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Agenda item 14

ENCOURAGEMENT OF UNIVERSAL ACCEPTANCE OF HUMAN RIGHTS INSTRUMENTS

Written statement submitted by the International Human Rights
Law Group, a non-governmental organization in consultative
status (category II)

The Secretary-General has received the following communication which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[30 August 1990]

1. As a primary part of its mandate, the International Human Rights Law Group works throughout the world to encourage commitment and adherence to the human rights instruments established by the United Nations. The Law Group would like to bring to the Sub-Commission's attention several examples of areas where the Sub-Commission could encourage acceptance of human rights instruments.
2. The United Kingdom automatically assumed an obligation to ensure the protection of certain international human rights in Hong Kong when it ratified the International Covenant on Civil and Political Rights (ICCPR) and the Covenant on Economic, Social and Cultural Rights (ICESCR) in 1976. More than 14 years later, however, the United Kingdom through the Government of Hong Kong

has failed to fully implement the rights specified in the Covenants in that Crown Colony. On the contrary, freedom of political expression is stifled and participation in activities supporting democracy in the People's Republic of China is discouraged.

3. The Draft Bill of Rights pending before the Hong Kong Legislative Council closely follows the language of the ICCPR. If passed, it could provide considerably more protection against infringement of political rights and freedom of expression rights than Hong Kong law presently affords. However, the Bill of Rights may not effectively safeguard human rights in Hong Kong following the United Kingdom's imminent transferral of control of Hong Kong to the People's Republic of China. The basic law of China establishing its relationship with Hong Kong after 1997 provides that Chinese law prevail in cases of conflict between the law of Hong Kong and that of China. Although the basic law provides that the International Covenants should remain in force after 1997, no means are provided for accession to the instruments by the People's Republic of China on behalf of Hong Kong following withdrawal by the United Kingdom.

4. The lamentable record of the People's Republic of China in failing to respect internationally guaranteed human rights, particularly those of political participation and freedom of expression, makes strengthening adherence to human rights instruments even more urgent.

5. To ensure the recently-achieved human rights and freedoms for the people of Nepal, ratification of major human rights agreements is essential. In this regard, the Law Group is pleased to note that the Prime Minister of Nepal has stated publicly his Government's intention to become a party to the International Covenant on Civil and Political Rights. The Law Group welcomes the measures being taken by the interim Government of Nepal for the encouragement of universal acceptance of human rights instruments. The effective and immediate implementation of such instruments by incorporation into domestic laws is equally essential.

6. As Nepal moves from an absolute monarchy to a multi-party democracy, it confronts several issues related to the encouragement of human rights in the country. One of those issues is the investigation of past human rights abuses and punishment of those accountable for killings and torture, particularly of those participating in the last spring's pro-democracy movement. The interim Government has established a commission to investigate the killings of pro-democracy demonstrators but has failed to draw up specific rules and procedures to regulate the conduct of such an investigation. The need for independence and impartiality of the commission in its jurisdiction, methods of investigation and authority to punish those found guilty are critical to effective administration of its mandate. Internationally accepted principles in punishing former government officials are established in the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, adopted by the Economic and Social Council on 24 May 1989.

7. The commitment of the United States of America to the protection of civil and political rights has its origins in its Declaration of Independence, written in 1776. Despite its long-standing commitment to civil and political rights, the United States has been slow to ratify even the most basic international human rights instruments.

8. In the United States, treaties are first signed by the President. After a treaty is signed the State Department presents the Senate with a priority list of treaties for their consideration. If the treaty passes the review of the senate Foreign Relations Committee within the Senate, it is brought before the full Senate for final ratification. However, some major human rights treaties have been waiting review by the Senate Committee for the past 11 years. These treaties include the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the American Convention on Human Rights, an Organization of American States' treaty. The last hearings on these treaties were held in 1979.

9. The Law Group has been encouraged by the recent United States ratification of the Convention on the Prevention and Punishment of the Crime of Genocide and by the progress made in consideration of the Convention on the Elimination of All Forms of Discrimination against Women. The Senate Committee recently passed the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The danger remains, however, that broad reservations will be added to these treaties if and when they reach the Senate floor.

10. Although the United States has presented itself to the international community as a champion of human rights, it does a disservice to the international community by attempting to stand as a role model without explicitly submitting itself to international standards and review mechanisms subject of universal acceptance. Despite its strong human rights record, the United States still suffers problems that the international human rights treaties address, including those stemming from racism, sexism and poverty.

The Law Group urges the Sub-Commission to:

(a) Encourage States to participation in acceptance of human rights instruments and implement the same on a national level;

(b) Call upon the United Kingdom in particular to implement the International Covenants already in force in Hong Kong, and upon the People's Republic of China to provide for full and effective implementation of the same following transfer of control of Hong Kong;

(c) Request the Secretary-General to offer advisory services in investigating past human rights abuses and implementing international standards on the national level in countries undergoing transition, such as Nepal; and

(d) Encourage those countries, and in particular the United States, which have signed but not ratified international human rights instruments, to exercise all diligence to ratify the same.
