fate of those who have disappeared in Lebanon has still not been determined, nor have the perpetrators been brought to justice. It was further alleged that both Lebanese citizens and stateless Palestinians continue to disappear in Lebanon, taken into custody by Syrian security forces and then transferred to, and detained in, Syria. Information indicated that the Lebanese government not only acquiesces to such activities by Syria, but sometimes also collaborates with Syrian forces in carrying out disappearances.

Torture, Special Rapporteur on: (E/CN.4/1998/38, para. 185; E/CN.4/1998/38/Add.1, paras. 417–418)

An urgent appeal was sent on behalf of an individual who had reportedly been detained since 1981 in connection with the Party of Communist Action. The person was said to have been due for release in mid-1996, but was transferred instead to Tadmur Military Prison because he refused to sign a statement dissociating himself from past political activities and expressing support for the government. Information provided by the government indicated that the person named had been released after the end of the term of his imprisonment. A second urgent appeal was sent on behalf of one person who was reportedly arrested in Qamishli in April 1997 by members of

military intelligence who were seeking the man's brother. The whereabouts of the person named remained unknown.



TAJIKISTAN

Date of admission to UN: 2 March 1992.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Racial Discrimination

Acceded: 11 January 1995.

Tajikistan's initial and second periodic reports were due 10 February 1996 and 1998 respectively.

Discrimination against Women

Acceded: 26 October 1993.

Tajikistan's initial and second periodic reports were due 25 October 1994 and 1998 respectively.

Torture

Acceded: 11 January 1995.

Tajikistan's initial report was due 9 February 1996.

Rights of the Child

Acceded: 26 October 1993.

Tajikistan's initial report (CRC/C/28/Add.14) has been submitted and is pending for consideration at the Committee's January 2001 session; the second periodic report is due 24 November 2000.

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 a communication 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. 3, 13, 361–363, 417)

Two newly reported cases were transmitted to the government, both of which reportedly occurred in 1997 and concerned brothers of Badakhshani ethnic origin. One of the brothers, who remains disappeared, is said to have been a member of the last parliament of the Soviet Union. The six cases of disappearance previously reported to the Working Group were alleged to have

occurred between late 1992 and July 1993 in the context of the escalating civil war, when pro-government forces took over the capital of Dushanbe. Although several reminders have been sent, no information has ever been received from the government on these cases.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68/Add.1, para. 371)

The Special Rapporteur reiterated interest in conducting a visit to Tajikistan, and expressed regret that no response had been received from the government despite several requests made in 1994 and 1996.



THAILAND

Date of admission to UN: 16 December 1946.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Thailand has submitted a core document (HRI/CORE/1/Add.78) for use by the treaty bodies. The report prepared by the government is largely comprised of demographic and statistical data; short commentaries are provided on the general political framework, the judiciary, the civil law system, the military courts and proceedings in criminal and civil cases.

Civil and Political Rights

Acceded: 29 October 1996.

Thailand's initial report was due 28 January 1998.

Reservations and Declarations: Paragraph 1 of article 1; paragraph 5 of article 6; paragraph 3 of article 9; article 20.

Discrimination against Women

Acceded: 9 August 1985.

Thailand's second and third periodic reports have been submitted as one document (CEDAW/C/THA/2-3) which is pending for consideration at the Committee's January 1999 session; the fourth periodic report was due 8 September 1998.

Reservations and Declarations: Article 16 and paragraph 1 of article 29.

Rights of the Child

Acceded: 27 March 1992.

Thailand's initial report (CRC/C/11/Add.13) was considered at the Committee's October 1998 session; the second periodic report is due 25 April 1999.

Reservations and Declarations: Articles 7 and 22.

REPORTS TO TREATY BODIES

Committee on the Rights of the Child

Thailand's initial report (CRC/C/11/Add.13, August 1996; CRC/C/Q/THA/1) was considered by the Committee at its October 1998 session. The report prepared by the government contains information on, *inter alia*: the National Youth Commission and its Subcommittee on Child Rights, established in 1989; the Rehabilitation of the Disabled Act 1991; the Office of the National Primary Education Commission (ONPEC); the Act Instituting the Juvenile and Family Courts and the Juvenile and Family Procedures 1991; the National Child and Youth Development Plan under the National Economic and Social Development Plan; the role and function of the National Youth Bureau (NYB); amendments to a range of existing laws and proposed new legislation corresponding to provisions in the Convention; the definition of the child and minimum age levels; discrimination between girls and boys and provisions in law related to non-discrimination; nationality and birth registration; children's literature and protection of children from media violence; and criminal and civil sanctions for cruelty against children and corporal punishment. The report also includes information on: the family environment and related factors, the proposed Child Support Agency, neglect, abandonment, abuse, family violence; street children; alternative care arrangements; children with disabilities; basic health and welfare services, HIV/AIDS; education, leisure and cultural activities; refugee and displaced children; administration of juvenile justice, children in conflict with the law, Juvenile and Family Court, Observation and Protection Centres; child labour, drug and substance abuse, child prostitution, sexual abuse, sale, trafficking and abduction, the Sale of Women and Girls Act 1928, the Prostitution Suppression Act 1960; and children of minority or ethnic groups — hill tribes and Muslims.

The Committee's concluding observations and comments (CRC/C/15/Add.97) welcomed: adoption of a new Constitution (1997) and the call for the establishment of a National Human Rights Committee charged with monitoring human rights; the Amended Criminal Procedure Code concerning indecent acts committed on girls and boys; the Criminal Procedure Code concerning juvenile defendants under 18 years of age; the Act concerning Measures of Prevention and Suppression of the Trafficking in Women and Children 1997; the Prevention and Suppression of Prostitution Act 1996; the Occupational Training Promotion Act 1993; and the Labour Protection Act 1998. The Committee viewed positively the priority given, in the Eighth National Economic and Social Development Plan (1997–2001), to human development, including child protection and participation; initiatives to extend greater development opportunities to vulnerable and disadvantaged groups, and implementation of special monitoring systems in the area of child labour and prostitution; and the establishment of indicators, including Social Indicators (Basic Minimum Needs — BMN), Indicators on Child and Youth Development, and Indicators on Child Rights.

The economic and social difficulties faced by the government were acknowledged as factors hindering implementation of the Convention, in particular, the high level of external debt, the requirements of the structural adjustment programme, and the increasing level of unemployment and poverty.

Subjects of concern identified by the Committee included, *inter alia*: that domestic legislation still does not fully reflect the principles and provisions of the Convention; while noting the establishment of the Corrupt Practices Commission, the need to strengthen law enforcement and combat corrupt practices in all areas covered by the Convention; the absence of an independent mechanism to register and address complaints from children concerning violations of their rights; the low minimum legal age for criminal responsibility, and the absence in legislation of a legal age defining the attainment of majority; and the insufficiency of measures to ensure that all children are guaranteed access to education and health services, and are protected against all forms of exploitation, particularly with regard to girls, children with disabilities, children belonging to minorities including hill tribes, children living in rural areas, children living in poverty, children living and/or working on the streets and asylum seeking children, illegal immigrant children, children in the juvenile justice system, and children born out of wedlock.

The Committee expressed concern that: traditional practices, culture and attitudes still limit the full implementation of article 12 (respect for the views of the child); many children are still not registered, particularly those living among nomadic and hill tribe communities; corporal punishment is still practised and domestic legislation does not prohibit its use within the family, the juvenile justice and alternative care systems, and generally within the society; the high rate of abandoned children continues, especially children born out of wedlock and children of poor families; and there is a lack of adequate alternative care facilities and qualified personnel to assist abandoned children. The Committee expressed concern, as well, that: there is a lack of awareness and information on domestic violence, the ill-treatment and abuse of children, including sexual abuse both within and outside the family; and there is a lack of appropriate resources for children, both financial and human, as well as a lack of adequately trained personnel to prevent and combat abuse.

Concern was also raised related to: poor breast-feeding practices and the high rate of malnutrition; the absence of data on adolescent health, including on teenage pregnancy, abortion, suicide, accidents, violence, substance abuse and HIV/AIDS; the lack of adequate facilities and services for persons with disabilities, including children; the fact that some children, particularly those living in poverty and among nomadic and hill tribe communities do not have access to education; the number of children, particularly girls, leaving school prematurely to work; the lack of clarity in the legal framework for protection of unaccompanied and asylum-seeking children; and the situation of children deprived of their liberty placed in

immigration detention centres, especially in view of the lengthy detention periods.

Additional concerns included: the high rate of economic exploitation, as well as the increasing number of children leaving school, sometimes at an early age, to work to support themselves and their families; the high rate of continued sexual abuse of children, including child prostitution and trafficking and sale of children, which affects both girls and boys; the failure to implement the juvenile justice system throughout the country, and reported cases of ill treatment of children by law enforcement personnel.

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

- ♦ undertake a review of domestic legislation to ensure full conformity with the principles and provisions of the Convention; consider the possibility of enacting a comprehensive code for children;
- ♦ take all appropriate measures, including training, to strengthen law enforcement and prevent corrupt practices;
- ♦ use a comprehensive approach to the implementation of the Convention by, *inter alia*, ensuring the decentralization of the process of promoting and protecting children's rights; take further steps to strengthen efforts to coordinate through the National Youth Bureau, particularly at the local level; review the system of data collection with a view to incorporating all the areas covered by the Convention, including children up to the age of 18 years, with specific emphasis on those who are vulnerable, including economically exploited children, children of single-parent families, children born out of wedlock, institutionalized children, as well as children of nomadic and hill tribe communities;
- ♦ make available to children an independent child-friendly mechanism to deal with complaints of violations of their rights and provide remedies for such violations; introduce an awareness raising campaign to facilitate the effective use by children of such a mechanism;
- ♦ give priority to budget allocations to ensure implementation of the economic, social and cultural rights of children, to the maximum extent of available resources and, where needed, within the framework of international cooperation;
- ♦ make a greater effort to ensure that the provisions of the Convention are widely known and understood by adults and children alike, residing in both rural and urban areas; reinforce adequate and systematic training and/or sensitization of professional groups working with and for children;
- ♦ increase efforts to ensure implementation of the principle of non-discrimination, particularly with regard to children in vulnerable groups;

- ♦ seek to develop a systematic approach to increasing public awareness of the participatory rights of children, and encourage respect for the views of the child within the family as well as within the school, caregiving and judicial systems;
- ♦ increase efforts to raise awareness among government officers, community leaders and parents to ensure that all children are registered at birth; adopt measures to regularize the situation of hill tribe children and provide them with documentation to guarantee their rights and facilitate their access to basic health, education and other services;
- ♦ take all appropriate measures, including of a legislative nature, to prohibit corporal punishment within the family, the juvenile justice and alternative care systems, and generally within the society; conduct awareness raising campaigns to ensure that alternative forms of discipline are administered in a manner consistent with the child's dignity and in conformity with the Convention;
- ♦ increase efforts in providing support, including training for parents, to discourage the abandonment of children; develop additional programmes to facilitate alternative care, including foster care, provide additional training for social and welfare workers, and establish independent complaint and monitoring mechanisms for alternative care institutions;
- ♦ undertake studies on domestic violence, ill treatment and abuse, including sexual abuse, to understand the scope and nature of the phenomenon, in order to adopt adequate measures and policies and contribute to changing traditional attitudes; ensure proper investigation, within a child-friendly judicial procedure, of cases of domestic violence and ill treatment, and abuse of children, including sexual abuse within the family; apply sanctions to perpetrators and give publicity to decisions taken in such cases of abuse, with due regard given to protecting the right to privacy of the child; take measures to ensure the provision of support services to children in legal proceedings, the physical and psychological recovery and social reintegration of the victims of rape, abuse, neglect, ill-treatment, violence or exploitation, and the prevention of criminalization and stigmatization of victims;
- ♦ develop comprehensive policies and programmes to promote and improve breast-feeding practices and prevent and combat malnutrition;
- ♦ increase efforts in promoting adolescent health policies and strengthening reproductive health education and counselling services; undertake a comprehensive and multi-disciplinary study to understand the scope of adolescent health problems, including the special situation of children infected with, affected by, or vulnerable to, HIV/AIDS and STDs; undertake further measures, including the allocation of adequate human and financial resources, to develop youth-friendly care and rehabilitation facilities for adolescents;
- ♦ develop early identification programmes to prevent disabilities, implement alternatives to the institutionalization of children with disabilities, establish special education programmes for children with disabilities, and encourage their inclusion in society;
- ♦ seek to implement additional measures to encourage children, particularly girls and children from poor and hill tribe families, to stay in school and to discourage early employment;
- ♦ clarify the legislative framework to ensure adequate protection of unaccompanied and asylum-seeking children; establish procedures to facilitate family reunification; take all appropriate measures to avoid the placement of asylum-seeking children in immigration detention centres; consider ratifying the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, the 1954 Convention on the Status of Stateless Persons, as well as the 1961 Convention on the Reduction of Statelessness;
- ♦ introduce monitoring mechanisms to ensure enforcement of labour laws; consider ratifying ILO Convention No. 138 concerning the legal minimum age for work;
- ♦ take measures, on an urgent basis, to strengthen law enforcement, and implement the national programme of prevention with regard to sexual abuse of children, including child prostitution and trafficking and sale of children; improve efforts to implement an awareness-raising campaign and a thorough monitoring system at the community level; enhance rehabilitation within, as well as outside of, institutions; envisage the ratification of the 1949 Convention for Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others; and
- ♦ consider taking additional steps to reform the system of juvenile justice, with particular attention paid to considering deprivation of liberty only as a measure of last resort and for the shortest possible period of time, protecting the rights of children deprived of their liberty; expand the juvenile justice system to ensure full coverage in the country; organize training programmes on relevant international standards for all those professionals involved with the system of juvenile justice; and consider ratifying the Convention Against Torture.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 14, 17, 39, 57, 63, 72; E/CN.4/1998/68/Add.1, paras. 372–376)

Allegations were transmitted to the government related to killings by members of the armed forces of Burma in attacks on refugee camps in Thailand, as well as killings by members of the Democratic Karen Buddhist Army (DKBA) in similar attacks on refugee camps in Thailand. The government stated that it was doing its utmost to try and resolve the situation, including taking measures aimed at preventing the violation of Thai sovereignty and further attacks on those seeking refuge in Thailand. The government noted its strengthening of forces protecting vulnerable areas near the border, the relocation of campsites for displaced persons deeper inside Thai territory, and the deployment of reconnaissance units to patrol the areas surrounding the sites.

The government also provided a reply to two cases transmitted during 1996 indicating that, one case had been forwarded to the Public Prosecutor's Office for criminal prosecution and, in the other, the police officer responsible was placed in custody and charged with wrongful killing.

Religious intolerance, Special Rapporteur on: (E/CN.4/1998/6, paras. 48, 50, 59, 69, 90)

The report refers to violations of freedom of religion or belief, and notes that textbooks in state schools reportedly contain information on Buddhism only.

The government refuted this allegation and emphasized that the Thai general school curriculum enabled all pupils, from the first to the final grade, to receive instruction in the main religions. The government stated that it attached great importance to the implementation of universal religious principles aimed, in particular, at promoting harmonious coexistence and peace, and referred to the fact that students could choose to learn about one or more religions other than Buddhism. The authorities stated that a wide variety of textbooks on religions, including specific textbooks on Buddhism, Christianity and Islam, were available to schools and that teachers were free to choose the textbooks they considered most suitable for their curriculum.

Sale of children, child prostitution, child pornography, Special Rapporteur on the: (E/CN.4/1998/101, paras. 122, 128)

The report notes that the government has increased its efforts to manage the serious problem of child prostitution and child trafficking, and formulated a National Policy and Plan of Action for the Prevention and Eradication of Commercial Sexual Exploitation of Children. Reference is made to the Development and Education Programme for Daughters and Communities Centre (DEP)

which was carrying out a preventive programme for girls at risk of being sent or recruited into prostitution. The DEP provides skills training, non-formal education and leadership training. Issues such as social values and the development of self-esteem are also discussed. Another programme noted is one initiated by a local academic institution, the Rachapat Institute, which is trying to strengthen cooperation between local NGOs and local government institutions. The Institute provides training to NGOs and local teachers to enable them to take action against child prostitution.

In commentary on informal education, the report notes that the Thai Women of Tomorrow (TWT) has been active in conducting campaigns against prostitution through the development of a video series and campaign modules comprising local documentaries illustrating the dangers and risks of prostitution. A video series on career opportunities was also produced to be used by teachers when conducting campaigns among schoolgirls in the northern provinces of the country. The main aim of the programme was to change attitudes among girls towards their future careers so that they will not turn to prostitution as a means of earning income. TWT also plans to establish a research and information centre on child prostitution to provide information, networking and coordination, training in attitude change, education, and occupational and academic support.

Toxic wastes and products, Special Rapporteur on: (E/CN.4/1998/10, paras. 12, 52)

The report refers to information provided by the government related to a massive fire, in March 1991, which engulfed some warehouses at Klong Toey port in Bangkok. Various chemicals were stored in the warehouses and the fire caused serious damage to life and property in the surrounding areas. The government outlined the steps taken to dispose of the residues in a secure landfill site, and noted that the Pollution Control Department has maintained a close watch over environmental conditions in the surrounding areas on a continuous basis. The government informed the Special Rapporteur that: disposal of all chemical residues left by the fire had been completed; for the chemicals and wastes in the care of the Port Authority of Thailand for which no country has accepted their return, the Authority will coordinate with the Department of Industrial Works of the Ministry of Industry to ensure proper disposal; Thailand is not a state from which illicit traffic of toxic and dangerous products and wastes originates; the remedial actions undertaken in the aftermath of the March 1991 fire were in accordance with the Environmental Quality Promotion and Protection Act of 1992; and throughout the period of construction of the secure landfill site, the Pollution Control Department had disseminated accurate and timely information to the public through the mass media on a regular basis, while resource persons from non-governmental groups also participated in the operation.



TONGA

Date of Admission to UN: Tonga is not a member of the UN.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Racial Discrimination

Acceded: 16 February 1972.

Tonga's 11th through 13th periodic reports have been submitted as one document (CERD/C/319/Add.3) which was considered at the Committee's August 1998 session; the 14th periodic report is due 17 March 1999.

Reservations and Declarations: Paragraph (d) (v) of article 5 and articles 4, 6, and 15.

Rights of the Child

Acceded: 6 November 1995.

Tonga's initial report was due 6 December 1997.

REPORTS TO TREATY BODIES

Committee on the Elimination of Racial Discrimination

Tonga's 11th through 13th periodic reports were submitted as one document (CERD/C/319/Add.3, March 1997) which was considered by the Committee at its August 1998 session. The brief report prepared by the government stated that Tonga is racially and ethnically homogeneous and racial discrimination seems to be non-existent. Demographic data is included in the report as well as information on, *inter alia*: the structure of government; constitutional provisions related to non-discrimination; access to remedies for complaints of racial discrimination; education on human rights; and culture and the establishment of the Tonga National Center.

The Committee's concluding observations and comments (CERD/C/304/Add.63) welcomed provisions in the Constitution prohibiting the practice of racial discrimination and ensuring equal rights for all the people in Tonga. The Committee took note of: the statement in the report to the effect that measures taken to encourage integration and multi-racial organizations have been promoted by allowing non-Tongans to participate in schools, business, religion, and other aspects of public life; constitutional provisions allowing any individual to bring complaints about discrimination on racial grounds before the courts; and the statement in the report indicating that there have been no court decisions on any case relating to racial discrimination.

Principal subjects of concern identified by the Committee included, *inter alia*: that the report does not contain sufficient information to allow an assessment of the level of

implementation of the Convention in Tonga; the lack of legislation intended to enforce the provisions contained in article 4 (prohibition of racist organizations and hate speech); the fact that Tonga has no express policy on the elimination of racial discrimination; the failure to incorporate the Convention into domestic law and that the Convention cannot be invoked in the courts. The Committee also referred to the ethnic characteristics of the population, the structure of power in the country and the configuration of the Legislative Assembly and expressed regret that detailed information about the implementation of the provisions of article 5 (generally, civil, cultural, economic, political and social rights) was not provided vis-à-vis the different ethnic groups.

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

- ♦ include in the next report updated information about the population and detailed information about the practical implementation of the Convention, especially articles 4 and 5;
- ♦ provide to the human rights treaty system a core document as soon as possible; and
- ♦ incorporate in the school curricula subjects intended to promote tolerance among different ethnic groups.



TURKMENISTAN

Date of admission to UN: 2 March 1992.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Economic, Social and Cultural Rights

Acceded: 1 May 1997.

Turkmenistan's initial report is due 30 June 1999.

Civil and Political Rights

Acceded: 1 May 1997.

Turkmenistan's initial report was due 31 July 1998.

Optional Protocol: Acceded: 1 May 1997.

Racial Discrimination

Acceded: 29 September 1994.

Turkmenistan's initial and second periodic reports were due 29 October 1995 and 1997 respectively.

Discrimination against Women

Acceded: 1 May 1997.

Turkmenistan's initial report was due 30 May 1998.

Rights of the Child

Acceded: 20 September 1993.

Turkmenistan's initial report was due 19 October 1995.

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

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 27, 33, 69, 86; E/CN.4/1998/68/Add.1, paras. 396–398)

An urgent appeal was sent to the government on behalf of one person who was reportedly imprisoned after an anti-government demonstration in July 1995. Fears for his life were expressed in response to reports that he was being detained at the maximum security prison in Ashgabat alongside violent criminals, who had allegedly been incited by the authorities to harm him. A second appeal was sent on behalf of three persons who were reportedly sentenced to death in March 1997 by the Supreme Court, acting in this case as a court of first instance, and who therefore had no right to appeal to a higher independent body of justice. A third urgent appeal was sent on behalf of one person, who was reportedly sentenced to death for drug trafficking in May 1997 by the Ashgabat City Court. According to the information received, the charge against him was fabricated because of his continuing contact with a government opponent.

**TUVALU**

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

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Rights of the Child

Acceded: 22 September 1995.

Tuvalu's initial report was due 21 December 1997.

**UNITED ARAB EMIRATES**

Date of admission to UN: 9 December 1971.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: The United Arab Emirates has not submitted a core document for use by the treaty bodies.

Racial Discrimination

Acceded: 20 June 1974.

The 12th periodic report of the United Arab Emirates was due 20 July 1997.

Reservations and Declarations: General declaration

Rights of the Child

Acceded: 3 January 1997.

The initial report of the United Arab Emirates is due 7 March 1999.

Reservations and Declarations: Article 7, 14, 17 and 21.

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

Arbitrary detention, Working Group on: (E/CN.4/1998/44, paras. 4, 5)

The report notes that a case was transmitted and the government responded. No details of the case were provided.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 13, 384–385)

For the first time one case of alleged disappearance was sent to the government. The disappearance was said to have occurred in 1996 and concerned a university professor of Egyptian nationality who was reportedly seconded from Assyat University in Egypt to Agman University in the United Arab Emirates. Information indicated that he disappeared shortly after returning to the UAE following a visit with his family in Cairo. He is said to be a well-known intellectual and human rights activist. No response was received from the government.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 27; E/CN.4/1998/68/Add.1, para. 403)

An urgent appeal was sent to the government on behalf of three Indian nationals who were reportedly sentenced to death in December 1996. Their appeals were reportedly rejected in July 1997, despite the fact that "blood money" was paid to the families of the deceased who subsequently waived the punishment against them.

Religious intolerance, Special Rapporteur on: (E/CN.4/1998/6, paras. 48, 50, 68)

The report refers to violations of freedom of religion and belief against Christianity, and notes that an urgent appeal was sent to the government concerning the case of

a Christian who had been arrested and reportedly maltreated because of his marriage to a Muslim woman. In October 1996, a court annulled the marriage and sentenced the man to 39 lashes and a year's imprisonment for immoral marital relations. The government replied that the trial had been conducted in accordance with the provisions of the Shariah and the law, and stated that "all persons are equal before the Shariah, the Constitution and the law" and there had been no discrimination on the ground of belief or nationality.

Sale of children, child prostitution, child pornography, Special Rapporteur on the:
(A/53/311, paras. 67–68)

The Special Rapporteur's (SR) interim report to the 1998 General Assembly notes concerns related to the risks to the lives of young boys, some as young as four years old, who are trafficked from countries in South Asia to supply the demand for camel jockeys. The children are attached to the camels' backs with cords and those who fall risk being trampled to death by the other camels on the track. If the children refuse to ride, they are beaten. The SR noted that in 1993 the Camel Jockey Association of the United Arab Emirates finally prohibited the use of children as jockeys but cited new evidence indicating that the rules are being ignored. In February 1998, 10 Bangladeshi boys, aged between five and eight years, were rescued in India while being smuggled to become camel jockeys. Also in 1998, airport officials rescued two boys who were being taken to Dubai from Sri Lanka by two men who were later charged with their kidnapping.

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, para. 100)

The report states that secrecy continues to surround traditional practices, including female genital mutilation. A survey carried out, however, indicated that female excision is still practised and 30.8 per cent of girls aged between one and five years have undergone the procedure. The Special Rapporteur stated that the operation is carried out discreetly and, while it was formerly performed by a Daya, it is now performed by women doctors in hospitals and dispensaries.



UZBEKISTAN

Date of admission to UN: 2 March 1992.

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Economic, Social and Cultural Rights

Acceded: 28 September 1995.

Uzbekistan's initial report was due on 6 June 1997.

Civil and Political Rights

Acceded: 28 September 1995.

Uzbekistan's initial report was due on 27 December 1996.

Optional Protocol: Acceded: 28 September 1995.

Racial Discrimination

Acceded: 28 September 1995.

Uzbekistan's initial and second periodic reports were due 28 October 1996 and 1998 respectively; the second periodic report is due on 28 October 1998.

Discrimination against Women

Acceded: 19 July 1995.

Uzbekistan's initial report was due on 18 August 1996.

Torture

Acceded: 28 September 1995.

Uzbekistan's initial report was due on 27 October 1996.

Rights of the Child

Acceded: 29 June 1994.

Uzbekistan's initial report was due on 28 July 1996.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 391–393)

No new cases of disappearance were transmitted to the government. Two of the outstanding cases concerned an Islamic religious leader and his assistant who were reportedly detained in August 1995 by the National Security Service in Tashkent as they were waiting to board an international flight. The third case concerns the leader of the Islamic Renaissance Party, reportedly an unregistered political party, who was allegedly arrested in 1992 by men believed to be government agents. The government provided information to the Working Group on these cases, including the details of the investigations carried out by the authorities into the subjects' disappearance, and reporting that their search for the persons concerned was continuing, and the families were being kept informed of the findings.

Religious intolerance, Special Rapporteur on:

(E/CN.4/1998/6, paras. 48, 50, 58, 59, 63, 64, 66)

The report refers to violations of freedom of religion and belief against Christianity and Islam, and notes that non-Muslims are allegedly subjected to restrictions in religious matters, including through: refusal to grant official recognition to certain religious groups and communities; imposition of controls on, and/or illegal interference with, the religious activities of certain religious groups and communities; a prohibition on the local publication

of non-Muslim religious material; confiscation of bibles; and, harassment, threats, mistreatment, arrests and detentions, and disappearances.



VANUATU

Date of admission to UN: 15 September 1981.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Vanuatu has submitted a core document (HRI/CORE/1/Add.86) for use by the treaty bodies. The report prepared by the government contains demographic and statistical data and information on the national political structure and the economic system. The report also focusses on areas related to the two international instruments to which Vanuatu has acceded or ratified — women and children. The Constitution, revised in 1988, is the supreme law of the Republic. There is an allowance in the electoral system for proportional representation so as to ensure a fair representation of different political groups and opinions. The most important advisory body to the government in all areas is the Vanuatu National Council of Chiefs, also known as Malfatumaauri, which is composed of chiefs elected by their peers sitting in the district councils of chiefs. The Council advises on custom and tradition as well as the preservation and promotion of the country's culture and indigenous languages. Three additional non-constitutional advisory bodies (NGOs) that assist the government are: the Vanuatu National Council of Women, which presents ideas and advises government and other decision-making bodies on women's issues at all levels; the Vanuatu Council of Churches (VCC), with the role of coordinating Christian activities and advising the government on matters affecting the general population; and the Vanuatu National Youth Council which coordinates youth activities and provides advice on matters relating to youth.

Discrimination against Women

Acceded: 8 September 1995.

Vanuatu's initial report was due 8 October 1996.

Rights of the Child

Signed: 30 September 1990; ratified: 7 July 1993.

Vanuatu's initial report (CRC/C/28/Add.8) has been submitted and is pending for consideration at the Committee's September/October 1999 session; the second periodic report is due 5 August 2000.



VIETNAM

Date of admission to UN: 20 September 1977

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Economic, Social and Cultural Rights

Acceded: 24 September 1982.

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

Reservations and Declarations: Paragraph 1 of article 26.

Civil and Political Rights

Acceded: 24 September 1982.

Vietnam's second periodic report was due 31 July 1991; the third periodic report was due 23 December 1993.

Reservations and Declarations: Paragraph 1 of article 48.

Racial Discrimination

Acceded: 9 July 1982.

Vietnam's sixth through eighth periodic reports were due 9 July 1993, 1995 and 1997 respectively.

Reservations and Declarations: Paragraph 1 of articles 17 and 18; article 22.

Discrimination against Women

Signed: 29 July 1980; ratified: 17 February 1982.

Vietnam's second through fourth periodic reports were due 19 March 1987, 1991 and 1995 respectively.

Reservations and Declarations: Paragraph 1 of article 29.

Rights of the Child

Signed: 26 January 1990; ratified: 28 February 1990.

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

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on:

(E/CN.4/1998/44, para.s. 4, 7, 19, Annex III; E/CN.4/1998/44/Add.1, Opinion No. 9/1997)

The report notes that two communications on behalf of five persons were transmitted to the government, and that it had not yet replied. An urgent appeal on behalf of one person was also sent. No details of the cases were provided.

Opinion No. 21/1997 was adopted at the Working Group's (WG) November/December 1997 session, and concerned three Buddhist monks.

The first monk was arrested in January 1995, in Ho Chi Minh City, and accused "of having sabotaged the Government's policy of religious solidarity", and "of having

abused the rights to liberty and democracy in order to harm the interests of the State". The charges were reported to be related to: writing and circulating copies of a 40-page document accusing the government of suppressing Buddhist rights, placing an unauthorized notice at the entrance of his residence saying "Unified Buddhist Church of Vietnam", and having faxed information to Buddhist groups abroad concerning alleged persecution against the church's relief activities during floods in the south of the country. According to information received, the monk had spent most of the last 18 years in prison or under house arrest because of his humanitarian activities and his opposition to government policy concerning religion and civil and humanitarian rights. The WG recalled that on previous occasions it had emphasized that the major drawback of vague and imprecise charges is that they do not distinguish between armed and violent acts capable of threatening national security, and the peaceful exercise of the right to freedom of opinion and of expression. The WG decided, therefore, that the detention was arbitrary because it was due solely to opinions and humanitarian activities.

The second monk, Superior of the Linh Mu Pagoda in Hue (Unified Buddhist Church of Vietnam), was arrested in March 1997 in the camp of Ba Sao, province of Nam Ha, by the Security Forces who allegedly showed no order or other decision issued by a public authority. He had been arrested in June 1993, following a demonstration in favour of religious freedom, and sentenced to four years' imprisonment for disturbing the public order. The WG noted that arrest and sentencing were the result of participation in a demonstration on behalf of religious freedom, which was not reported to have been violent. The WG decided that the detention was arbitrary because the person was blamed only for having exercised his right to freedom of opinion and expression. The WG also stated that ongoing custody in the Tay Thien Pagoda after the sentence was served was also arbitrary.

The third monk, Bonze of the Unified Buddhist Church of Vietnam, was arrested in 1979, in the province of Minh Hai and had been detained in camps ever since. Information indicated that he was sentenced to life imprisonment by the People's Court of Minh Hai in 1979 for intending to overthrow the revolutionary government. He was sentenced again to life imprisonment in 1986 by the People's Court of the province of Phu Khanh for attempted escape. The WG noted: the arrest and the first sentence of life imprisonment for having "intended to overthrow the Revolutionary Government" were in fact related to the monk's membership of the Unified Buddhist Church of Vietnam; the two trials (1979 and 1986) were not fair, in that they were reported to have taken place in camera without the assistance of counsel, and without the possibility of appealing against the sentences passed. The WG considered the detention to be arbitrary.

Opinion No. 9/1997 concerned a case transmitted to the government in August 1996 on behalf of one person. Noting information from the government stating that the person named was no longer in detention, the WG decided to file the case without prejudging the nature of the detention.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: *E/CN.4/1998/68, paras.

12, 27, 94; E/CN.4/1998/68/Add.1, paras. 428-429)

The Special Rapporteur (SR) expressed concern at reports outlining the imposition of the death penalty for economic and/or drug-related offences in Vietnam.

An urgent appeal was sent on behalf of four persons who were reportedly sentenced to death for misappropriation of state funds, and deliberate violation of state regulations for financial management. The appeal was sent after the Supreme People's Court, in March 1997, turned down their appeals against the death sentences imposed in January of that year. The SR reminded the government that article 6 of the International Covenant on Civil and Political Rights, ratified by Vietnam, stipulates that the death penalty can only be imposed for the "most serious crimes" and further, that paragraph 10f of the Safeguards guaranteeing the protection of those facing the death penalty states that the scope of crimes subject to the death penalty should not go beyond intentional crimes with lethal or other extremely grave consequences. On that basis, the SR stated that the death sentence should be eliminated for economic crimes.

Religious intolerance, Special Rapporteur on:

(E/CN.4/1998/6, paras. 24, 28, 48, 50, 66, 69, 93, 94)

The report refers to violations of freedom of religion and belief against Buddhism, and notes the cases of the three bonzes addressed in Opinion No. 21/1997 of the Working Group on Arbitrary Detention (as above).

The government informed the Special Rapporteur that the three bonzes had been released and were able freely to engage in their religious activities. The authorities also stated: in Vietnam there were nearly 13,000 Buddhist pagodas together with millions of Buddhist believers, 5,400 Catholic churches, 500 Protestant churches, about 600 Caodai and 70 Muslim temples; nearly one-third of the population frequently practises religion and those places of worship are respected and protected by the state; and, all major religions operate their own schools, contributing to the increase of many clergymen and religious dignitaries.



YEMEN, REPUBLIC OF

Date of admission to UN: 30 September 1947. (In May 1990 Democratic Yemen and the Arab Republic of Yemen merged; the former had been admitted to the UN in 1967 and the latter in 1947.)

TREATIES: RATIFICATIONS AND RESERVATIONS

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

Economic, Social and Cultural Rights

Acceded: 9 February 1987.

Yemen's initial report was due 6 June 1990; the second periodic report was due 6 June 1995.

Reservations and Declarations: General declaration.

Civil and Political Rights

Acceded: 9 February 1987.

Yemen's third periodic report was due 8 May 1998.

Reservations and Declarations: General declaration.

Racial Discrimination

Acceded: 18 October 1972.

Yemen's 11th, 12th and 13th periodic reports were due 17 November 1993, 1995 and 1997 respectively.

Reservations and Declarations: General declaration; article 22; and paragraph 1 of articles 17 and 18.

Discrimination against Women

Acceded: 30 May 1984.

Yemen's fourth periodic report was due 29 June 1997.

Reservations and Declarations: Paragraph 1 of article 29.

Torture

Acceded: 5 November 1991.

Yemen's initial report was due 4 December 1992; the second periodic report was due 4 December 1996.

Rights of the Child

Signed: 13 February 1990; ratified: 1 May 1991.

Yemen's second periodic report (CRC/C/70/Add.1) has been submitted and is pending consideration at the Committee's January 1999 session; the third periodic report is due 30 May 2003.

COMMISSION ON HUMAN RIGHTS

At its 1998 session, the Commission on Human Rights considered the situation in Yemen 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, para. 19, 21)

The report notes that four urgent appeals on behalf of 103 persons were sent, and the government replied stating that the persons named had either never been detained or had been released. No details of the cases were provided.

Disappearances, Working Group on enforced or involuntary:

(E/CN.4/1998/43, paras. 6, 10, 397–401)

The report notes that the Working Group has been invited to visit Yemen.

No new cases of disappearances were transmitted to the government. The majority of the 98 cases transmitted in the past occurred between January and April 1986, in the context of fighting which took place between supporters of President Ali Nasser Muhammad and his opponents. The majority of the victims were members of the air force, the army, or the security forces. There were also civilians involved, most of them members of the Yemen Socialist Party. The forces said to be responsible for their arrest include the state security forces, the air force, and the people's militia. One other case concerned the President of the Engineers' Union, who was also said to be a member of the Central Committee of the Yemen Socialist Party and who reportedly disappeared in August 1994. This case was clarified in 1994 when the person concerned was reported to have been released.

During the period under review, the government responded to the outstanding cases, stating: these disappearances occurred in 1986 in what used to be the People's Democratic Republic of Yemen during the armed conflict; the list is only a fraction of what is estimated to be the number of victims to have been killed or disappeared during this time; the government had a moral duty to the families of these victims; this process continues and the government is seeking the extradition of those responsible who are currently being tried *in absentia*; most of these people had probably been executed, but the authorities could not identify where they were buried; and a law had been adopted proclaiming that any persons who disappeared in those circumstances are martyrs and entitled to their full salary.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on:

(E/CN.4/1998/68, paras. 12, 14, 18, 27, 36, 39, 68, 85, 92, 94; E/CN.4/1998/68/Add.1, paras. 430–435)

The report notes that the government had not responded to any of the communications transmitted in the three previous years. The Special Rapporteur (SR) expressed

concern over the fact that in Yemen many of the offences punishable by death are reportedly vaguely worded and could easily be misused to convict persons carrying out activities which amount to no more than the peaceful expression of their conscientiously held beliefs, including their political opinion. The report cites articles 125 and 259 of the Penal Code which provide for the death penalty for "anyone who committed an act with the intention of infringing upon the independence of the Republic or its unity or territorial integrity", and any Muslim who says or does anything contrary to Islam.

The SR also referred to information indicating that impunity, particularly by the Political Security branch of the security forces, has contributed to continued violations of the right to life. Some persons were reported to have been deliberately killed, others were reported to have been shot during protests and demonstrations during which security forces allegedly used excessive force. The SR acknowledged that human rights abuses, including deliberate killings, have been committed by armed political groups, in some cases against civilians, apparently on the basis of their political affiliation or religious beliefs.

An urgent appeal was sent to the government on behalf of two persons who were reportedly facing imminent execution after they had been sentenced to death by crucifixion in August 1997 by the Court of First Instance in Al Mukallah. According to the information received, they had no legal assistance during the court sessions, a request for a lawyer reportedly having been refused as an attempt to delay the trial. Two other cases were transmitted. The first concerned a person who was reportedly shot and killed by members of the security forces during a demonstration in Aden held by hotel workers in protest against delays in payment of their wages. The second involved a member of the Nasserist Corrective Party, an opposition party, who was killed in October 1996, noting information indicating that those responsible were driving a military vehicle and one was alleged to be a member of the Republican Guard force.

Religious intolerance, Special Rapporteur on: (E/CN.4/1998/6, paras. 48, 50, 58, 63, 94)

The report refers to violations of freedom of religion and belief and notes: non-Muslims are subjected to restrictions in religious matters; any proselytizing of Muslims by non-Muslims is forbidden; and the local publication of non-Muslim religious material is prohibited.

Torture, Special Rapporteur on: (E/CN.4/1998/38, paras. 207-213; E/CN.4/1998/38/Add.1, paras. 473-481)

The report notes information received indicating that persons detained for political reasons, particularly those arrested by the Political Security Branch of the security forces, were often held incommunicado for prolonged periods, sometimes weeks or months, without access to lawyers or their family members. Torture was said to be inflicted systematically against such detainees. Military

intelligence, criminal investigation police, and members of the armed forces also allegedly used torture on a widespread basis, against both political suspects and common law detainees. Officials carrying out torture were said usually to act with impunity, as few investigations of such officials had reportedly been carried out.

The methods of torture reported included: beatings all over the body, including with rifle butts, iron rods, cables and sticks; sexual assault, including rape; threat of rape of a victim or of relatives in the presence of the victim; application of electric shocks; suspension from a metal bar inserted between the hands and knees which are tied together ("Kentucky Farruj"); being urinated on; being walked on while lying naked on slabs of concrete; prolonged solitary confinement; shackling for lengthy periods; burning with cigarettes; beatings on the soles of the feet (*falaqa*); dousing with cold water; suspension, sometimes upside down, from the ceiling or window while simultaneously being subjected to other forms of torture; whipping and lashing; sleep deprivation; being kept in adverse weather conditions; being tied to a chair or bound with ropes while subjected to other forms of torture; and forced head shaving.

Information also indicated that members of the security forces carried out abductions and beatings of political opposition figures as reprisal for their political activities and/or to dissuade them from engaging in such activities in the future.

Concerning corporal punishment, the report notes that under the Penal Code enacted in 1994: fornication, when the offender is unmarried, is punishable by 100 lashes, and adultery is punishable by death by stoning; consumption of alcohol and slander are punishable by 80 lashes; amputation of the right hand is prescribed for a first theft offence and amputation of the left foot at the ankle for a subsequent offence; and highway robbery is punishable by amputation of the right hand and left foot. The report states that flogging was said to be carried out on a regular basis with defendants often flogged immediately upon trial without appeal to higher courts, and judges were said to face threats or other pressure from security forces to convict defendants in corporal punishment cases. The Special Rapporteur referred to the government invoking judicial independence in the application of Shari'a, and stated that such independence does not relieve the state from its obligation under international law to prevent the infliction of cruel, inhuman and degrading punishment.

The cases transmitted to the government concerned, *inter alia*: one of many detainees allegedly tortured in Si'un Prison in 1995; one person arrested in connection with links to the National Front for the Opposition (MOG) who died the next day in the custody of the security forces in Si'un, allegedly as a result of torture; a 62-year-old university professor who had been suspended from his job following the publication of an article critical of the government, and the Director of a studies' institute, who was abducted and beaten fol-

lowing his return from a conference abroad during which he had criticized the government; at least 18 persons reportedly sentenced to amputation, noting that it was unknown whether the sentences had been carried out; one person sentenced to having his eyes gouged out, despite the fact that the Penal Code contains no provision for such punishment, in addition to a sentence of amputation of the right hand, left foot, and death, noting the verdict was said to be under appeal; the editor of the opposition newspaper, *al-Shura*, and his brother, also a journalist, who were reportedly sentenced by the Court of First Instance in Sana'a to 80 lashes each on charges of

libel, allegedly as a consequence of having written and published a series of articles critical of a leading politician in the al Islah party, noting the government's reply that the sentence had been appealed and therefore not executed at the time the case had been transmitted; two members of the opposition party, the League of the Sons of Yemen (LSY), both journalists, and two other persons who were reportedly kept in incommunicado detention following their arrest; and two members of the Yemeni Socialist Party (YSP), and at least 28 others, who were reportedly arrested following protests against a government proposal to divide Hadhramout into two provinces.

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:

20th Session: 26 April-14 May 1999

Solomon Islands

22nd Session: April 2000

Jordan 2nd periodic report E/1990/6/Add.17

23rd Session: November 2000

Kyrgyzstan Initial report E/1990/5/Add.42

Mongolia 3rd periodic report E/1994/104/Add.21

24th Session: April 2001

Japan 2nd periodic report E/1990/6/Add.21

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

Cambodia Initial report CCPR/C/81/Add.12

65th Session: 12-30 July 1999

Kuwait Initial report CCPR/C/120/Add.1

Republic of Korea 2nd periodic report CCPR/C/114/Add.1

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

Bangladesh

Bahrain

Kuwait 13th and 14th periodic reports CERD/C/299/Add.16

Mongolia 11th-15th periodic report CERD/C/338/Add.3

Republic of Korea 9th and 10th periodic reports CERD/C/333/Add.1

Syria 12th-15th periodic reports CERD/C/338/Add.1/Rev.1

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

China	.....	3rd and 4th periodic reports	
Jordan	.....	Initial report	..... CEDAW/C/JOR/1
Thailand	.....	2nd and 3rd periodic reports	..... CEDAW/C/THA/2-3

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

Yemen	2nd periodic report CRC/C/70/Add.1
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22nd Session: September 1999

India	Initial report CRC/C/28/Add.10
Vanuatu	Initial report CRC/C/28/Add.8

24th Session: May 2000

Cambodia	.....	Initial report	..... CRC/C/11/Add.16
Iran	.....	Initial report	..... CRC/C/41/Add.5

25th Session: September 2000

Jordan	.....	2nd periodic report	..... CRC/C/70/Add.4
Kyrgyzstan	.....	Initial report	..... CRC/C/41/Add.6

26th Session: January 2001

Marshall Islands	.....	Initial report	..... CRC/C/28/Add.12
Tajikistan	Initial report CRC/C/28/Add.14

28th Session: September 2001

Saudi Arabia	Initial report CRC/C/61/Add.2
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